

APPROPRIATIONS

CHAPTER 1

HOUSE BILL NO. 1001
(Committee on Appropriations)

LEGISLATIVE BRANCH

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 are hereby appropriated out of the general fund in the state treasury, not otherwise appropriated, to the legislative branch of the state government for the purpose specified such sums as set forth in the following sections of this bill.

SECTION 2. THE PERIOD DURING WHICH 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 beginning with the effective date of this Act and ending June 30, 1981, to wit:

SECTION 3. APPROPRIATION.)

Subdivision 1.
FORTY-SIXTH AND FORTY-SEVENTH LEGISLATIVE ASSEMBLIES AND BIENNIUM

Salaries and wages	\$ 860,053
Fees and services	2,341,121
Additional and unvouchered expense allowance for expenses of the lieutenant governor to be paid at the rate of \$70.00 per day for each calendar day during each organizational, regular, or special session and for one day immediately prior to and immediately following such sessions beginning January 1, 1979, notwithstanding subdivision 1 of section 3 of chapter 27 of the 1977 Session Laws, such unvouchered expense allowance to be in lieu of the expenses provided for in section 44-08-04	7,580

National conference of state legislatures	38,960
Midwest conference	10,000
Supplies and materials	469,389
Equipment	5,500
Total	<u>\$ 3,732,603</u>

Subdivision 2.

LEGISLATIVE COUNCIL

Salaries and wages	\$ 1,445,606
Fees and services	992,844
Supplies and materials	69,606
Equipment	10,000
Total	<u>\$ 2,518,056</u>
Total general fund	\$ 6,250,659

SECTION 4. TRANSFERS.) The director of the department 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 the department of accounts and purchases and the state treasurer shall similarly make transfers of funds between the lined items for the forty-sixth and forty-seventh 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 27, 1979

CHAPTER 2

HOUSE BILL NO. 1003
(Committee on Appropriations)

LEGISLATIVE SPACE RENOVATION

AN ACT making an appropriation to the legislative assembly for improvements to and renovation of the state capitol; 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 general fund in the state treasury, not otherwise appropriated, the sum of \$307,130.00, or so much thereof as may be necessary, to the legislative assembly for improvements to and renovation of the legislative wing and certain portions of the basement, the ground floor, and the second floor levels of the executive tower of the state capitol.

SECTION 2. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that the director of institutions handle administration of contracts let by the legislative council, or its designee, with respect to the projects funded by this Act, and that the legislative council or its designee serve as the funding agent for the contracts it enters into pursuant to this Act. The provisions of section 54-44.1-11 shall not apply to this appropriation.

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

Approved March 27, 1979

CHAPTER 3

HOUSE BILL NO. 1004
(Committee on Appropriations)

BOARD OF HIGHER EDUCATION

AN ACT making an appropriation for defraying the expenses of the board of higher education and various divisions thereof of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided, or so much thereof as may be necessary, to the board of higher education of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

BOARD OF HIGHER EDUCATION

Salaries and wages	\$	665,516
Operating expenses		130,579
Data processing		13,388
Equipment		4,450
Land, structures, and major improvements		543,300
Grants, benefits, and claims		910,000
Energy conservation		900,000
Consultation board		10,091
Contingent		<u>1,000,000</u>
Total all funds	\$	<u>4,177,324</u>
Less estimated income		<u>969,300</u>
Total general fund appropriation	\$	<u>3,208,024</u>

Subdivision 2.

NATIONAL DIRECT STUDENT LOAN PROGRAM

Grants, benefits, and claims	\$	150,000
Total general fund appropriation	\$	<u>150,000</u>

Subdivision 3.

RECIPROCAL AGREEMENTS

Reciprocal agreements	\$ 2,684,414
Total general fund appropriation	\$ 2,684,414
Grand total general fund appropriation	\$ 6,742,438
Grand total special funds appropriated	\$ 969,300
Grand total all funds H.B. 1004	\$ 7,711,738

SECTION 2. VIETNAM BONUS FUND - TRANSFER.) The state treasurer and the director of the department of accounts and purchases upon the request of the board of higher education during the biennium beginning July 1, 1979, and ending June 30, 1981, shall transfer \$543,300.00 from the Vietnam bonus fund in the state treasury, or so much thereof as may be necessary, to the board of higher education for projects to make buildings and other structures more accessible to the handicapped at the institutions under its control. This \$543,300.00 is specifically appropriated in the land, structures, and major improvements line item. It is the intent of the legislative assembly that the sum of \$100,000.00, or so much thereof as may be necessary, included in the line item for land, structures, and major improvements in section 1 of this Act be expended to meet the federal requirements for handicapped accessibility in the restoration of Oxford House on the campus of the university of North Dakota.

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. APPROPRIATION.) The contingent line item under section 1, subdivision 1 of this Act shall be used for meeting unforeseen expenses at the various institutions under the control of the board of higher education, upon approval of the emergency commission.

SECTION 5. MINOT STATE COLLEGE - APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$700,000.00, or so much thereof as may be necessary, to match \$700,000.00 in federal or other funds for a coal-fired boiler at Minot state college during the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 6. 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 April 7, 1979

CHAPTER 4

HOUSE BILL NO. 1005
(Committee on Appropriations)

HIGHER EDUCATION

AN ACT making an appropriation for defraying the expenses of the various institutions under the supervision of the board of higher education of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided, or so much thereof as may be necessary, to the various institutions under the supervision of the state board of higher education of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

UNIVERSITY OF NORTH DAKOTA

Salaries and wages	\$ 38,035,773
Operating expense	10,089,042
Equipment	<u>1,082,657</u>
Total operating budget	\$ 49,207,472
Less estimated income	<u>10,610,199</u>
Net operating budget	\$ 38,597,273
Land, structures, and major improvements	<u>2,183,500</u>
Total general fund appropriation	\$ 40,780,773

UNIVERSITY OF NORTH DAKOTA MEDICAL CENTER

Salaries and wages	\$ 17,288,973
Operating expense	9,634,403
Equipment	678,474
Program grant	2,755,916
Land, structures, and major improvements	<u>100,000</u>
Total all funds	\$ 30,457,766
Less estimated income	<u>16,925,330</u>
Total general fund appropriation	\$ 13,532,436

NORTH DAKOTA STATE UNIVERSITY

OF AGRICULTURE AND APPLIED SCIENCE

Salaries and wages	\$ 33,003,296
Operating expense	9,959,455
Equipment	<u>1,184,708</u>
Total operating budget	\$ 44,147,459
Less estimated income	<u>9,307,573</u>
Net operating budget	\$ 34,839,886
Land, structures, and major improvements	<u>1,633,655</u>
Total general fund appropriation	\$ 36,473,541

STATE SCHOOL OF SCIENCE - WAHPETON

Salaries and wages	\$ 12,931,391
Operating expense	3,733,914
Equipment	<u>832,888</u>
Total operating budget	\$ 17,498,193
Less estimated income	<u>3,592,193</u>
Net operating budget	\$ 13,906,000
Land, structures, and major improvements	<u>1,078,955</u>
Total general fund appropriation	\$ 14,984,955

DICKINSON STATE COLLEGE

Salaries and wages	\$ 5,266,559
Operating expense	1,539,687
Equipment	<u>185,220</u>
Total operating budget	\$ 6,991,466
Less estimated income	<u>1,121,624</u>
Net operating budget	\$ 5,869,842
Land, structures, and major improvements	<u>403,600</u>
Total general fund appropriation	\$ 6,273,442

MAYVILLE STATE COLLEGE

Salaries and wages	\$ 3,830,575
Operating expense	1,305,333
Equipment	<u>142,464</u>
Total operating budget	\$ 5,278,372
Less estimated income	<u>863,416</u>
Net operating budget	\$ 4,414,956
Land, structures, and major improvements	<u>401,500</u>
Total general fund appropriation	\$ 4,816,456

MINOT STATE COLLEGE

Salaries and wages	\$ 10,019,315
Operating expense	2,187,180
Equipment	<u>346,576</u>
Total operating budget	\$ 12,553,071
Less estimated income	<u>3,155,179</u>
Net operating budget	\$ 9,397,892
Land, structures, and major improvements	<u>799,100</u>
Total general fund appropriation	\$ 10,196,992

VALLEY CITY STATE COLLEGE

Salaries and wages	\$ 4,825,571
Operating expense	1,241,176
Equipment	<u>189,797</u>

Total operating budget	\$ 6,256,544
Less estimated income	1,186,137
Net operating budget	<u>\$ 5,070,407</u>
Land, structures, and major improvements	465,900
Total general fund appropriation	<u>\$ 5,536,307</u>

STATE SCHOOL OF FORESTRY - BOTTINEAU

Junior college division:	
Salaries and wages	\$ 1,952,090
Operating expense	494,220
Equipment	83,028
Total operating budget	<u>\$ 2,529,338</u>
Less estimated income	591,182
Net operating budget	<u>\$ 1,938,156</u>
Land, structures, and major improvements	453,860
Total general fund appropriation	<u>\$ 2,392,016</u>
North Dakota forest service:	
Salaries and wages	\$ 779,895
Operating expense	244,587
Equipment	83,583
Total operating budget	<u>\$ 1,108,065</u>
Less estimated income	630,196
Net operating budget	<u>\$ 477,869</u>
Land, structures, and major improvements	38,150
Total general fund appropriation	<u>\$ 516,019</u>

NDSU - STATE TOXICOLOGIST

Salaries and wages	\$ 290,450
Operating expense	69,790
Equipment	17,500
Total all funds	<u>\$ 377,740</u>
Less estimated income	171,000
Total general fund appropriation	<u>\$ 206,740</u>

MEDICAL CENTER REHABILITATION HOSPITAL

Salaries and wages	\$ 8,785,163
Operating expense	4,781,125
Equipment	172,075
Total appropriation from institutional income	<u>\$ 13,738,363</u>
Grand total general fund appropriation	\$136,017,677
Grand total special funds appropriated	\$ 62,692,392
Grand total all funds appropriated H.B. 1005	\$198,710,069

SECTION 2. APPROPRIATION.) All income received by the university of North Dakota medical center, which is in excess of the income specifically appropriated in this Act, is hereby appropriated.

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 provided for herein.

SECTION 4. LEGISLATIVE INTENT.) It is the intent of the legislative assembly to continue to strongly endorse the school of medicine's education of medical students and residents by individual physicians and surgeons in existing clinics and practices.

SECTION 5. NORTH DAKOTA STATE UNIVERSITY.) In addition to the appropriations and authorizations provided by this Act, there is hereby appropriated out of any moneys in the general fund, not otherwise appropriated, the sum of \$308,000.00 or so much thereof as may be necessary to the North Dakota state university during the biennium beginning July 1, 1979, and ending June 30, 1981, to be used only in the event of a reduction, and only to the extent of such reduction, in either or both years of the biennium in the receipt of federal funds by the North Dakota state university pursuant to the Bankhead-Jones Act. Such reduction during each year of the biennium shall be determined by subtracting the amounts received under the Bankhead-Jones Act each year from the amounts received during the fiscal year ended June 30, 1978. Funds shall be made available pursuant to this contingency appropriation only upon approval of the state board of higher education and with written notification by such board to the director of accounts and purchases.

SECTION 6. VIETNAM BONUS FUND - TRANSFER.) The state treasurer and the director of the department of accounts and purchases upon the request of the board of higher education during the biennium beginning July 1, 1979, and ending June 30, 1981, shall transfer from the Vietnam bonus fund in the state treasury to the Minot state college operating fund \$100,000.00, or so much thereof as may be necessary to be used towards completion of the physical education activities center at the college. The funds are appropriated for such use in the land, structures, and major improvements line item in the Minot state college appropriation, and also included in such institution's estimated income.

SECTION 7. APPROPRIATION.) In addition to the appropriation in section 1 of this Act to Minot state college, there is hereby appropriated \$800,000.00, or so much greater amounts as may become available of any private, federal, or other funds to be used towards completion of the physical education activities center.

SECTION 8.) Any additional income not required by law to be deposited in the operating fund in the state treasury and income from increased enrollments 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.

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, 1979, and ending June 30, 1981.

Approved April 7, 1979

CHAPTER 5

HOUSE BILL NO. 1006
(Committee on Appropriations)

BOARD OF VOCATIONAL EDUCATION

AN ACT making an appropriation for defraying the expenses of the state board of vocational education of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$20,744,542 or so much thereof as may be necessary, to the state board of vocational education of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 1,500,349
Fees and services	352,547
Data processing	15,237
Supplies and materials	89,000
Equipment	2,200
Grants, benefits, and claims	18,570,209
State advisory council	<u>215,000</u>
Total all funds	\$ 20,744,542
Less estimated income	<u>9,116,552</u>
Total general fund transfer and appropriation	\$ 11,627,990

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. 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 April 7, 1979

CHAPTER 6

HOUSE BILL NO. 1007
(Committee on Appropriations)

STATE AID TO JUNIOR COLLEGES

AN ACT making an appropriation for providing assistance to the junior colleges of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$4,727,113 or so much thereof as may be necessary, to the junior colleges hereinafter named of the state of North Dakota for the purpose of assisting in defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Bismarck junior college	\$ 2,730,146
Lake region junior college	1,126,520
UND - Williston center	870,447
Total general fund appropriation	<u>\$ 4,727,113</u>

SECTION 2. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that payments for state aid to junior colleges be made in accordance with provisions of section 15-18-07 of the North Dakota Century Code relating to pro rata distribution of state aid to junior colleges.

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 holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved April 3, 1979

CHAPTER 7

HOUSE BILL NO. 1008
(Committee on Appropriations)

DIVISION OF INDEPENDENT STUDY

AN ACT making an appropriation for defraying the expenses of the division of independent study of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$1,618,193 or so much thereof as may be necessary, to the division of independent study of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 948,476
Fees and services	290,812
Supplies and materials	133,537
Equipment	227,868
Land, structures, and major improvements	17,500
Total all funds	<u>\$ 1,618,193</u>
Less estimated income	741,386
Total general fund transfer and appropriation	<u>\$ 876,807</u>

SECTION 2. 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 21, 1979

CHAPTER 8

HOUSE BILL NO. 1009
 (Committee on Appropriations)

EXTENSION DIVISION AND
 EXPERIMENT STATIONS

AN ACT making an appropriation for defraying the expenses of the extension division and the experiment stations of 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 out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the extension division and experiment stations of North Dakota state university of agriculture and applied science of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

	EXTENSION DIVISION	
Salaries and wages		\$ 10,818,484
Operating expense		2,182,864
Equipment		334,389
Total all funds		<u>\$ 13,335,737</u>
Less estimated income		8,292,460
Total general fund appropriation		<u>\$ 5,043,277</u>

	EXTENSION DIVISION SPECIAL PROGRAM - FOOD AND NUTRITION	
Salaries and wages		\$ 494,544
Operating expense		106,860
Equipment		2,000
Total special fund appropriation		<u>\$ 603,404</u>

	EXPERIMENT STATION - MAIN STATION	
Salaries and wages		\$ 14,991,450
Operating expense		3,475,494
Equipment		1,277,135
Total operating budget		<u>\$ 19,744,079</u>

Less estimated income	8,099,913
Net operating budget	\$ 11,644,166
Land, structures, and major improvements	925,000
Total general fund appropriation	\$ 12,569,166

DICKINSON EXPERIMENT STATION

Salaries and wages	\$ 430,306
Operating expense	222,151
Equipment	82,400
Total operating budget	\$ 734,857
Less estimated income	150,000
Net operating budget	\$ 584,857
Land, structures, and major improvements	32,733
Total general fund appropriation	\$ 617,590

HETTINGER EXPERIMENT STATION

Salaries and wages	\$ 132,954
Operating expense	72,868
Equipment	57,335
Total operating budget	\$ 263,157
Less estimated income	75,000
Net operating budget	\$ 188,157
Land, structures, and major improvements	75,000
Total general fund appropriation	\$ 263,157

LANGDON EXPERIMENT STATION

Salaries and wages	\$ 158,443
Operating expense	59,322
Equipment	40,042
Total operating budget	\$ 257,807
Less estimated income	40,000
Net operating budget	\$ 217,807
Land, structures, and major improvements	11,500
Total general fund appropriation	\$ 229,307

NORTH CENTRAL EXPERIMENT STATION

Salaries and wages	\$ 228,865
Operating expense	129,010
Equipment	49,606
Total operating budget	\$ 407,481
Less estimated income	180,000
Total general fund appropriation	\$ 227,481

WILLISTON EXPERIMENT STATION

Salaries and wages	\$ 254,235
Operating expense	86,502
Equipment	48,900
Total operating budget	\$ 389,637
Less estimated income	60,000
Total general fund appropriation	\$ 329,637

CARRINGTON EXPERIMENT STATION

Salaries and wages	\$ 405,059
Operating expense	228,723

Equipment	79,900
Total operating budget	\$ 713,682
Less estimated income	220,000
Total general fund appropriation	\$ 493,682

AGRONOMY SEED FARM

Salaries and wages	\$ 138,671
Operating expense	234,285
Equipment	59,000
Total appropriation from agronomy seed farm fund	\$ 431,956

CENTRAL GRASSLAND RESEARCH STATION

Equipment	\$ 24,000
Land, structures, and major improvements	937,033
Total general fund appropriation	\$ 961,033
Grand total general fund appropriation H.B. 1009	\$ 20,734,330
Grand total special funds appropriated H.B. 1009	\$ 18,232,733
Grand total all funds H.B. 1009	\$ 38,967,063

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 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 emergency commission. 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 any specific legislative appropriation or an authorization from the emergency commission, 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, 1979, exceeds the estimated income for the biennium ending June 30, 1981. 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. 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. 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 4. APPROPRIATION.) In addition to the other appropriations and authorizations by this Act, there is hereby appropriated \$80,000 of any available private funds to the main experiment station of North Dakota state university of agriculture and applied science of the state of North Dakota, for the purpose of expansion of the sugar beet storage area during the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved April 7, 1979

CHAPTER 9

HOUSE BILL NO. 1010
 (Committee on Appropriations)

DEPARTMENT OF HEALTH, LABORATORIES
 DEPARTMENT, AND HUMAN SERVICE CENTERS

AN ACT making an appropriation for defraying the expenses of the department of health, the state laboratories department, and the human service centers of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the department of health of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

DEPARTMENT OF HEALTH

Salaries and wages	\$ 8,726,866
Fees and services	2,412,729
Data processing	590,260
Microfilming	1,500
Supplies and materials	3,643,939
Equipment	287,428
Grants, benefits, and claims	<u>6,041,723</u>
Total all funds	\$ 21,704,445
Less estimated income	<u>16,514,444</u>
Total general fund transfer and appropriation	\$ 5,190,001

Subdivision 2.

LOCAL HEALTH SERVICES

Grants, benefits, and claims	\$ 525,000
Total general fund appropriation	\$ 525,000
Grand total general fund appropriation	\$ 10,911,933
Grand total special funds appropriated	\$ 28,877,578
Grand total all funds appropriated H.B. 1010	\$ 39,789,511

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 \$1,676,114.00, or so much thereof as may be necessary, to the state laboratories department of the state of North Dakota to defray the expenses of the department for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

STATE LABORATORIES DEPARTMENT	
Salaries and wages (Includes salary of director not to exceed \$45,400 for the biennium)	\$ 1,261,819
Fees and services	235,570
Data Processing	52,812
Supplies and materials	61,780
Equipment	64,133
Total general fund appropriation	\$ 1,676,114

SECTION 3. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,764,032, or so much thereof as may be necessary, and \$8,272,003 in special funds or so much thereof as may be necessary to the department of health of the state of North Dakota for the purpose of providing financial assistance to the mental health centers of the state of North Dakota, for the biennium beginning July 1, 1979, and ending June 30, 1981.

The funds shall be allocated to the mental health and retardation centers by the division of mental health and retardation of the department of health as follows:

North Central Mental Health and Retardation Center, Minot	
Salaries and wages	\$ 1,030,180
Fees and services	335,563
Data processing	4,520
Supplies and materials	65,686
Equipment	5,000
Total all funds	\$ 1,440,949
Less estimated income	895,949
Total general fund appropriation	\$ 545,000

Center for Human Development, Grand Forks	
Salaries and wages	\$ 1,657,254
Fees and services	462,502
Data processing	2,000
Supplies and materials	51,644
Equipment	20,000
Total all funds	\$ 2,193,400
Less estimated income	1,688,032
Total general fund appropriation	\$ 505,368

Southeast Mental Health and Retardation Center, Fargo	
Salaries and wages	\$ 2,763,400
Fees and services	1,216,256

Data processing	25,051
Supplies and materials	59,686
Equipment	29,123
Total all funds	<u>\$ 4,093,516</u>
Less estimated income	3,469,711
Total general fund appropriation	<u>\$ 623,805</u>

South Central Mental Health and Retardation Center, Jamestown	
Salaries and wages	\$ 1,340,020
Fees and services	137,500
Data processing	2,000
Supplies and materials	27,200
Equipment	2,000
Total all funds	<u>\$ 1,508,720</u>
Less estimated income	1,023,623
Total general fund appropriation	<u>\$ 485,097</u>

Memorial Mental Health and Retardation Center, Mandan	
Salaries and wages	\$ 1,345,935
Fees and services	413,500
Data processing	3,515
Supplies and materials	36,500
Total all funds	<u>\$ 1,799,450</u>
Less estimated income	1,194,688
Total general fund appropriation	<u>\$ 604,762</u>

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 \$756,786.00, or so much thereof as may be necessary, and \$3,908,131.00 in special funds which are deposited and maintained in such accounts as are approved by a human service center's board of directors, or so much thereof as may be necessary, to the human service centers of the state of North Dakota, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

BADLANDS HUMAN SERVICE CENTER, DICKINSON

Salaries and wages	\$ 1,625,440
Fees and services	361,278
Supplies and materials	30,740
Equipment	8,100
Total all funds	<u>\$ 2,025,558</u>
Less estimated income	1,705,748
Total general fund appropriation	<u>\$ 319,810</u>

NORTHWEST HUMAN RESOURCE CENTER, WILLISTON

Salaries and wages	\$ 1,291,695
Fees and services	240,500
Supplies and materials	21,900
Equipment	4,400
Total all funds	<u>\$ 1,558,495</u>
Less estimated income	1,307,840
Total general fund appropriation	<u>\$ 250,655</u>

LAKE REGION HUMAN SERVICE CENTER, DEVILS LAKE

Salaries and wages	\$ 841,006
Fees and services	224,543
Supplies and materials	5,115
Equipment	10,200
Total all funds	\$ 1,080,864
Less estimated income	894,543
Total general fund appropriation	\$ 186,321

SECTION 5. APPROPRIATION.) There is hereby appropriated out of any funds collected through the issuance of permits or registration certificates for air contaminant sources, the sum of \$183,000.00, or so much as may be necessary, but not to exceed the total amount of funds collected for such permits and certificates, to the department of health of the state of North Dakota, for the purpose of defraying costs of the air pollution control program, for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 6. FUNDS FOR COLLOCATION.) Included in the general fund appropriations for mental health and retardation centers is \$114,061.00 for collocation of such centers with area social service centers during the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

South central mental health and retardation center, Jamestown	\$ 12,857
Southeast mental health and retardation center, Fargo	50,762
North central mental health and retardation center, Minot	32,197
Center for human development, Grand Forks	18,245
Total	\$ 114,061

SECTION 7. MENTAL HEALTH AND RETARDATION CENTERS - EXPENDITURE OF ESTIMATED INCOME.) The \$1,159,431 of estimated income appropriated to the comprehensive mental health and retardation centers in section 3 of this bill may be spent only upon approval of the budget section of the legislative council. The limitation on the expenditure of estimated income applies to the following centers:

Center for human development - Grand Forks	\$ 252,900
Southeast mental health and retardation center	510,640
Memorial mental health and retardation center	395,891
Total	\$ 1,159,431

SECTION 8. TRANSFER OF FUNDS - TITLE XIX.) Each comprehensive mental health and retardation center shall transfer funds during the 1979-81 biennium to the social service board in amounts equal to the nonfederal share of Title XIX payments which become available to such centers.

SECTION 9. SOCIAL SERVICE BOARD - STATE DEPARTMENT OF HEALTH - EMPLOYEE REDUCTION.) It is the intent of the legislative assembly

that the state social service board and the state department of health shall mutually reduce the number of positions funded (filled or vacant on February 1, 1979), by fifteen before the end of the 1979-81 biennium. The reduction in the number of positions is expected to arise pursuant to the collocation of area social service and comprehensive mental health and retardation centers; however, reductions in other areas of such departments and in human service centers may also be considered as complying with the required reduction of fifteen staff positions. The social service board and the state department of health shall report to the budget section on the progress that the departments are making in reducing the number of positions before June 30, 1980. The reports presented to the budget section shall identify the positions as discontinued, the fiscal savings that will arise as a result of the discontinuance and the funds that will remain unspent during the remainder of the 1979-81 biennium.

SECTION 10. EMERGENCY COMMISSION - AUTHORITY TO ACT ON SPECIAL PROJECTS.) The emergency commission shall have the authority to authorize the department of health to receive and spend federal funds for projects, including the construction grants program, and shall authorize the department of health to employ additional personnel for the special projects at as limited levels as possible.

SECTION 11. 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 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 12. 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 13. 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 director of the state social service board to eliminate all unnecessary duplications of programs and staff.

SECTION 14. HUMAN SERVICE CENTERS AND MENTAL HEALTH AND RETARDATION CENTERS.) Moneys shall be transferred to human service centers and mental health and retardation centers pursuant to the provisions of this Act, only after the state health department has been furnished reports by such centers indicating that funds from local sources have, except for necessary operating funds, first been expended for the operation of such centers. Copies of reports from human service centers shall also be filed with the social service board.

Approved April 8, 1979

CHAPTER 10

HOUSE BILL NO. 1011
(Committee on Appropriations)

SOCIAL SERVICE BOARD

AN ACT making an appropriation for defraying the expenses of the social service board of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums hereinafter provided or so much thereof as may be necessary, to the social service board of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Administration program:	
Salaries and wages	\$ 3,020,428
Fees and services	1,025,394
Data processing	286,820
Microfilming	3,000
Supplies and materials	152,155
Equipment	17,528
Grants, benefits, and claims	<u>12,832,661</u>
Total administration program	\$ 17,337,986
Less estimated income	<u>15,793,015</u>
Total general fund appropriation	\$ 1,544,971

Economic assistance program:	
Salaries and wages	\$ 2,934,812
Fees and services	621,009
Data processing	1,043,658
Supplies and materials	51,230
Equipment	8,482
Grants, benefits, and claims	<u>155,710,304</u>
Total economic assistance program	\$160,369,495
Less estimated income	<u>109,070,333</u>
Total general fund appropriation	\$ 51,299,162

Child support enforcement program:	
Salaries and wages	\$ 275,759
Fees and services	1,561,226
Data processing	81,507
Supplies and materials	4,090
Equipment	362
Grants, benefits, and claims	<u>1,651,200</u>
Total child support enforcement program	\$ 3,574,144
Less estimated income	<u>3,222,803</u>
Total general fund appropriation	\$ 351,341

Community services program:	
Salaries and wages	\$ 4,090,160
Fees and services	917,240
Data processing	90,439
Supplies and materials	43,927
Equipment	17,588
Human service centers	3,611,271
Grants, benefits, and claims	<u>16,357,597</u>
Total community services program	\$ 25,128,222
Less estimated income	<u>20,105,340</u>
Total general fund appropriation	\$ 5,022,882

Vocational rehabilitation program:	
Salaries and wages	\$ 4,268,189
Fees and services	1,066,000
Data processing	65,280
Supplies and materials	69,000
Equipment	31,264
Grants, benefits, and claims	<u>5,014,162</u>
Total vocational rehabilitation program	\$ 10,513,895
Less estimated income	<u>8,461,885</u>
Total general fund appropriation	\$ 2,052,010
Grand total general fund appropriation	\$ 60,560,366
Grand total special funds appropriated	\$159,651,876
Grand total all funds appropriated H.B. 1011	\$220,212,242

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 \$190,000.00 or so much thereof as may be necessary, and \$348,500.00 in special funds, to the state social service board for the purpose of providing services and assistance on behalf of unwed mothers residing in residential treatment facilities for unwed parents in this state; to promote and encourage the child-caring skills of such mothers and to assure the wholesome prenatal and postnatal growth and development of their children; and for the purpose of designing and developing a comprehensive statewide adoption training program; and for the procurement of specialized adoptive placement services from licensed child placing agencies on behalf of hard to place children under the jurisdiction of the supervision of the social service board during the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 3. APPROPRIATION.) There is hereby appropriated to the social service board the sum of \$1,590,000.00 in federal funds and \$1,060,000.00 to be contributed by individuals, organizations, governmental units, or other sources, for the human service purposes determined to be eligible for funding as provided by state and federal law during the biennium beginning July 1, 1979, and ending June 30, 1981.

The social service board shall make no expenditure pursuant to this appropriation for any function or activity that has not first been approved by the legislative council's committee on budget. The social service board will audit, supervise, and monitor all projects approved under this section. The social service board shall present all requests for program approval to the legislative council's budget section in such form as may be prescribed by the budget section, or its designee.

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 \$100,000.00, or so much thereof as may be necessary, for the biennium beginning July 1, 1979, and ending June 30, 1981, for the purpose of establishing a pilot program for home care and deinstitutionalization aid for the care, custody, and control of developmentally disabled persons who are retained in the home, deinstitutionalized, or may be deinstitutionalized. Under such program, the board shall, in the case of persons for whom the head of the institution has determined deinstitutionalization or continued noninstitutionalization to be appropriate, provide financial assistance to the natural parents, adoptive parents, or foster parents applying for aid under this section and qualifying under rules and regulations established by the board. Within the limits of legislative appropriation, qualifying applicants certified eligible shall receive an amount of fifty dollars, or so much thereof as may be necessary, for the basic care and training of such developmentally disabled persons for a seven-day or weekly period. Such program shall begin on January 1, 1980, after the board has developed guidelines and provided adequate time for the receipt of applications.

SECTION 5. SOCIAL SERVICE BOARD - STATE DEPARTMENT OF HEALTH - EMPLOYEE REDUCTION.) It is the intent of the legislative assembly that the state social service board and the state department of health shall mutually reduce the number of positions funded (filled or vacant on February 1, 1979), by fifteen before the end of the 1979-81 biennium. The reduction in the number of positions is expected to arise pursuant to the collocation of area social service and comprehensive mental health and retardation centers; however, reductions in other areas of such departments and in human service centers may also be considered as complying with the required reduction of fifteen staff positions. The social service board and the state department of health shall report to the budget section on the progress such departments are making in reducing the number of positions before June 30, 1980. The reports presented to the budget section shall identify the positions discontinued, the fiscal

savings that will arise as a result of the discontinuance, and the funds that will remain unspent during the remainder of the 1979-81 biennium.

SECTION 6. BUDGET SECTION REVIEW.) The social service board shall submit information during the 1979-81 biennium regarding the need for continuing the funding of the university of North Dakota and Minot state college social work programs. The social service board shall also report to the budget section on the allocations of administration costs to programs in the state, regional, and county offices. The reports shall indicate the amount of funds which are allocated to administration which could otherwise be allocated to services. The reports shall be specific in reporting the funds allocated to administration and the basis used for making such allocations for the 1979-81 biennium.

SECTION 7. APPROPRIATION.) The funds appropriated in section 1 of this Act within the fees and services line item of the administration program for professional liability and errors and omissions insurance in the amount of \$200,000 shall not be available for any other purpose without the consent of the emergency commission.

SECTION 8. 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 9. INTERAGENCY COORDINATION.) The social services department is hereby directed to coordinate the services provided in the social services centers with the services provided in the area mental health centers under the direction of the state health department and to eliminate all unnecessary duplication of programs and staff.

SECTION 10. 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 April 3, 1979

CHAPTER 11

HOUSE BILL NO. 1012
(Committee on Appropriations)

GOVERNOR'S COUNCIL ON HUMAN RESOURCES

AN ACT making an appropriation for defraying the expenses of the governor's council on human resources of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$398,097 or so much thereof as may be necessary, to the governor's council on human resources of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 73,580
Fees and services	90,612
Microfilm	190
Supplies and materials	13,490
Equipment	225
Grants, benefits, claims	<u>220,000</u>
Total all funds	\$ <u>398,097</u>
Less estimated income	<u>220,000</u>
Total general fund appropriation	\$ <u>178,097</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.

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 holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

SECTION 4. ALLOCATION OF FUNDS.) The amounts appropriated in section 1 of this Act shall be allocated to the various programs and commissions within the council on human resources in the same percentage of the total appropriation as recommended in the executive budget for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 8, 1979

CHAPTER 12

HOUSE BILL NO. 1013
(Committee on Appropriations)

INDIAN AFFAIRS COMMISSION

AN ACT making an appropriation for defraying the expenses of the Indian affairs commission of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$323,880 or so much thereof as may be necessary, to the Indian affairs commission of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 107,333
Fees and services	17,979
Supplies and materials	2,050
Equipment	1,518
Grants, benefits, and claims	195,000
Total all funds	\$ 323,880
Less estimated income	100,000
Total general fund transfer and appropriation	\$ 223,880

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. 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 2, 1979

CHAPTER 13

HOUSE BILL NO. 1014
(Committee on Appropriations)

DEPARTMENT OF VETERANS' AFFAIRS

AN ACT making an appropriation for defraying the expenses of the department of veterans' affairs of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$273,766 or so much thereof as may be necessary, to the department of veterans' affairs of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 227,006
* (Includes salary of commissioner not to exceed \$46,200 for the biennium)	
Fees and services	38,985
Supplies and materials	5,700
Equipment	<u>2,075</u>
Total general fund appropriation	\$ <u>273,766</u>

SECTION 2. 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.

Approved March 8, 1979

* NOTE: The limitation on the salary of the commissioner was vetoed by the Governor. See chapter 658.

CHAPTER 14

HOUSE BILL NO. 1016
(Committee on Appropriations)

AERONAUTICS COMMISSION

AN ACT making an appropriation for defraying the expenses of the aeronautics commission of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$2,349,353 or so much thereof as may be necessary, to the aeronautics commission of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 220,399
Fees and services	64,693
Supplies and materials	17,798
Equipment	6,463
Land, structures, and major improvements and contracts	485,000
Grants, benefits, and claims	1,555,000
Total all funds	\$ 2,349,353
Less estimated income	2,179,792
Total general fund transfer and appropriation	\$ 169,561

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. 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 7, 1979

CHAPTER 15

HOUSE BILL NO. 1017
 (Committee on Appropriations)

WEATHER MODIFICATION BOARD

AN ACT making an appropriation for defraying the expenses of the weather modification board of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$1,287,931 or so much thereof as may be necessary, to the weather modification board of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 330,307
Fees and services	739,229
Data processing	46,135
Supplies and materials	170,760
Equipment	1,500
Total all funds	<u>\$1,287,931</u>
Less estimated income	<u>642,733</u>
Total general fund appropriation	\$ 645,198

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. 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 3, 1979

CHAPTER 16

HOUSE BILL NO. 1018
(Committee on Appropriations)

DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS

AN ACT making an appropriation for defraying the expenses of the department of banking and financial institutions of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$1,162,566 or so much thereof as may be necessary, to the department of banking and financial institutions of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 903,367
Fees and services	226,135
Data processing	20,000
Supplies and materials	8,064
Equipment	5,000
Total general fund appropriation	\$1,162,566

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. 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.

Approved March 2, 1979

CHAPTER 17

HOUSE BILL NO. 1019
 (Committee on Appropriations)

SECURITIES COMMISSIONER

AN ACT making an appropriation for defraying the expenses of the securities commissioner of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$361,187 or so much thereof as may be necessary, to the securities commissioner of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages (Including salary of commissioner not to exceed \$59,400)	\$ 298,735
Fees and services	42,888
Data processing	800
Microfilming	2,100
Supplies and materials	12,744
Equipment	3,920
Total general fund appropriation	<u>\$ 361,187</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.

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 holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved April 5, 1979

CHAPTER 18

HOUSE BILL NO. 1020
(Committee on Appropriations)

FIRE MARSHAL

AN ACT making an appropriation for defraying the expenses of the state fire marshal of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$285,560 or so much thereof as may be necessary, to the state fire marshal of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 220,390
Fees and services	54,410
Supplies and materials	8,960
Equipment	1,800
Total all funds	\$ 285,560
Less estimated income	91,323
Total general fund appropriation	\$ 194,237

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. 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 8, 1979

CHAPTER 19

HOUSE BILL NO. 1022
 (Committee on Appropriations)

LIVESTOCK SANITARY BOARD

AN ACT making an appropriation for defraying the expenses of the livestock sanitary board of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$408,168 or so much thereof as may be necessary, to the livestock sanitary board of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 245,234
Fees and services	144,587
Supplies and materials	17,347
Equipment	<u>1,000</u>
Total general fund appropriation	\$ 408,168

SECTION 2. 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 2, 1979

CHAPTER 20

HOUSE BILL NO. 1023
(Committee on Appropriations)

MILK STABILIZATION BOARD

AN ACT making an appropriation for defraying the expenses of the milk stabilization board of the state 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 milk stabilization fund in the state treasury, not otherwise appropriated, the sum of \$361,266 or so much thereof as may be necessary, to the milk stabilization board of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$	226,824
Fees and services		121,792
Supplies and materials		2,650
Contingencies		10,000
Total special fund appropriation	\$	<u>361,266</u>

SECTION 2. 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 2, 1979

CHAPTER 21

HOUSE BILL NO. 1024
(Committee on Appropriations)

STATE FAIR PREMIUMS AND AUDITS

AN ACT making an appropriation for defraying the premium expenses of the state fair association of the state of North Dakota; and to amend and reenact section 4-02.1-18 of the North Dakota Century Code, relating to audits of the 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 moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$165,000 or so much thereof as may be necessary, to the state fair association of the state of North Dakota for the purpose of defraying the premium expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 2. 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 3. AMENDMENT.) Section 4-02.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-02.1-18. STATE AUDITOR TO EXAMINE RECORDS-AND-ACCOUNTS PREMIUMS - CERTIFIED AUDIT OF STATE FAIR ASSOCIATION.) It shall be the duty of the state auditor to annually-examine-the-records-and-accounts-of biennially audit the general fund moneys appropriated to the North Dakota State Fair Association and to report thereon to the governor and to the legislative audit and fiscal review committee. The State Fair Association shall submit annually to the governor and the legislative audit and fiscal review committee an audit report prepared by a certified public accountant based upon an audit of all records and accounts of the association.

Approved April 7, 1979

CHAPTER 22

HOUSE BILL NO. 1025
(Committee on Appropriations)

BUSINESS AND INDUSTRIAL DEVELOPMENT DEPARTMENT

AN ACT making an appropriation for defraying the expenses of the business and industrial development department of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$745,794 or so much thereof as may be necessary, to the business and industrial development department of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 400,979
Fees and services	184,323
Supplies and materials	67,492
Equipment	18,000
* Flax utilization fund	75,000
Total all funds	\$ 745,794
Less estimated income	75,000
Total general fund appropriation	\$ 670,794

SECTION 2. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that the international marketing efforts of the various state agencies and institutions of the state of North Dakota be coordinated by the business and industrial development department in order to achieve the most efficient utilization of funds in those marketing efforts.

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

*NOTE: North Dakota Century Code Chapter 4-28.1 was repealed by section 3 of House Bill No. 1495, chapter 104.

added, or that newly anticipated employees are actually in the employ of the state.

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 26, 1979

CHAPTER 23

HOUSE BILL NO. 1026
(Committee on Appropriations)

ABANDONED MOTOR VEHICLE DIVISION

AN ACT making an appropriation for defraying the expenses of the abandoned motor vehicles division of the state 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 abandoned vehicle disposal fund in the state treasury, not otherwise appropriated, the sum of \$400,000 or so much thereof as may be necessary, to the abandoned motor vehicle division of the health department of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Grants, benefits, claims	\$ 400,000
Total special funds appropriation	<u>\$ 400,000</u>

SECTION 2. 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 3, 1979

CHAPTER 24

HOUSE BILL NO. 1027
(Committee on Appropriations)

COMBINED LAW ENFORCEMENT COUNCIL

AN ACT making an appropriation for defraying the expenses of the combined law enforcement council of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$4,300,270 or so much thereof as may be necessary, to the combined law enforcement council of the state of North Dakota, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 603,576
Fees and services	334,850
Data processing	19,274
Microfilm	2,100
Supplies and materials	76,090
Equipment	2,500
Grants, benefits, claims	<u>3,261,880</u>
Total all funds	\$ 4,300,270
Less estimated income	<u>3,892,862</u>
Total general fund appropriation	\$ 407,408

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. 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 April 7, 1979

CHAPTER 25

HOUSE BILL NO. 1028
(Committee on Appropriations)

HIGHWAY PATROL

AN ACT making an appropriation for defraying the expenses of the highway patrol and the various divisions thereof of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the highway patrol of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

HIGHWAY PATROL

Salaries and wages	\$ 5,497,248
Fees and services	622,659
Data processing	51,874
Supplies and materials	608,252
Equipment	694,753
Office space - Bismarck law enforcement center	40,000
Total all funds	\$ 7,514,786
Less estimated income	4,565,849
Total general fund transfer and appropriation	\$ 2,948,937

Subdivision 2.

LAW ENFORCEMENT TRAINING CENTER

Salaries and wages	\$ 193,196
Fees and services	91,810
Supplies and materials	81,350
Equipment	20,050
Total all funds	\$ 386,406
Less estimated income	237,104
Total general fund transfer and appropriation	\$ 149,302
Grand total general fund appropriation	\$ 3,098,239

Grand total special funds appropriated	\$ 4,802,953
Grand total all funds appropriated H.B. 1028	\$ 7,901,192

SECTION 2. APPROPRIATION.) Each patrolman of the state highway patrol shall receive from funds appropriated in the fees and services line item in subdivision 1 of section 1 of this Act an amount not to exceed ninety dollars per month in lieu of reimbursement for meals and other expenses, except lodging, while in travel status within the state of North Dakota or while at their respective home stations. Such amounts 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. APPROPRIATION.) The special funds included in subdivision 1 of section 1 of this Act include a transfer of \$3,908,936 from the state highway fund which is hereby appropriated to the state highway patrol. The funds shall be transferred from the state highway fund to the highway patrol operating fund periodically as directed by the office of the budget, and shall equal fifty-seven percent of the funds expended by the highway patrol, not including federal funds.

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.

SECTION 5. 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 April 3, 1979

CHAPTER 26

HOUSE BILL NO. 1029
(Committee on Appropriations)

HIGHWAY DEPARTMENT

AN ACT making an appropriation for defraying the expenses of the highway department of the state 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 highway fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$243,499,241 or so much thereof as may be necessary, to the highway department of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 45,895,635
Fees and services	8,099,113
Data processing	1,014,800
Microfilming	7,000
Supplies and materials	17,815,208
Equipment	6,728,685
Grants, benefits, and claims	2,948,464
Land, structures, and major improvements	15,041,800
Contracts	141,839,600
Legal drain openings	100,000
Railroad crossing protection	100,000
Highway patrol transfer	3,908,936
Total highway fund appropriation	\$ 243,499,241

SECTION 2. APPROPRIATION.) The transfer to the highway patrol operating fund shall be made periodically as directed by the office of the budget and shall be equal in amount to fifty-seven percent of the funds expended by the highway patrol, not including federal funds.

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, 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 April 3, 1979

CHAPTER 27

HOUSE BILL NO. 1030
(Committee on Appropriations)

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

AN ACT making an appropriation for defraying the expenses of the upper great plains transportation institute of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$468,967 or so much thereof as may be necessary, to the upper great plains transportation institute of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 347,067
Operating expense	119,400
Equipment	2,500
Total all funds	\$ 468,967
Less estimated income	273,626
Total general fund transfer and appropriation	\$ 195,341

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. 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.

Approved April 7, 1979

CHAPTER 28

HOUSE BILL NO. 1031
 (Committee on Appropriations)

MOTOR VEHICLE DEPARTMENT

AN ACT making an appropriation for defraying the expenses of the motor vehicle department of the state of North Dakota; 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 motor vehicle registration fund in the state treasury, not otherwise appropriated, the sum of \$5,168,176 or so much thereof as may be necessary, to the motor vehicle department of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 1,220,848
Fees and services	1,333,916
Data processing	595,034
Microfilming	16,500
Supplies and materials	179,097
License plates and tabs	1,706,150
Equipment	41,631
Special refunds	25,000
Contingency fund	<u>50,000</u>
Total appropriation from motor vehicle registration fund	\$ 5,168,176

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. 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 4. REFUNDS OF REGISTRATION FEES.) No refunds of registration fees shall be made, except where the vehicle has been improperly registered or where the vehicle has been destroyed.

SECTION 5. EMERGENCY.) The line item entitled "license plates and tabs" in section 1 of this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1979

CHAPTER 29

HOUSE BILL NO. 1032
(Committee on Appropriations)

COMMISSIONER OF UNIVERSITY
AND SCHOOL LANDS

AN ACT making an appropriation for defraying the expenses of the commissioner of university and school lands of the state 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 lands maintenance fund in the state treasury, not otherwise appropriated, the sum of \$827,643 or so much thereof as may be necessary, to the commissioner of university and school lands of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 574,467
Fees and services	189,316
Data processing	13,860
Supplies and materials	11,000
Equipment	4,000
Contingent fund	<u>35,000</u>
Total state lands maintenance fund	\$ 827,643

SECTION 2. 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 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 April 7, 1979

CHAPTER 30

HOUSE BILL NO. 1033
(Committee on Appropriations)

INDUSTRIAL COMMISSION AND STATE INDUSTRIES

AN ACT making an appropriation for defraying the expenses of the state industrial commission and the agencies under the management of the industrial commission of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the state industrial commission and agencies under its control, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

INDUSTRIAL COMMISSION		
Fees and services		\$ 20,000
Supplies and materials		200
Total general fund appropriation		<u>\$ 20,200</u>

Subdivision 2.

BANK OF NORTH DAKOTA		
Salaries and wages		\$ 3,286,533
Fees and services		1,386,346
Data processing		610,867
Microfilming		21,000
Supplies and materials		170,500
Equipment		125,670
Land, structures, and major improvements		41,500
Contingent		75,000
Total appropriation from Bank of North Dakota fund		<u>\$ 5,717,416</u>

Subdivision 3.

MILL AND ELEVATOR ASSOCIATION

Salaries and wages	\$ 6,347,973
Fees and services	3,536,848
Supplies and materials	114,712
Contingent	<u>400,000</u>
Total appropriation from mill and elevator fund	\$ 10,399,533
Grand total general fund appropriation	\$ 20,200
Grand total special funds appropriated	\$ 16,116,949
Grand total all funds H.B. 1033	\$ 16,137,149

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. 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 April 7, 1979

CHAPTER 31

HOUSE BILL NO. 1034
(Committee on Appropriations)

PUBLIC EMPLOYEES RETIREMENT AND INSURANCE

AN ACT making an appropriation for defraying the administrative expenses of the public employees retirement system and the group insurance program of the state 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 special funds in the state treasury, not otherwise appropriated, derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the public employees retirement system and group insurance program of the state of North Dakota, for the purpose of defraying the administrative costs of the divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

PUBLIC EMPLOYEES RETIREMENT SYSTEM	
Salaries and wages	\$ 289,117
Fees and services	478,810
Data processing	95,200
Microfilming	4,000
Supplies and materials	37,500
Equipment	2,835
Contingent	75,000
Total appropriation from state employees retirement fund	\$ 982,462

Subdivision 2.

PUBLIC EMPLOYEES GROUP INSURANCE	
Salaries and wages	\$ 45,154
Fees and services	11,341
Microfilming	400
Supplies and materials	500
Contingent	10,000
Total appropriation from group insurance fund	\$ 67,395
Grand total special funds appropriated	\$1,049,857

H.B. 1034

SECTION 2. 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 provided for herein.

Approved March 10, 1979

CHAPTER 32

HOUSE BILL NO. 1035
(Committee on Appropriations)

TEACHERS' FUND FOR RETIREMENT

AN ACT making an appropriation for defraying the expenses of the teachers' fund for retirement of the state 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 teachers' fund for retirement in the state treasury, not otherwise appropriated, the sum of \$617,401 or so much thereof as may be necessary, to the teachers' fund for retirement of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 236,613
Fees and services	288,849
Data processing	58,291
Microfilming	750
Supplies and materials	17,083
Equipment	10,815
Contingent	5,000
Total appropriation from teachers' fund for retirement	<u>\$ 617,401</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.

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 holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved March 15, 1979

CHAPTER 33

HOUSE BILL NO. 1036
 (Committee on Appropriations)

JOB SERVICE NORTH DAKOTA

AN ACT making an appropriation for defraying the expenses of the employment security bureau and divisions thereof of the state 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 special funds in the state treasury, not otherwise appropriated, derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the employment security bureau of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

EMPLOYMENT SECURITY BUREAU

Salaries and wages	\$ 18,205,293
Fees and services	4,545,787
Supplies and materials	512,413
Equipment	230,145
Total special funds appropriated	<u>\$ 23,493,638</u>

Subdivision 2.

NORTH DAKOTA OASIS AND SOCIAL SECURITY

Salaries and wages	\$ 174,283
Fees and services	27,528
Supplies and materials	3,000
Equipment	1,625
Total appropriation from social security contribution fund	<u>\$ 206,436</u>
Grand total special funds appropriated H.B. 1036	\$ 23,700,074

SECTION 2. APPROPRIATION.) All federal funds received by the employment security bureau in excess of those funds appropriated in subdivision 1 of section 1 of this Act are hereby appropriated.

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, 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, 1979

CHAPTER 34

HOUSE BILL NO. 1037
(Committee on Appropriations)

WORKMEN'S COMPENSATION BUREAU

AN ACT making an appropriation for defraying the expenses of the workmen's compensation bureau of the state 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 workmen's compensation fund in the state treasury, not otherwise appropriated, the sums as hereinafter provided or so much thereof as may be necessary, to the workmen's compensation bureau of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

WORKMEN'S COMPENSATION BUREAU

Salaries and wages	\$ 1,988,528
Fees and services	489,934
Data processing	306,282
Microfilming	19,140
Supplies and materials	115,755
Equipment	93,279
Contingent	20,000
Total appropriation from workmen's compensation fund	\$ 3,032,918

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. 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 15, 1979

CHAPTER 35

HOUSE BILL NO. 1038
(Committee on Appropriations)

CRIME VICTIMS REPARATIONS

AN ACT making an appropriation for defraying the expenses of the crime victims reparations act under the supervision of the workmen's compensation bureau of the State 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 general fund in the state treasury, not otherwise appropriated, the sum of \$310,126 or so much thereof as may be necessary, to the crime victims reparations division under the supervision of the workmen's compensation bureau of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 37,284
Fees and services	10,492
Supplies and materials	2,350
Grants, benefits, claims	260,000
Total general fund appropriation	<u>\$ 310,126</u>

SECTION 2. RESERVE.) It is the intent of the legislative assembly that an amount equal to the balance of claims outstanding which were approved during the 1975-77 biennium in the amount of \$33,185, and the estimated balance of claims outstanding which are to be approved during the 1977-79 biennium in the amount of \$84,670 or such other amount as may be necessary, shall be reserved in the general fund as evidence of the contingent obligation created under the provisions of chapter 65-13 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, 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 2, 1979

CHAPTER 36

HOUSE BILL NO. 1039
(Committee on Appropriations)

TRANSFER FROM MILL AND ELEVATOR

AN ACT to transfer moneys from the accumulated and undivided profits of the North Dakota mill and elevator association to the general fund of the state of North Dakota.

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

SECTION 1. TRANSFER.) There is hereby transferred to the general fund in the state treasury, the sum of \$6,000,000 from the accumulated and undivided profits of the North Dakota mill and elevator association. Such moneys shall be transferred during the biennium beginning July 1, 1979, and ending June 30, 1981, upon order of the industrial commission.

Approved March 2, 1979

CHAPTER 37

HOUSE BILL NO. 1040
(Committee on Appropriations)

TRANSFER FROM BANK OF NORTH DAKOTA

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

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

SECTION 1. TRANSFER.) There is hereby transferred to the general fund in the state treasury, the sum of \$14,000,000 from the accumulated and undivided profits of the Bank of North Dakota. Such moneys shall be transferred during the biennium beginning July 1, 1979, and ending June 30, 1981, upon order of the industrial commission.

Approved March 2, 1979

CHAPTER 38

HOUSE BILL NO. 1139
(Committee on Appropriations)
(At the request of the Adjutant General)

NATIONAL GUARD TUITION WAIVER PROGRAM

AN ACT making an appropriation for the national guard tuition waiver program.

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 Vietnam veterans adjusted compensation fund, not otherwise appropriated, the sum of \$550,000.00 or so much thereof as may be necessary, to the adjutant general for the purpose of reimbursing appropriate schools for any tuition fees waived in accordance with chapter 37-07.1 of the 1977 Supplement to the North Dakota Century Code for the biennium beginning July 1, 1979, and ending June 30, 1981. This appropriation shall not be subject to the provisions of section 54-27-10.

Approved March 3, 1979

CHAPTER 39

HOUSE BILL NO. 1221
(Committee on Appropriations)
(At the request of the Parks and Recreation Department)

CROSS RANCH VETERANS MEMORIAL STATE PARK

AN ACT to appropriate moneys to the North Dakota parks and recreation department for the acquisition of the cross ranch and other land for designation as the veterans memorial state park, describing the park and authorizing its purchase or lease, and providing a contract review committee.

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 Vietnam bonus fund, not otherwise appropriated, the sum of \$2,640,000.00, or so much thereof as may be necessary, to the North Dakota parks and recreation department for the acquisition of the cross ranch and the state land described in section 2, for designation as the veterans memorial state park for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 2.) The cross ranch and the land described as section thirty-six, township one hundred forty-four north, range eighty-two west, the land accreted to the state in section twenty-five, township one hundred forty-four north, range eighty-two west, the land accreted to the state in section thirty, township one hundred forty-four north, range eighty-one west, and the land accreted to the state in section thirty-one, township one hundred forty-four north, range eighty-one west shall be designated as the veterans memorial state park. Any lease of these lands shall terminate at the end of the lease term, and at that time the North Dakota parks and recreation department shall lease or purchase the land as a state park area, subject to legislative appropriation.

SECTION 3. CONTRACT REVIEW COMMITTEE.) The legislative council shall appoint a committee comprised of the chairman of the legislative council, the director of the state parks and recreation department, and such other members as the legislative council may determine, to review the contract for the purchase of the veterans memorial state park and make written findings concerning the interests of the state in the purchase of the land. The chairman of the legislative council shall serve as chairman of the contract

review committee and the committee shall meet as necessary at the call of the chairman prior to the purchase of the veterans memorial state park. The committee shall review the purchase contract to determine if any covenants or restrictions would limit or otherwise affect the alienability of the land or the use to which the land may be put. If the committee determines the existence of covenants or restrictions on the land which would limit the alienability of the land or the use to which the land may be put, it shall not approve the contract, unless the covenant or restriction can be appropriately modified or negated. The appropriation in section 1 of this Act is contingent upon the approval of the contract by the committee. The committee shall report its findings to the budget section of the legislative council. Upon certification of the contents of the purchase contract and approval by the budget section, the parks and recreation department may purchase the lands. The legislative assembly shall have full, exclusive, and continuing authority to determine the use of all the property included in the land purchase.

Approved April 9, 1979

CHAPTER 40

HOUSE BILL NO. 1282
(Committee on Appropriations)
(At the request of the Insurance Department)

INSURANCE TAX DEFICIENCY APPROPRIATION

AN ACT making a deficiency appropriation for defraying expenses of the payments to fire departments program of the state of North Dakota and declaring an emergency.

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

SECTION 1. DEFICIENCY APPROPRIATIONS.) The sum of \$406,154.00, or so much thereof as may be necessary, is hereby appropriated out of any moneys not otherwise appropriated in the general fund in the state treasury of the state of North Dakota for the period beginning January 1, 1979, and ending June 30, 1979, for defraying expenses of the payments to fire departments program of the state of North Dakota for the purposes provided by sections 18-04-01 and 26-01-11 of the North Dakota Century Code.

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, 1979

CHAPTER 41

HOUSE BILL NO. 1611
(Representatives Kloubec, R. Christensen, Kelly)
(Senators Tennefos, Naaden)

STATE FINANCIAL SYSTEM STUDY

AN ACT providing for appropriations to study the state accounting and financial reporting system; and declaring an emergency.

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

SECTION 1. LEGISLATIVE COUNCIL STUDY - APPROPRIATION.) There is hereby appropriated out of any moneys of the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary to the legislative council to provide for a legislative audit and fiscal review committee study of the state accounting and financial reporting system which study shall be completed during the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 2. EMERGENCY.) This measure is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 3, 1979

CHAPTER 42

SENATE BILL NO. 2001
(Committee on Appropriations)

ELECTED STATE OFFICIALS

AN ACT making an appropriation for defraying the expenses of various elected officials of the state of North Dakota; 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income the sums as hereinafter provided to the various elected officials for the purpose of defraying the expenses of the various elected officials of the state of North Dakota, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

GOVERNOR'S OFFICE

Salaries and wages	\$	503,608
Fees and services		77,555
Supplies and materials		18,311
Equipment		1,825
Contingency fund		7,000
Lieutenant governor contingency		10,000
Total general fund appropriation	\$	<u>618,299</u>

Subdivision 2.

GOVERNORS' ASSOCIATIONS

Fees and services	\$	<u>24,400</u>
Total general fund appropriation	\$	24,400

Subdivision 3.

GOVERNOR ELECT

Lump sum	\$	<u>3,000</u>
Total general fund appropriation	\$	3,000

Subdivision 4.

OLD WEST REGIONAL COMMISSION

Fees and services	\$ 108,750
Total general fund appropriation	\$ 108,750

Subdivision 5.

LIEUTENANT GOVERNOR

Salaries and wages	\$ 35,682
Fees and services	7,875
Supplies and materials	509
Equipment	1,000
Total general fund appropriation	\$ 45,066

Subdivision 6.

SECRETARY OF STATE

Salaries and wages	\$ 489,658
Fees and services	55,864
Microfilming	7,000
Supplies and materials	23,000
Equipment	8,180
Election law administration	\$ 177,000
Petition Review	5,000
Total general fund appropriation	\$ 765,702

Subdivision 7.

SECRETARY OF STATE - PUBLIC PRINTING

Fees and services	\$ 7,000
Supplies and materials	205,000
Total general fund appropriation	\$ 212,000

Subdivision 8.

SECRETARY OF STATE

RECORDS MANAGEMENT AND MICROFILMING

Salaries and wages	\$ 101,104
Fees and services	13,576
Supplies and materials	15,325
Equipment	10,000
Total all funds	\$ 140,005
Less estimated income - central microfilm unit special fund	83,000
Total general fund transfer and appropriation	\$ 57,005

Subdivision 9.

ATTORNEY GENERAL

Salaries and wages	\$ 2,021,137
Fees and services	466,966
Data processing	30,200
Microfilming	10,000
Supplies and materials	98,650
Equipment	84,608
Gambling enforcement	142,750
Litigation fees	50,000
Garrison Diversion litigation	100,000
Total all funds	\$ 3,004,311
Less estimated income	312,905
Total general fund transfer and appropriation	\$ 2,691,406

Subdivision 10.

STATE AUDITOR

Salaries and wages	\$ 1,849,085
Fees and services	225,373
Data processing	8,000
Supplies and materials	24,350
Equipment	5,500
Total general fund appropriation	<u>\$ 2,112,308</u>

Subdivision 11.

STATE TREASURER

Salaries and wages	\$ 333,186
Fees and services	38,496
Data processing	16,693
Microfilming	5,243
Supplies and materials	8,531
Equipment	2,451
Total general fund appropriation	<u>\$ 404,600</u>

Subdivision 12.

STATE TAX COMMISSIONER

Salaries and wages	\$ 4,095,209
Fees and services	777,749
Data processing	804,088
Microfilming	3,000
Supplies and materials	223,049
Equipment	20,773
Total general fund appropriation	<u>\$ 5,923,868</u>

Subdivision 13.

COMMISSIONER OF INSURANCE

Salaries and wages	\$ 553,124
Fees and services	57,900
Data processing	28,509
Supplies and materials	19,702
Equipment	4,050
Total general fund appropriation	<u>\$ 663,285</u>

Subdivision 14.

COMMISSIONER OF LABOR

Salaries and wages	\$ 264,287
Fees and services	66,975
Supplies and materials	7,275
Equipment	500
Total general fund appropriation	<u>\$ 339,037</u>

Subdivision 15.

PUBLIC SERVICE COMMISSION

Salaries and wages	\$ 2,267,491
Fees and services	991,684
Data processing	116,119
Microfilming	5,375
Supplies and materials	130,390

Equipment	92,712
Refunds	50,000
Total all funds	\$ 3,653,771
Less estimated income	380,611
Total general fund transfer and appropriation	\$ 3,273,160

Subdivision 16.

COMMISSIONER OF AGRICULTURE

Salaries and wages	\$ 1,100,950
Fees and services	516,350
Supplies and materials	41,815
Equipment	15,000
Total all funds	\$ 1,674,115
Less estimated income	131,019
Total general fund transfer and appropriation	\$ 1,543,096

Subdivision 17.

STATE OFFICERS EXPENSE PAYMENTS

In order to properly discharge their official duties the following elected officials shall be paid the sum set forth opposite their respective titles for each of the calendar years of 1979 and 1980. The sums are for expenses and moneys expended in the discharge of official duty, and are to be paid quarterly by the department of accounts and purchases without filing of any itemized voucher or statement. The expense payments provided by this Act shall be retroactive to January 1, 1979.

OFFICIAL	EXPENSE	EXPENSE
	PAYMENT	PAYMENT
	1979	1980
Governor	\$17,250	\$20,150
Lieutenant governor	2,350	2,800
Secretary of state	7,850	9,800
Attorney general	10,700	13,000
Superintendent of public instruction	8,900	10,950
Tax commissioner	8,900	10,950
Commissioner of insurance	7,850	9,800
Public service commissioners	27,550	33,400
Commissioner of agriculture	7,850	9,800
State auditor	7,850	9,800
State treasurer	7,850	9,800
Commissioner of labor	350	2,300
Total general fund appropriation for state officers' expense payments		\$257,800

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 \$257,800, or so much thereof as may be necessary, to carry out the provisions of subdivision 17 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.

Grand total general fund appropriation	\$ 19,608,078
Grand total special funds appropriated	\$ 2,940,440
Grand total all funds S.B. 2001	\$ 22,548,518

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.

SECTION 5. 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 6. EXEMPTION.) The funds herein appropriated for subdivisions two, three, and four of this Act shall not be subject to the provisions of sections 54-27-10 and 54-27-11 of the North Dakota Century Code, relating to the time during which appropriations become available.

SECTION 7. INSURANCE COMMISSIONER - PERFORMANCE AUDIT.) In the course of conducting the next regular audit of the state insurance commissioner's office, the state auditor shall conduct an expanded scope audit (performance audit). Such audit shall begin as soon after the effective date of this Act as possible and upon completion the report shall be presented to the legislative audit and fiscal review committee. The performance audit shall include a financial audit and a review of compliance by the insurance commissioner's office with legislative intent and of the effectiveness and efficiency of the office. The insurance commissioner shall provide the auditor's office such assistance as it may request in conducting the performance audit.

SECTION 8. STATE AUDITOR - CONTENT OF AUDIT REPORTS.) While conducting audits during the 1979-81 biennium, the state auditor's office shall review the activities of all persons employed in public relation positions and shall include comments in audit reports if it determines that such persons are involved in public relation activities which are not consistent with the duties and responsibilities of the departments, boards, bureaus, commissions, agencies, or institutions in which they are employed. The legislative audit and fiscal review committee after receiving audit reports which contain comments and findings in regard to the activities of public relations personnel, shall make a report of its findings to the forty-seventh legislative assembly.

SECTION 9. APPROPRIATION - PUBLIC SERVICE COMMISSION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$588,201, or so much thereof as may be necessary, to the public service commission for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Fees and services	\$ 529,924
Supplies and materials	8,277
Data processing	<u>50,000</u>
Total all funds	\$ 588,201
Less estimated income	<u>322,905</u>
Total general fund appropriation	\$ 265,296

The funds appropriated in this section shall be expended by the public service commission only for the purpose of completing a state program to comply with the provisions of Public Law 95-87 (Surface Mining Control and Reclamation Act of 1977).

SECTION 10. APPROPRIATION - HIGHWAY DEPARTMENT.) There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$300,000.00, or so much thereof as may be necessary, and \$1,710,000.00 of federal funds, or so much thereof as may be necessary, to the state highway department for the purpose of providing financial assistance for the continuation of operations and maintenance of any railroad within the state as provided for in the Railroad Revitalization and Regulatory Reform Act of 1976, or other federal legislation, and in accordance with the provisions of House Bill No. 1103 passed by the forty-sixth legislative assembly. The highway department shall make grants of financial assistance pursuant to this appropriation only after such grants have been approved by the public service commission.

Approved April 7, 1979

CHAPTER 43

SENATE BILL NO. 2002
 (Committee on Appropriations)

DEPARTMENT OF PUBLIC INSTRUCTION

AN ACT making an appropriation for defraying the expenses of the department of public instruction of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums hereinafter provided, or so much thereof as may be necessary, to the department of public instruction of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 3,476,689
Fees and services	1,370,448
Data processing	252,546
Microfilming	4,200
Supplies and materials	395,294
Equipment	71,137
Grants - special education	12,739,351
Grants - foundation aid	208,394,000
Grants - school lunch program	1,283,605
Grants - federal grants	<u>35,030,986</u>
Total all funds	\$263,018,256
Less estimated income	<u>55,708,232</u>
Total general fund appropriation	<u>\$207,310,024</u>

SECTION 2. 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 provided for herein.

SECTION 3. FEDERAL REVENUE SHARING APPROPRIATION.) There is hereby appropriated to the department of public instruction, from moneys not otherwise appropriated, the sum of \$12,400,000 of federal revenue sharing funds, or such greater amounts of such funds as may be available, during the biennium beginning July 1, 1979, and ending June 30, 1981, for the purpose of utilizing revenue sharing funds in the elementary and secondary foundation aid grants as provided for in section 1 of this Act. The moneys appropriated in this section are reflected as estimated income in section 1 of this Act.

Approved April 7, 1979

CHAPTER 44

SENATE BILL NO. 2003
 (Committee on Appropriations)

DIRECTOR OF ACCOUNTS AND PURCHASES

AN ACT making an appropriation for defraying the expenses of the various divisions under the supervision of the director of accounts and purchases of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the various divisions under the supervision of the director of accounts and purchases of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

DEPARTMENT OF ACCOUNTS AND PURCHASES

Salaries and wages	\$ 1,131,919
Fees and services	61,212
Data processing	405,000
Microfilming	3,000
Supplies and materials	62,609
Equipment	8,565
Total general fund appropriation	<u>\$ 1,672,305</u>

Subdivision 2.

CENTRAL DATA PROCESSING

Salaries and wages	\$ 3,060,388
Fees and services	3,872,540
Supplies and materials	218,874
Equipment	699,757
Contingent	150,000
Total special funds appropriated	<u>\$ 8,001,559</u>

Subdivision 3.

CENTRAL PERSONNEL DIVISION

Salaries and wages	\$ 497,044
Fees and services	158,559
Data processing	18,500
Microfilming	15,525
Supplies and materials	36,058
Equipment	10,818
Total all funds	\$ 736,504
Less estimated income	461,908
Total general fund transfer and appropriation	\$ 274,596
Grand total general fund appropriation S.B. 2003	\$ 2,121,901
Grand total special funds appropriated S.B. 2003	\$ 8,463,467
Grand total all funds appropriated S.B. 2003	\$ 10,585,368

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 \$175,000, or so much thereof as may be necessary, to central data processing for developmental projects during the biennium beginning July 1, 1979, and ending June 30, 1981. Such funds shall only be expended for projects first approved by the budget section of the legislative council.

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, 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 April 3, 1979

CHAPTER 45

SENATE BILL NO. 2004
(Committee on Appropriations)

HOMESTEAD TAX CREDIT

AN ACT making an appropriation for the homestead tax credit, and providing for the distribution of such funds.

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 \$3,550,000 or so much thereof as may be necessary, to the state tax commissioner for the purpose of reimbursing the homestead tax credit, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Grants, benefits, claims	\$ 3,550,000
Total general fund appropriation	<u>\$ 3,550,000</u>

Approved March 12, 1979

CHAPTER 46

SENATE BILL NO. 2005
(Committee on Appropriations)

PERSONAL PROPERTY TAX REPLACEMENT

AN ACT making an appropriation for the distribution of funds for the replacement of personal property taxes.

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, and from special funds derived from federal funds and/or other income, the sum of \$25,896,447, or so much thereof as may be necessary, to the state tax commissioner for the purpose of replacement of personal property taxes, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Grants, benefits and claims	\$ 25,896,447
Total general fund appropriation	<u>\$ 25,896,447</u>

SECTION 2. DISTRIBUTION.) The distribution of funds appropriated under section 1 of this Act shall be made in accordance with the formula for personal property tax replacement payments as provided for in section 57-58-01. During the year ending June 30, 1980, such payments shall not exceed one-half of the total appropriation provided for in this Act.

SECTION 3. CONTINGENT.) Notwithstanding the provisions of section 57-58-01, which contains the formula for personal property tax replacement payments, the payments shall not exceed the amounts as set forth in this Act. If the appropriation provided for in this Act in any fiscal year is less than the amount determined by applying the formula as contained in section 57-58-01, the director of the department of accounts and purchases shall pay only the amount of funds available under this Act. Under such circumstances, a method of proration shall be used that provides each eligible recipient the same proportion of these funds as the percent of total funds it would have received under the application of the formula provided for in section 57-58-01.

Approved March 12, 1979

CHAPTER 47

SENATE BILL NO. 2006
(Committee on Appropriations)

DIRECTOR OF INSTITUTIONS

AN ACT making an appropriation for defraying the expenses of various divisions under the supervision of the director of institutions of the state of North Dakota; 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the director of institutions of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

DIRECTOR OF INSTITUTIONS

Salaries and wages	\$ 1,842,644
Fees and services	907,381
Institutional medical fees	361,378
Supplies and materials	121,474
Equipment	76,890
Land, structures, and major improvements	<u>1,650,000</u>
Total general fund appropriation	\$ 4,959,767

Subdivision 2.

DIRECTOR OF INSTITUTIONS - ENERGY CONVERSION

Land, structures, and major improvements	\$ 488,200
Total general fund appropriation	\$ 488,200

Subdivision 3.

STATE COMMUNICATIONS

Fees and services	\$ 3,662,600
Total all funds	\$ 3,662,600
Less estimated income	<u>1,414,484</u>
Total general fund appropriation	\$ 2,248,116

Grand total general fund appropriation	\$ 7,696,083
Grand total special funds appropriation	\$ 1,414,484
Grand total all funds appropriated S.B. 2006	\$ 9,110,567

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. 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 4. EMERGENCY.) The line item entitled "land, structures, and major improvements," in subdivision 1 of section 1 of this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after passage and approval.

Approved April 7, 1979

CHAPTER 48

SENATE BILL NO. 2007
(Committee on Appropriations)

INDUSTRIAL SCHOOL

AN ACT making an appropriation for defraying the expenses of the state industrial school of the state of North Dakota; 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$3,547,659 or so much thereof as may be necessary, to the state industrial school under the supervision of the director of institutions of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 2,429,877
Operating expenses	815,381
Equipment	56,595
Land, structures, and major improvements	<u>245,806</u>
Total all funds	\$ 3,547,659
Less estimated income	<u>744,388</u>
Total general fund transfer and appropriation	\$ 2,803,271

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.) The line item entitled "land, structures, and major improvements" in section 1 of this Act is hereby declared to be an emergency measure and shall be in effect from and after passage and approval.

Approved April 7, 1979

CHAPTER 49

SENATE BILL NO. 2008
(Committee on Appropriations)

SCHOOLS FOR THE DEAF AND THE BLIND

AN ACT making an appropriation for defraying the expenses of the school for the deaf and the school for the blind of the state 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 moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the school for the deaf and the school for the blind under the supervision of the director of institutions of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

SCHOOL FOR THE DEAF

Salaries and wages	\$ 1,943,461
Operating expense	343,105
Equipment	101,163
Land, structures, and major improvements	232,000
Total all funds	\$ 2,619,729
Less estimated income	359,634
Total general fund transfer and appropriation	\$ 2,260,095

Subdivision 2.

SCHOOL FOR THE BLIND

Salaries and wages	\$ 1,111,287
Operating expense	273,509
Equipment	54,715
Land, structures, and major improvements	140,000
Total all funds	\$ 1,579,511
Less estimated income	326,395
Total general fund transfer and appropriation	\$ 1,253,116
Grand total general fund appropriation	\$ 3,513,211

Grand total special funds appropriated	\$ 686,029
Grand total all funds appropriated S.B. 2008	\$ 4,199,240

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. 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 April 7, 1979

CHAPTER 50

SENATE BILL NO. 2009
(Committee on Appropriations)

GRAFTON STATE SCHOOL AND SAN HAVEN

AN ACT making an appropriation for defraying the expenses of the Grafton state school and the San Haven state hospital of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the Grafton state school and San Haven state hospital under the supervision of the director of institutions of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

GRAFTON STATE SCHOOL		
Salaries and wages		\$ 15,941,532
Operating expense		3,339,785
Equipment		236,653
Land, structures, and major improvements		<u>967,103</u>
Total all funds		\$ 20,485,073
Less estimated income		<u>2,534,439</u>
Total general fund transfer and appropriation		\$ 17,950,634

Subdivision 2.

SAN HAVEN STATE HOSPITAL		
Salaries and wages		\$ 5,786,332
Operating expense		1,251,040
Equipment		93,203
Land, structures, and major improvements		<u>563,258</u>
Total all funds		\$ 7,693,833
Less estimated income		<u>572,948</u>
Total general fund transfer and appropriation		\$ 7,120,885
Grand total general fund appropriation		\$ 25,071,519
Grand total special funds appropriated		\$ 3,107,387
Grand total all funds appropriated S.B. 2009		\$ 28,178,906

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. 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 4. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that \$13,438 of the increase in Grafton state school salaries and wages and \$11,413 of the increase in the San Haven state hospital salaries and wages be for the purpose of increasing institutional support worker salaries because of contemplated reclassification of institutional support workers effective July 1, 1979. It is not the intent of the legislative assembly that everyone within each classification receive the same salary. It is the intent of the legislative assembly that the institutions work closely with representatives of the central personnel division so that any salary increases given to institutional support workers be compatible with the central personnel division pay grades for such classifications.

Approved April 7, 1979

CHAPTER 51

SENATE BILL NO. 2010
(Committee on Appropriations)

STATE RADIO COMMUNICATIONS DEPARTMENT

AN ACT making an appropriation for defraying the expenses of the radio communications department of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$1,424,417 or so much thereof as may be necessary, to the state radio communications department under the supervision of the director of institutions of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$	851,117
Fees and services		253,744
Data processing		187,113
Supplies and materials		40,582
Equipment		91,861
Total all funds	\$	<u>1,424,417</u>
Less estimated income		30,000
Total general fund transfer and appropriation	\$	<u>1,394,417</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.

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 holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved March 25, 1979

CHAPTER 52

SENATE BILL NO. 2011
(Committee on Appropriations)

STATE PENITENTIARY AND ROUGH RIDER INDUSTRIES

AN ACT making an appropriation for defraying the expenses of the state penitentiary and various divisions thereof of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the state penitentiary and the roughrider industries under the supervision of the director of institutions of the state of North Dakota, for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

STATE PENITENTIARY

Salaries and wages	\$ 3,885,326
Operating expense	1,803,977
Equipment	87,137
Land, structures, and major improvements	397,630
Staff training - lump sum	<u>21,900</u>
Total all funds	\$ 6,195,970
Less estimated income	<u>490,220</u>
Total general fund transfer and appropriation	\$ 5,705,750

Subdivision 2.

ROUGH RIDER INDUSTRIES

Salaries and wages	\$ 435,154
Operating expense	2,662,098
Equipment	323,600
Land, structures, and major improvements	<u>214,000</u>
Total appropriation from industries income	\$ 3,634,852
Grand total general fund appropriation	\$ 5,705,750
Grand total special funds appropriated	\$ 4,125,072

Grand total all funds appropriated S.B. 2011 \$ 9,830,822

SECTION 2. TRANSFER AND APPROPRIATION.) There is hereby transferred from the penitentiary insurance recovery fund to the roughrider industries the sum of \$125,390.00, which amount is hereby appropriated, for expenditures pursuant to the line item "land, structures, and major improvements" in subdivision 2 of section 1 of this Act.

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, 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. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that the roughrider industries employ a salesperson to promote and sell roughrider industry products and services. It is the intent of the legislative assembly that remuneration of the salesperson be based on a commission of the products and services sold by such person and that remuneration be paid from the operating expense line item in subdivision 2 of section 1 of this Act.

Approved April 7, 1979

CHAPTER 53

SENATE BILL NO. 2012
(Committee on Appropriations)

STATE LIBRARY

AN ACT making an appropriation for defraying the expenses of the state library commission of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$1,506,472 or so much thereof as may be necessary, to the state library commission under the supervision of the director of institutions of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 688,415
Fees and services	431,306
Data processing	30,000
Microfilming	6,000
Supplies and materials	274,251
Equipment	26,500
Grants, benefits, and claims	50,000
Total all funds	\$ 1,506,472
Less estimated income	817,419
Total general fund transfer and appropriation	\$ 689,053

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. 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 4. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury the sum of \$189,000.00, or so much thereof as may be necessary, to the state library commission during the biennium beginning July 1, 1979, and ending June 30, 1981, to be used only in the event of a reduction and only to the extent of such reduction in the receipt of federal funds by the library commission. The library commission shall not spend funds pursuant to this appropriation without the approval of the legislative council's committee on budget.

Grand total general fund appropriation SB 2012	\$ 878,053
Grand total special fund appropriation SB 2012	\$ 817,419
Grand total all funds appropriated SB 2012	\$ 1,695,472

Approved April 7, 1979

CHAPTER 54

SENATE BILL NO. 2013
 (Committee on Appropriations)

STATE HOSPITAL

AN ACT making an appropriation for defraying the expenses of the state hospital of the state of North Dakota; 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$28,350,152 or so much thereof as may be necessary, to the state hospital of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 21,590,486
July 1, 1979, salaries and wages	300,000
Operating expense	4,397,852
Equipment	338,814
Land, structures, and major improvements	<u>1,723,000</u>
Total all funds	\$ 28,350,152
Less estimated income	<u>7,341,423</u>
Total general fund transfer and appropriation	\$ 21,008,729

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 state hospital is authorized to use up to \$700,000.00 of federal funds appropriated in other acts passed by the forty-sixth legislative assembly, if such funds are available, towards the construction of the coal boiler at the hospital. If the \$700,000.00 of federal funds, or any portion thereof is available,

the hospital is authorized to use up to \$250,000.00 of the \$1,450,000.00 general fund appropriation in the land, structures, and major improvements line item in section 1 of this Act for other maintenance projects at the hospital and thereafter the balance of the general fund appropriation of \$1,450,000.00 for the coal boiler in the land, structures, and major improvements line item shall be returned to the state general fund.

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. EMERGENCY.) The line item entitled "land, structures, and major improvements" in section 1 of this Act is hereby declared to be an emergency measure and shall be in full force and effect on and after its passage and approval.

Approved April 7, 1979

CHAPTER 55

SENATE BILL NO. 2014
(Committee on Appropriations)

SOLDIERS' HOME

AN ACT making an appropriation for defraying the expenses of the soldiers' home of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$1,744,733 or so much thereof as may be necessary, to the soldiers' home of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 897,525
Operating expenses	416,067
Equipment	27,444
Land, structures, and major improvements	403,697
Total all funds	\$ 1,744,733
Less estimated income	997,084
Total general fund transfer and appropriation	\$ 747,649

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. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that the sum of \$57,649 included in the salaries and wages line item be distributed to employees in order to provide for equity and retention. It is the intent of the legislative assembly that the soldiers' home work closely with representatives of the central personnel division for the purpose of filing a pay administration plan with the office of the budget. The

salary funds provided herein shall be distributed only upon approval of the pay administration plan by the office of the budget.

SECTION 4. VIETNAM BONUS FUND - TRANSFER.) One hundred forty-three thousand eighty-six dollars (\$143,086) for expenditures pursuant to the line item "land, structures, and major improvements" in section 1 of this Act shall be transferred from the Vietnam bonus fund in the state treasury to the soldiers' home during the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 5. 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 8, 1979

CHAPTER 56

SENATE BILL NO. 2015
(Committee on Appropriations)

MISCELLANEOUS FUNDS AND ORGANIZATIONS

AN ACT making an appropriation for defraying expenses of various commissions, departments, and divisions thereof of the state 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 general fund in the state treasury, not otherwise appropriated, the sums as hereinafter provided, or so much thereof as may be necessary, to the various commissions, departments, and divisions thereof of the state of North Dakota for defraying the expenses for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

	ARREST AND RETURN OF FUGITIVES	
Fees and services		\$ 16,000
Total general fund appropriation		\$ 16,000

Subdivision 2.

	BOYS AND GIRLS CLUBWORK	
Grants, benefits and claims		\$ 31,800
Total general fund appropriation		\$ 31,800

Subdivision 3.

	CAPITOL GROUNDS PLANNING COMMISSION	
Fees and services		\$ 24,000
Total general fund appropriation		\$ 24,000

Subdivision 4.

	COUNCIL OF STATE GOVERNMENTS	
Fees and services		\$ 57,830
Total general fund appropriation		\$ 57,830

Subdivision 5.

	EDUCATION COMMISSION OF THE STATES	
Fees and services		\$ 41,000

Total general fund appropriation \$ 41,000

Subdivision 6.

FIREMEN'S ASSOCIATION

Grants, benefits and claims \$ 20,000

Total general fund appropriation \$ 20,000

Subdivision 7.

MISCELLANEOUS REFUNDS

Grants, benefits and claims \$ 80,000

Total general fund appropriation \$ 80,000

Subdivision 8.

NURSES' SCHOLARSHIP

Fees and services \$ 3,105

Supplies and materials 750

Grants, benefits and claims 85,000

Total general fund appropriation \$ 88,855

Subdivision 9.

THEODORE ROOSEVELT ROUGH RIDER AWARD

Grants, benefits and claims \$ 4,000

Total general fund appropriation \$ 4,000

Subdivision 10.

PRESIDENTIAL ELECTORS

Fees and services \$ 600

Total general fund appropriation \$ 600

Subdivision 11.

COMMISSION ON UNIFORM STATE LAWS

Fees and services \$ 12,600

Total general fund appropriation \$ 12,600

Grand total general fund appropriation \$ 376,685

S.B. 2015

SECTION 2. EXEMPTION.) The funds herein appropriated for subdivisions 1, 3, 4, and 5 of this Act shall not be subject to the provisions of sections 54-27-10 and 54-27-11 of the North Dakota Century Code, relating to the time during which appropriations become available.

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 holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved April 7, 1979

CHAPTER 57

SENATE BILL NO. 2016
(Committee on Appropriations)

EDUCATIONAL BROADCASTING COUNCIL

AN ACT making an appropriation for defraying the expenses of the educational broadcasting council of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$663,675 or so much thereof as may be necessary, to the educational broadcasting council of the state of North Dakota for defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 82,809
Fees and services	25,000
Supplies and materials	3,940
Equipment	1,926
Land, structures, and major improvements	150,000
Grants, benefits, and claims	<u>400,000</u>
Total general fund appropriation	\$ 663,675

SECTION 2. 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 provided for herein.

SECTION 3. APPROPRIATION.) It is the intent of the legislative assembly that should funds be made available from federal or other sources other than the state general fund for defraying the costs of construction relating to the educational broadcasting system under the supervision of the educational broadcasting council, that such funds are hereby appropriated and may be spent upon approval of the emergency commission.

Approved April 7, 1979

CHAPTER 58

SENATE BILL NO. 2017
(Committee on Appropriations)

UNEMPLOYMENT INSURANCE

AN ACT making an appropriation for defraying the expenses of unemployment insurance for the various departments and institutions of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$500,000, or so much thereof as may be necessary, to the department of accounts and purchases for the purpose of making payments for unemployment insurance claims, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Grants, benefits and claims	\$ 500,000
Total general fund appropriation	<u>\$ 500,000</u>

SECTION 2. ASSESSMENTS TO DEPARTMENTS AND INSTITUTIONS.) Beginning July 1, 1979, all departments and institutions of the state of North Dakota shall pay to the department of accounts and purchases one percent of the first six thousand dollars of each employee's earnings. Such assessments shall be paid to the department of accounts and purchases in accordance with guidelines established by the office of the budget, from the general fund and special funds appropriated for salaries and wages to the individual departments and institutions. The moneys received from such assessments shall be deposited by the department of accounts and purchases into a fund for the purpose of paying unemployment compensation claims.

SECTION 3. APPROPRIATION.) All assessments received by the department of accounts and purchases and deposited into the fund for unemployment compensation claims are hereby appropriated.

SECTION 4. PAYMENT OF UNEMPLOYMENT COMPENSATION CLAIMS.) The department of accounts and purchases from the appropriations made in

sections 1 and 3 of this Act shall quarterly reimburse the state unemployment compensation division for the amount of actual claims paid by the unemployment compensation division to eligible recipients previously employed by state departments and institutions. It shall be the responsibility of each department and institution to verify and certify the validity of each unemployment claim prior to the reimbursement of funds to the unemployment compensation division.

SECTION 5. INTENT.) It is the intent of the legislative assembly that the general fund appropriation made in section 1 will be reverted to the general fund at the close of the biennium ending June 30, 1981, or at such time as it is determined by the office of the budget that sufficient funds are available from assessments to meet the needs of unemployment compensation claims.

SECTION 6. 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 8, 1979

CHAPTER 59

SENATE BILL NO. 2018
(Committee on Appropriations)

EMERGENCY COMMISSION

AN ACT making an appropriation for defraying the unforeseen expenses of the various agencies and institutions of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds, the sum of \$590,349 or so much thereof as may be necessary, to the emergency commission for the purpose of defraying the unforeseen expenses of the various agencies and institutions of the state of North Dakota, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

State contingencies	<u>\$ 590,349</u>
Total all funds	<u>\$ 590,349</u>
Less estimated income	<u>90,349</u>
Total general fund appropriation	<u>\$ 500,000</u>

SECTION 2. 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, 1979

CHAPTER 60

SENATE BILL NO. 2019
(Committee on Appropriations)

DIVISION OF SURPLUS PROPERTY

AN ACT making an appropriation for defraying the expenses of the division of surplus property of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$427,345 or so much thereof as may be necessary, to the superintendent of public instruction of the state of North Dakota, for the purpose of defraying the expenses of the division of surplus property, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 190,815
Fees and services	152,025
Data processing	12,180
Supplies and materials	11,175
Equipment	11,150
Contingency	50,000
Total all funds	\$ 427,345
Less estimated income	277,345
Total general fund appropriation	\$ 150,000

SECTION 2. 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 21, 1979

CHAPTER 61

SENATE BILL NO. 2021
(Committee on Appropriations)

PARDON BOARD AND PAROLE AND
PROBATION OFFICE

AN ACT making an appropriation for defraying the expenses of the pardon board and the parole and probation office of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the pardon board and the parole and probation office of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

PARDON BOARD

Fees and services	\$ 1,200
Total general fund appropriation	\$ 1,200

Subdivision 2.

PAROLE AND PROBATION OFFICE

Salaries and wages	\$ 835,905
Fees and services	137,947
Supplies and materials	21,100
Equipment	38,000
Total all funds	\$ 1,032,952
Less estimated income	87,000
Total general fund transfer and appropriation	\$ 945,952
Grand total general fund appropriation	\$ 947,152
Grand total special funds appropriated	\$ 87,000
Grand total all funds appropriated S.B. 2021	\$ 1,034,152

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. 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 April 7, 1979

CHAPTER 62

SENATE BILL NO. 2023
(Committee on Appropriations)

ADJUTANT GENERAL

AN ACT making an appropriation for defraying the expenses of the adjutant general of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$3,077,558 or so much thereof as may be necessary, to the adjutant general of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 604,682
Fees and services	721,634
Recruiting/retention	200,000
Army guard service contract	540,000
Supplies and materials	70,655
Equipment	25,000
Inauguration - Flags	4,500
Land, structures, and major improvements	911,087
Total all funds	<u>\$ 3,077,558</u>
Less estimated income	1,151,000
Total general fund transfer and appropriation	<u>\$ 1,926,558</u>

SECTION 2. APPROPRIATION.) The funds provided for in section 1 of this Act for the construction of an armory at Camp Grafton in the amount of \$500,000 and for participation in the construction of other local armories in the amount of \$240,000 are hereby appropriated from surplus funds on deposit in the Vietnam bonus fund of the state of North Dakota.

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, 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 26, 1979

CHAPTER 63

SENATE BILL NO. 2024
(Committee on Appropriations)

DIVISION OF DISASTER EMERGENCY SERVICES

AN ACT making an appropriation for defraying the expenses of the division of disaster emergency services of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$981,009 or so much thereof as may be necessary, to the division of disaster emergency services under the supervision of the adjutant general of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 771,110
Fees and services	143,923
Data processing	550
Supplies and materials	46,245
Equipment	<u>19,181</u>
Total all funds	\$ 981,009
Less estimated income	<u>703,671</u>
Total general fund appropriation	\$ 277,338

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. 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 21, 1979

CHAPTER 64

SENATE BILL NO. 2025
(Committee on Appropriations)

CIVIL AIR PATROL

AN ACT making an appropriation for defraying the expenses of the civil air patrol of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$69,743 or so much thereof as may be necessary, to the civil air patrol of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 9,343
Fees and services	21,900
Supplies and materials	27,600
Equipment	10,900
Total general fund appropriation	\$ 69,743

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. 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 7, 1979

CHAPTER 65

SENATE BILL NO. 2026
(Committee on Appropriations)

INSURANCE PREMIUM TAX PAYMENTS

AN ACT making an appropriation for the payment of insurance premium taxes to fire departments.

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 \$2,000,000, or so much thereof as may be necessary, to the commissioner of insurance for the purpose of making payments of insurance premiums to fire departments, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Grants, benefits, claims	\$ 2,000,000
Total general fund appropriation	<u>\$ 2,000,000</u>

Approved April 7, 1979

CHAPTER 66

SENATE BILL NO. 2027
(Committee on Appropriations)

HISTORICAL BOARDS AND COMMISSIONS

AN ACT making an appropriation for defraying the expenses of the state historical board and international peace garden of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum as hereinafter provided or so much thereof as may be necessary, to the state historical board, the international peace garden, and the heritage commission of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

STATE HISTORICAL BOARD

Salaries and wages	\$ 1,247,035
Fees and services	568,220
Data processing	21,700
Microfilm	15,000
Supplies and materials	141,763
Equipment	72,590
Grants, benefits, claims	502,090
Land, structures, and major improvements	213,375
Total all funds	<u>\$ 2,781,773</u>
Less estimated income	964,000
Total general fund appropriation	<u>\$ 1,817,773</u>

Subdivision 2.

INTERNATIONAL PEACE GARDEN

Office building	\$ 100,000
Completion of water treatment system	88,000
Grants, benefits, claims	220,000
Total all funds	<u>\$ 408,000</u>
Less estimated income	<u>61,000</u>

Total general fund appropriation	\$ 347,000
Subdivision 3.	
HERITAGE COMMISSION	
Salaries and wages	\$ 73,128
Fees and services	13,780
Supplies and materials	3,740
Total special fund appropriation	\$ 90,648
Grand total general fund appropriation	\$ 2,164,773
Grand total special fund appropriation	\$ 1,115,648
Grand total all funds appropriated S.B. 2027	\$ 3,280,421

SECTION 2. APPROPRIATION.) The special funds appropriated under subdivision 3 of section 1 of this Act are to be derived from the interest on heritage commission funds which are on deposit with the Bank of North Dakota.

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, 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. LEGISLATIVE INTENT.) It is the intent of the legislative assembly that the sum of \$400,000.00 or so much thereof as may be necessary, which is appropriated in the fees and services line item in subdivision 1 of section 1 of this Act be used by the state historical board for development of displays. Of this amount, \$200,000.00, or so much thereof as may be necessary, which is included in the appropriation of estimated income in subdivision 1 of section 1 of this Act, shall be expended from federal funds received by the state historical board.

Approved April 7, 1979

CHAPTER 67

SENATE BILL NO. 2028
 (Committee on Appropriations)

COUNCIL ON THE ARTS

AN ACT making an appropriation for defraying the expenses of the council on arts and humanities of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$1,730,950 or so much thereof as may be necessary, to the council on arts and humanities of the state of North Dakota for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 113,777
Fees and services	45,001
Supplies and materials	6,050
Equipment	1,360
Grants, benefits, claims	1,564,762
Total all funds	<u>\$1,730,950</u>
Less estimated income	<u>1,531,850</u>
Total general fund appropriation	<u>\$ 199,100</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.

SECTION 3. LEGISLATIVE INTENT.) The sum of \$35,000.00 included in section 1 of this Act within the line item for grants, benefits, and claims is to be utilized to establish an endowment fund for which the income is hereby appropriated for the furthering of the cultural arts in the state of North Dakota. The principal

sum in said endowment shall not be available for any other purpose except by a specific act of the legislative assembly.

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 April 7, 1979

CHAPTER 68

SENATE BILL NO. 2029
(Committee on Appropriations)

SOIL CONSERVATION COMMITTEE

AN ACT making an appropriation for defraying the expenses of the soil conservation committee and soil conservation districts of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$577,798 or so much thereof as may be necessary, to the soil conservation committee and districts of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 345,699
Fees and services	209,739
Data processing	700
Supplies and materials	10,910
Equipment	750
Grants, benefits, claims	10,000
Total all funds	<u>\$ 577,798</u>
Less estimated income	75,711
Total general fund appropriation	<u>\$ 502,087</u>

SECTION 2. CONTINGENT.) The funds appropriated under section 1 of this Act for salaries and wages include an amount of \$115,759 in general funds which shall be available only in the event that funding from the old west regional commission expires. If old west regional commission funding is reduced to a level whereby funds are not available in at least the amount of \$115,759 for salaries of soil scientists and cartographers, a proportionate share of the general funds provided herein shall be available to allow for a level of \$115,759. These funds shall only be made available upon certification to the office of the budget that such expiration or reduction in funding has occurred.

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, 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 8, 1979

CHAPTER 69

SENATE BILL NO. 2030
(Committee on Appropriations)

GEOLOGICAL SURVEY

AN ACT making an appropriation for defraying the expenses of the geological survey of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$2,811,262 or so much thereof as may be necessary, to the geological survey under the supervision of the board of higher education of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 1,676,588
Fees and services	283,147
Data processing	42,980
Supplies and materials	198,787
Equipment	109,760
Land, structures, and major improvements	500,000
Total all funds	\$ 2,811,262
Less estimated income	1,098,645
Total general fund appropriation	\$ 1,712,617

SECTION 2. LANDS AND MINERALS TRUST FUND - TRANSFER.) The sum of \$1,011,880 or so much thereof as may be necessary, at such times as may be requested by the state geologist shall be transferred by the state treasurer from the lands and minerals trust fund created by section 15-08.1-08 of the North Dakota Century Code to the geological survey for the biennium beginning July 1, 1979, and ending June 30, 1981.

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, 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 10, 1979

CHAPTER 70

SENATE BILL NO. 2031
(Committee on Appropriations)

WATER CONSERVATION COMMISSION

AN ACT making an appropriation for defraying the expenses of the water commission of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$6,153,234 or so much thereof as may be necessary, to the state water commission of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 2,662,293
Fees and services	602,330
Data processing	90,360
Microfilm	5,000
Supplies and materials	323,891
Equipment	139,845
Contracts	2,305,000
Special assessments	<u>24,515</u>
Total all funds	\$ 6,153,234
Less estimated income	<u>1,423,949</u>
Total general fund appropriation	\$ 4,729,285

SECTION 2. LANDS AND MINERALS TRUST FUND - TRANSFER.) The sum of \$223,949.00 or so much thereof as may be necessary at such times as may be requested by the state engineer of the state water commission shall be transferred by the state treasurer from the lands and minerals trust fund created by section 15-08.1-08 of the North Dakota Century Code to the state water commission for the biennium beginning July 1, 1979, and ending June 30, 1981.

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, 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 April 7, 1979

CHAPTER 71

SENATE BILL NO. 2033
(Committee on Appropriations)

PARKS AND RECREATION DEPARTMENT

AN ACT making an appropriation for defraying the expenses of the parks and recreation department of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$12,707,338 or so much thereof as may be necessary, to the parks and recreation department of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 1,897,882
Fees and services	488,784
Data processing	2,000
Supplies and materials	348,411
Equipment	322,386
Land, structures, and major improvements	497,875
Snowmobile trails	100,000
Grants, benefits, and claims	9,050,000
Total all funds	\$ 12,707,338
Less estimated income	8,895,633
Total general fund transfer and appropriation	\$ 3,811,705

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. 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 April 7, 1979

CHAPTER 72

SENATE BILL NO. 2034
(Committee on Appropriations)

BONDING AND FIRE AND TORNADO FUNDS

AN ACT making an appropriation for defraying the expenses of the bonding fund and the fire and tornado fund of the state 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 special funds in the state treasury, not otherwise appropriated, derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the bonding fund and the fire and tornado fund under the supervision of the commissioner of insurance of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

	BONDING FUND	
Salaries and wages		\$ 24,919
Fees and services		13,906
Data processing		747
Supplies and materials		755
Equipment		200
Contingent		3,000
Total appropriation from state bonding fund		<u>\$ 43,527</u>

Subdivision 2.

	FIRE AND TORNADO FUND	
Salaries and wages		\$ 104,238
Fees and services		62,337
Data processing		10,201
Supplies and materials		1,855
Equipment		1,000
Contingent		4,000
Total appropriation from state fire and tornado fund		<u>\$ 183,631</u>

CHAPTER 73

SENATE BILL NO. 2035
(Committee on Appropriations)

UNSATISFIED JUDGMENT FUND

AN ACT making an appropriation for defraying the administrative expenses of the unsatisfied judgment fund of the state 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 unsatisfied judgment fund in the state treasury, not otherwise appropriated, the sum of \$60,000 or so much thereof as may be necessary, to the unsatisfied judgment fund, which is under the supervision of the commissioner of insurance, for the purpose of defraying the administrative expenses of the fund, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 23,730
Fees and services	34,770
Supplies and materials	1,000
Equipment	500
Total appropriation from unsatisfied judgment fund	\$ 60,000

SECTION 2. 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 25, 1979

CHAPTER 74

SENATE BILL NO. 2036
(Committee on Appropriations)

AGRICULTURAL ENTITIES

AN ACT making an appropriation for defraying the expenses of various agricultural councils and commissions of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the various agricultural councils and commissions of the state of North Dakota, for the purpose of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

	EDIBLE BEAN COUNCIL	
Fees and services		\$ 129,900
Supplies and materials		100
Total appropriation from edible bean fund		<u>\$ 130,000</u>

Subdivision 2.

	SUNFLOWER COUNCIL	
Salaries and wages		\$ 74,451
Fees and services		250,100
Supplies and materials		10,000
Equipment		11,000
Total appropriation from sunflower fund		<u>\$ 345,551</u>

Subdivision 3.

	STATE POTATO COUNCIL	
Fees and services		\$ 556,088
Total appropriation from spud fund		<u>\$ 556,088</u>

Subdivision 4.

	STATE SEED DEPARTMENT	
Salaries and wages		\$ 1,402,492

Fees and services	389,405
Supplies and materials	109,916
Equipment	20,986
Contingent	75,000
Land, structures, and major improvements	85,000
Total appropriation from seed department fund	<u>\$ 2,082,799</u>

Subdivision 5.

TURKEY FUND

Fees and services	\$ 10,600
Supplies and materials	9,400
Total appropriation from turkey promotion fund	<u>\$ 20,000</u>

Subdivision 6.

STATE WHEAT COMMISSION

Salaries and wages	\$ 346,092
Fees and services	1,138,435
Data processing	6,602
Supplies and materials	59,554
Equipment	4,000
Grants, benefits, and claims	63,000
Contingent	5,000
Total appropriation from wheat promotion fund	<u>\$ 1,622,683</u>

Subdivision 7.

PREDATORY ANIMAL CONTROL

Salaries and wages	\$ 276,310
Fees and services	149,108
Supplies and materials	200
Total general fund appropriation	<u>\$ 425,618</u>
Grand total general fund appropriation	\$ 425,618
Grand total special funds appropriated	\$ 4,757,121
Grand total all funds appropriated S.B. 2036	<u>\$ 5,182,739</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.

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 holding shall not affect or be construed to apply to the remaining items of appropriation herein or purposes provided for herein.

Approved March 25, 1979

CHAPTER 75

SENATE BILL NO. 2037
(Committee on Appropriations)

STATE-LOCAL REVENUE SHARING

AN ACT making an appropriation for the distribution of state general fund revenue to local political subdivisions of the state 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 general fund in the state treasury, not otherwise appropriated, the sum of \$16,077,500, or so much thereof as may be necessary, to the state treasurer of the state of North Dakota for the purpose of distributing general fund revenue to local political subdivisions, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Grants, benefits, and claims	\$ 7,497,700
July 1, 1979, through June 30, 1980	
Grants, benefits, and claims	8,579,800
July 1, 1980, through June 30, 1981	
Total general fund transfer and appropriation	<u>\$ 16,077,500</u>

SECTION 2. APPROPRIATION.) The funds appropriated in section 1 of this Act are to be transferred by the state treasurer to the state revenue sharing fund for distribution in accordance with the initiated measure providing for the sharing of general fund revenues of the state of North Dakota and in accordance with the attorney general's opinion, dated December 20, 1978.

Approved March 28, 1979

CHAPTER 76

SENATE BILL NO. 2038
(Committee on Appropriations)

JUDICIAL BRANCH

AN ACT making an appropriation for defraying the expenses of the judicial branch of the government of the state 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided, or so much thereof as may be necessary, to the judicial branch of government of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Subdivision 1.

SUPREME COURT

Salaries and wages	\$ 1,957,226
Fees and services	357,416
Central data processing	40,000
Supplies and materials	150,000
Equipment	70,000
Total all funds	\$ 2,574,642
Less estimated income	<u>272,854</u>
Total general fund appropriation	\$ 2,301,788

Subdivision 2.

JUDGES OF DISTRICT COURT

Salaries and wages	\$ 2,370,658
Judges' retirement	402,957
Fees and services	183,724
Supplies and materials	2,000
Total all funds	\$ 2,959,339
Less estimated income	<u>151,000</u>
Total general fund appropriation	\$ 2,808,339

SECTION 2. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sum of \$127,757, or so much thereof as may be necessary, to the judicial qualifications commission of the state of North Dakota for the purpose of defraying the expenses of the commission, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

JUDICIAL QUALIFICATIONS COMMISSION

Salaries and wages	\$	81,661
Fees and services		43,105
Supplies and materials		2,591
Equipment		400
Total all funds	\$	127,757
Less estimated income		63,000
Total general fund appropriation	\$	64,757
Grand total general fund appropriation	\$	5,174,884
Grand total special funds appropriation	\$	486,854
Grand total all funds appropriated S.B. 2038	\$	5,661,738

SECTION 3. TRANSFERS.) The director of accounts and purchases and the state treasurer shall make such transfer of funds between lined items of appropriation for the judicial branch of government as may be requested by the supreme court upon a finding by the court that the nature of the duties of the court and its staff require such transfers in properly carrying on the functions of the judicial branch of government.

SECTION 4. DISTRICT JUDGES.) The appropriation provided within subdivision 2 of section 1 provides for five additional district court judges to be assigned pursuant to Constitution - section 93 order 1-1978 and any future amendments thereof of the supreme court with two additional judges in the east central judicial district, one additional judge in the northeast judicial district, one additional judge in the south central judicial district, and one additional judge in the northwest judicial district and to be assigned to chambers by the supreme court.

Within thirty days after the effective date of this section, the governor shall, pursuant to chapter 27-25 if House Bill No. 1067 is approved give written notice of the five district court district court judgeship vacancies created by this section.

If House Bill No. 1067 is not approved, within ninety days after the effective date of this section, the governor shall, pursuant to law, fill the five district court judgeship vacancies created by this section.

Approved April 7, 1979

CHAPTER 77

SENATE BILL NO. 2039
(Committee on Appropriations)

COAL DEVELOPMENT IMPACT OFFICE

AN ACT making an appropriation for defraying the expenses of the coal development impact office of the state of North Dakota; and setting forth legislative intent and guidelines.

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 coal development impact fund in the state treasury, not otherwise appropriated, the sums hereinafter provided, or so much thereof as may be necessary, to the coal development impact office of the state of North Dakota, for the purpose of defraying the expense of that office, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 108,986
Fees and services	20,428
Supplies and materials	1,200
Equipment	1,800
Grants, benefits and claims	<u>8,229,509</u>
Total appropriation from coal development impact fund	<u>\$ 8,361,923</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.

* SECTION 3. LEGISLATIVE INTENT AND GUIDELINES ON IMPACT GRANTS.) The legislative assembly intends that the moneys appropriated to, and distributed by, the coal development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development impact. As used in this section, "basic governmental services" do not include activities relating to

* NOTE: Section 3 was vetoed by the Governor. See chapter 669. Section 5 of House Bill No. 1304, chapter 628, enacts language identical to the portion of this bill vetoed by the Governor.

marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the coal development impact office shall be made by an appointed or elected government official.

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 12, 1979

CHAPTER 78

SENATE BILL NO. 2040
(Committee on Appropriations)

GAME AND FISH DEPARTMENT

AN ACT making an appropriation for defraying the expenses of the game and fish department of the state of North Dakota; providing for a performance review; 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 game and fish fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums hereinafter provided, or so much thereof as may be necessary, to the game and fish department of the state of North Dakota for the purpose of defraying the expenses of the various divisions thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 3,857,824
(Including salary of commissioner not to exceed \$66,080 for the biennium)	
Fees and services	898,480
Data processing	91,850
Microfilming	5,000
Supplies and materials	940,355
Equipment	660,800
Land, structures, and major improvements	1,060,000
Grants, benefits, and claims	361,000
In lieu of taxes	344,000
Private land habitat improvement and deer depredation fund	650,000
Noxious weed control	100,000
Contingent	80,000
Total appropriation from game and fish fund	<u>\$ 9,049,309</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.

SECTION 3. FUND BALANCE - LIMITATION ON SALARIES - PRIVATE LAND HABITAT IMPROVEMENT AND DEPREDATION FUND.) Of the moneys appropriated in section 1 of this Act for the private land habitat improvement and deer depredation fund, moneys spent for salaries from the fund shall not exceed ten percent of the line item amount. The balance of the private land habitat improvement and deer depredation fund is to be maintained at a minimum of \$100,000.00, except when such funds are used for depredation programs during the months of November through April. If the balance of the fund goes below \$100,000.00 due to expenditures for depredations during the months of November through April, the moneys derived from interest earned on the game and fish fund shall be first used to restore the balance of the private land habitat improvement fund to \$100,000.00.

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. SALARIES AND QUALIFICATIONS OF COMMISSIONER.) The legislative assembly encourages the appointment of a game and fish commissioner possessing a bachelor's degree, or the equivalent thereof, in fishery and wildlife management or a related natural science, and having experience in fish and wildlife management and public administration, including the supervision of employees, development of programs, and the preparation of budgets. If the commissioner meets such qualifications, the commissioner's salary shall be \$32,000 for the first year of the biennium and \$34,080 for the second year of the biennium. If the new commissioner does not meet such qualifications, the commissioner's salary shall not exceed \$51,000 for the 1979-81 biennium.

SECTION 6. LEGISLATIVE INTENT - LANDS ACQUIRED BY GAME AND FISH DEPARTMENT.) Lands acquired by the game and fish department shall qualify as mitigated acres required by the federal fish and wildlife department in regard to the Garrison Diversion Project.

SECTION 7. PERFORMANCE REVIEW - APPROPRIATION.) There is hereby appropriated out of any moneys in the game and fish fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the legislative council for a performance review of the game and fish department during the biennium beginning July 1, 1979, and ending June 30, 1981. Funds made available to the legislative council pursuant to this appropriation shall be used to contract for services from a firm experienced in management reviews of

* NOTE: Section 5 was vetoed by the Governor. See chapter 670.

governmental operations. The legislative council shall make its report on the performance review to the forty-seventh legislative assembly accompanied with any legislation which may be necessary to implement the report recommendations.

SECTION 8. NOXIOUS WEED CONTROL.) Upon failure of the game and fish department to adequately destroy noxious weeds, or control and prevent spreading and dissemination of noxious weeds, on any parcel of land under its control, the county control authority for the county in which all or a portion of the land owned and leased by the game and fish department is located may, upon approval of the commissioner, enter upon the land owned and leased by the game and fish department for the purposes of destruction, control, or prevention of noxious weeds. All expenditures by county control authorities for destruction, control, or prevention of noxious weeds on game and fish lands pursuant to this section shall be reimbursed by the state game and fish department to the county control authority upon adequate certification by the county control authority.

SECTION 9. EMERGENCY.) Section 6 of this Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 12, 1979

CHAPTER 79

SENATE BILL NO. 2041
(Committee on Appropriations)

MOTOR VEHICLE FUEL TAX TRANSFER

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 vehicle 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 in the state treasury, out of motor vehicle fuel taxes, collected pursuant to section 57-54-08 of the North Dakota Century Code, the sum of \$556,000 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 12, 1979

CHAPTER 80

SENATE BILL NO. 2042
(Committee on Appropriations)

DEFICIENCY APPROPRIATIONS

AN ACT to amend and reenact section 1 of chapter 4 of the 1977 Session Laws of North Dakota, relating to the appropriation for the personal property tax replacement and homestead tax credit; and making an appropriation for defraying the expenses of various departments and institutions of the state of North Dakota; 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 general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and/or other income, the sums as hereinafter provided or so much thereof as may be necessary, to the stated departments and institutions of the state of North Dakota for the purpose of defraying the expenses thereof, for the period beginning January 1, 1979, and ending June 30, 1979, as follows:

Subdivision 1.

NORTH DAKOTA SOLDIERS' HOME

Salaries and wages	\$	11,721
Fees and services		1,000
Supplies and materials		9,433
Total general fund appropriation	\$	<u>22,154</u>

Subdivision 2.

STATE HOSPITAL - JAMESTOWN

Fees and services	\$	294,877
Supplies and materials		342,171
Total general fund appropriation	\$	<u>637,048</u>

Subdivision 3.

SECURITIES COMMISSIONER

Salaries and wages	\$	10,000
Total general fund appropriation	\$	<u>10,000</u>

Subdivision 4.

DIRECTOR OF INSTITUTIONS

Fees and services	\$ 93,528
Institutional medical fees	49,338
Total general fund appropriation	<u>\$ 142,866</u>

Subdivision 5.

STATE COMMUNICATIONS

Fees and services	\$ 230,720
Total general fund appropriation	<u>\$ 230,720</u>

Subdivision 6.

STATE PENITENTIARY

Fees and services	\$ 38,657
Supplies and materials	231,876
Total all funds	<u>\$ 270,533</u>
Less estimated income	225,000
Total general fund appropriation	<u>\$ 45,533</u>

Subdivision 7.

GRAFTON STATE SCHOOL

Fees and services	\$ 174,353
Supplies and materials	90,767
Total all funds	<u>\$ 265,120</u>
Less estimated income	130,000
Total general fund appropriation	<u>\$ 135,120</u>

Subdivision 8.

SAN HAVEN STATE HOSPITAL

Fees and services	\$ 20,150
Supplies and materials	32,394
Total special funds appropriated	<u>\$ 52,544</u>

Subdivision 9.

DEPARTMENT OF ACCOUNTS AND PURCHASES

Supplies and materials	\$ 6,000
Data processing	1,000
Total general fund appropriation	<u>\$ 7,000</u>

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 \$20,000 or so much thereof as may be necessary to the division of surplus property under the supervision of the superintendent of public instruction for the purpose of providing operating funds which were not derived from the revenues of the division, for the period beginning January 1, 1979, and ending June 30, 1979.

Grand total general fund appropriation	\$ 1,250,441
Grand total special funds appropriated	\$ 407,544
Grand total all funds appropriated S.B. 2042	\$ 1,657,985

SECTION 3. AMENDMENT.) Section 1 of chapter 4 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

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 \$24,300,000.00, or so much thereof as may be necessary, for the replacement of personal property taxes, in accordance with the formula for personal property tax replacement payments as provided for in section 57-58-01, and as a supplemental appropriation for the homestead tax credit in addition to the appropriation provided in section 2 of chapter 4 of the 1977 Session Laws of North Dakota during the biennium beginning July 1, 1977, and ending June 30, 1979. During the year ending June 30, 1978, such payments shall not exceed one-half of the total appropriation provided for in this Act.

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 7, 1979

CHAPTER 81

SENATE BILL NO. 2103
(Thane)

SCHOOL OF SCIENCE CLASSROOM —
AUDITORIUM BUILDING

AN ACT to provide an appropriation for construction of a classroom-auditorium building at the state school of science; and to declare an emergency.

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

SECTION 1. APPROPRIATION.) There is hereby appropriated to the state school of science from any federal or private funds the sum of \$2,500,000.00, or so much thereof as may be necessary, for the purpose of constructing a classroom-auditorium building at the state school of science for the fiscal period beginning with the effective date of this Act and ending June 30, 1981.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved February 8, 1979

CHAPTER 82

SENATE BILL NO. 2154
(Committee on Appropriations)
(At the request of the Disaster Emergency Services)

1978 FAMILY GRANT PROGRAM

AN ACT to authorize the reimbursement of the federal government for the state's twenty-five percent share of the individual and family grant program that was conducted in North Dakota following the spring flood of 1978; and provide for an appropriation.

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

SECTION 1. ADMINISTRATION.) The social service board of North Dakota is hereby authorized to reimburse the federal government (the president's disaster fund) for the state's share of the individual and family grant program.

SECTION 2. REPORTS.) The division of disaster emergency services will prepare a complete financial report of the individual and family grant program. The report will be presented to the legislative council budget committees and department of accounts and purchases. All unencumbered funds will be transferred to the general fund when the reimbursement is completed.

SECTION 3. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$22,365.00, or so much thereof as may be necessary to the social service board of North Dakota for the purpose of closing out the individual and family grant program that the board administered, for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 12, 1979

CHAPTER 83

SENATE BILL NO. 2284
(Senator Tallackson)
(Representatives Kingsbury, Gorder)

GRAFTON INDEMNIFICATION

AN ACT to provide an appropriation to the Grafton state school to indemnify Mrs. Ray Holt, Mrs. Myrtle McDonald, Mr. Tim Holt, Nygard's Auto, Inc., and Wally's Fairway Foods, all of Grafton, North Dakota, for property and other losses suffered due to the acts of residents of 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 \$1,868.41, or so much thereof as may be necessary, to the Grafton state school for the purpose of indemnifying Mrs. Ray Holt, Mrs. Myrtle McDonald, Mr. Tim Holt, Nygard's Auto, Inc., and Wally's Fairway Foods, all of Grafton, North Dakota, for their claim for relief for damage to property and other financial losses incurred due to the acts of residents of Grafton state school, for the biennium beginning July 1, 1979, and ending June 30, 1981. The claim for indemnification shall be submitted to the office of the budget for payment in accordance with chapter 54-14.

Approved March 28, 1979

CHAPTER 84

SENATE BILL NO. 2305
(Senators Nething, Hoffner, Wright)
(Representatives Backes, Leibhan, Strinden)

MILITARY SERVICE RECORD PUBLICATION

AN ACT to direct the adjutant general to compile and publish a record of men and women in military service during the Vietnam conflict; and to provide an appropriation.

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

SECTION 1. RECORD OF MILITARY SERVICE DURING VIETNAM CONFLICT.) The adjutant general shall compile, publish, and distribute a record of all veterans who rendered military service on behalf of the state in the Vietnam conflict. For the purposes of this section, unless otherwise provided by rule promulgated by the adjutant general pursuant to chapter 28-32, "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 from August 5, 1964, to January 28, 1973, and who was a resident of this state at the time he or she commenced active duty and for at least six months prior thereto.

SECTION 2. APPROPRIATION.) There is hereby appropriated out of any moneys in the Vietnam veterans adjusted compensation fund, not otherwise appropriated, the sum of \$125,000.00, or so much thereof as may be necessary, to the adjutant general for the purpose of compiling, publishing, and distributing a record of military service during the Vietnam conflict for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 23, 1979

CHAPTER 85

SENATE BILL NO. 2378
(Reiten, Redlin)

PIONEER HALL RENOVATION

AN ACT making an appropriation for defraying the expense of remodeling and renovating pioneer hall at Minot state college; 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 general fund in the state treasury the sum of \$100,000.00, or so much of as may be necessary, and the sum of \$100,000.00 from the Vietnam bonus fund in the state treasury, or so much thereof as may be necessary for the purpose of remodeling and renovating pioneer hall at Minot state college for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 2. INTENT.) The intent of this appropriation is to supplement the bond issuance authorized by the forty-fifth legislative assembly in section 8 of chapter 24 of the 1977 Session Laws.

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

Approved March 13, 1979

CHAPTER 86

SENATE BILL NO. 2478
(Committee on Delayed Bills)
(At the request of
Senator Vosper and Representative Olson)

PEMBINA HISTORIC SITE MUSEUM RENOVATION

AN ACT making an appropriation to the state historical society to renovate the museum at the Pembina state historic site.

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

SECTION 1. APPROPRIATION.) There is hereby appropriated from any private or other funds the sum of \$5,000.00, or so much thereof as may be necessary, to the state historical board to be matched with funds appropriated to the state historical board in Senate Bill No. 2027 for the purpose of renovating the museum located at the Pembina state historic site for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 21, 1979

CHAPTER 87

SENATE BILL NO. 2487

(Committee on Delayed Bills)

(At the request of the Senate Appropriations Committee)

CAPITAL CONSTRUCTION FUND

AN ACT for a conditional transfer of funds to a state capital construction fund, providing for budget section approval, and providing an appropriation for the construction, remodeling, and equipping of, or additions to, buildings of state agencies, departments, and institutions.

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

SECTION 1. TRANSFER.) In the event that the cash balance in the general fund of the state treasury as of the close of business on June 30, 1979, less outstanding financial obligations for the biennium ending June 30, 1979, to be paid after June 30, 1979, exceeds \$148,600,000.00, the director of the department of accounts and purchases, after approval of the budget section of the legislative council, shall direct the state treasurer to transfer from the general fund to the state capital construction fund the sum of \$10,730,000.00, or so much thereof as may be necessary, or the amount by which the cash balance in the general fund on the close of business on June 30, 1979, less outstanding financial obligations for the biennium ending June 30, 1979, to be paid after June 30, 1979, exceeded \$148,600,000.00 whichever is less. In the event that the cash balance in the general fund of the state treasury on June 30, 1980, exceeds \$110,550,000.00, the director of the department of accounts and purchases, after approval by the budget section of the legislative council, shall direct the state treasurer to transfer from the general fund to the state capital construction fund that amount of funds that were in excess of \$110,550,000.00, or so much thereof as may be necessary, for the projects listed in section 2 of this Act for which funds were not previously transferred from the general fund to the capital construction fund, or the amount by which the cash balance in the general fund on the close of business on June 30, 1980, exceeded \$110,550,000.00 whichever is less. Such funds shall be expended by the various agencies, departments, and institutions for the construction or addition, remodeling, and equipping of buildings in accordance with specific appropriations made by the legislative assembly in section 2 of this Act.

SECTION 2. APPROPRIATIONS.) There is hereby appropriated out of any moneys in the state capital construction fund, the sum of \$10,730,000.00, or so much thereof as may be necessary, to the state agencies, departments, and institutions listed herein for the construction and equipping of buildings and facilities, the construction and equipping of additions to buildings and facilities, or the remodeling of buildings and facilities within the limitations hereafter stated in this section during the biennium beginning July 1, 1979, and ending June 30, 1981.

<u>Name of agency, department, or institution</u>	<u>Type of facility</u>	<u>State funds</u>
North Dakota state university	Music education building	\$ 3,000,000
Industrial school	Vocational education and maintenance shop	635,000
University of North Dakota	Library addition	4,500,000
San Haven state hospital	Food service, laundry, and commissary building	1,320,000
State school of science	Maintenance storage building and site	930,000
School for the deaf	Three residential cottages	345,000
Total		<u>\$10,730,000</u>

The order in which the projects are listed in this section shall be the priority list for the construction or remodeling of such buildings or facilities. The construction or remodeling of a building or facility shall not be commenced until a sufficient amount of funds to complete such building or facility has been transferred from the general fund to the state capital construction fund as provided in this Act. If on June 30, 1981, there are not sufficient funds in the capital construction fund to complete a building or facility in accordance with the priority list as provided in this section, construction of such building or facility shall not be commenced, and such funds shall be returned to the general fund. If on June 30, 1981, sufficient funds are in the capital construction fund to complete a building or facility in accordance with the priority list as provided in this section but have not been paid out for all expenses to be incurred in completion of such building or facility, such funds as may be necessary for the completion of such project or projects shall remain in the capital construction fund until spent for such purposes. In addition to the appropriations and authorization set forth in this Act, there is hereby appropriated to the state agencies, departments, and institutions listed herein, any moneys available from private, federal, or other sources to construct or remodel the buildings and facilities set forth in this Act. In no event shall any building or facility exceed the cost indicated in the column "state funds" except to the extent funds may be received from federal and private sources.

Approved April 8, 1979

GENERAL PROVISIONS

CHAPTER 88

HOUSE BILL NO. 1337
(Gerl, DuBord, Stenehjem, Wentz)

FRIDAY HOLIDAYS

AN ACT to amend and reenact section 1-03-02.1 of the North Dakota Century Code, relating to holidays.

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

SECTION 1. AMENDMENT.) Section 1-03-02.1 of the North Dakota Century Code is hereby amended and reenacted 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 the purposes of the banks of this state.~~

Approved March 13, 1979

AERONAUTICS

CHAPTER 89

SENATE BILL NO. 2085
(Legislative Council)
(Interim Committee on Transportation)

STATE ASSISTANCE FOR AIRPORTS

AN ACT to provide state assistance for airports served by commercial air carriers and to provide procedures for the distribution of funds to such airports; to amend and reenact sections 57-56-01.1 and 57-56-03 of the North Dakota Century Code, relating to a tax on sales of jet aviation motor fuel and the distribution of proceeds; and to provide an appropriation.

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

SECTION 1. DECLARATION OF PURPOSE.) The legislative assembly declares that the people of North Dakota are placing an ever increasing reliance upon airline service for their transportation needs. The legislative assembly further declares that the existing methods of financing airports are inadequate to meet the growing needs, and that the property tax on real estate located within the boundaries of municipalities operating airports is frequently an inequitable method of financing airports, inasmuch as many persons served by airports do not live within these boundaries. It is the intent of the legislative assembly to provide a means of better serving all of the people of North Dakota, and to provide an equitable method of sharing the financial burdens of modern airline service without neglecting the needs of the general aviation airports.

SECTION 2. STATE ASSISTANCE FOR AIRPORTS.) Each public airport owned or operated by a public entity and each airport operated by an airport authority in this state which is served by at least one airline which is certificated by the civil aeronautics board or was at one time served by an airline certificated by the civil aeronautics board, but is served by a scheduled commuter airline certificated by the North Dakota aeronautics commission shall be entitled to assistance as provided in this section, within the limits of legislative appropriations. The amount of assistance to each airport enplaning twenty thousand or more passengers shall be in the same proportion that the number of enplaned passengers on United States certificated air carriers from that airport during the last calendar year for which information is available bears to the

total number of enplaned passengers on all United States certificated air carriers at all of the airports in North Dakota enplaning twenty thousand or more passengers in that year. An airport eligible for assistance under this section which enplanes less than twenty thousand passengers in any one calendar year shall be paid not less than the sum of twenty-five thousand dollars at each distribution of assistance grants. The North Dakota aeronautics commission shall certify the number of enplaned passengers for each airport based upon information published in the airport activity statistics of United States certificated air carriers prepared jointly by the civil aeronautics board and the United States department of transportation for the most recent calendar year a publication is available. The North Dakota aeronautics commission shall determine the allocation to be made to each eligible airport on or before September first of each year and shall certify the amounts to the state treasurer. The state treasurer shall make payment on or before October first of each year. The governing body or airport authority which operates an airport entitled to assistance under this section shall deposit the moneys received in the same account or accounts as other airport funds are deposited and may expend the moneys as provided by law for other airport funds, including matching any funds made available by the United States. These moneys shall be used for airport construction or improvement projects including airport administration and terminal buildings, hangars, landing strips for aircraft, and purchase of sites for airports or landing fields and easements; and for maintenance, clearing of sites, marking, lighting, and engineering and navigational aids, all related to aeronautics.

SECTION 3. AMENDMENT.) Section 57-56-01.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-56-01.1. SEPARATE AND ADDITIONAL TAX ON SALES OF JET AVIATION MOTOR FUEL.) In addition to any other tax provided for by law, there is hereby levied and imposed a special excise tax on all sales of jet aviation motor fuel used by aircraft at the rate of two percent of the sale price of ~~such~~ jet aviation motor fuel used by aircraft on which a tax is levied by chapters 57-54 or 57-52 and which is refunded under the provisions of chapter 57-50. The proceeds of the additional tax provided for in this section shall be distributed by the aeronautics commission to ~~the airports where the jet-aviation-motor-fuel-is-sold,~~ as determined under the provisions of section 57-56-03.

SECTION 4. AMENDMENT.) Section 57-56-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-56-03. DISTRIBUTION OF PROCEEDS.) The tax collected by the state tax commissioner under this chapter shall be deposited by the state tax commissioner in the state treasurer's office who shall deposit ~~said~~ the funds in the special fund known as state aeronautics commission construction fund, ~~and such~~. These funds are

hereby appropriated to the North Dakota aeronautics commission and shall be disbursed by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the North Dakota aeronautics commission and approved by the state-auditing-board office of the budget for the purpose of the matching of any funds made available by political subdivisions or airport authorities of this state, the state, or of the United States, only if the political subdivision or airport authority is not qualified for or does not receive any funds under section 2 of this Act. These funds shall be used for airport construction or improvement projects including airport administration and terminal buildings, hangars, ~~and for construction of~~ landing strips for aircraft, and purchase of sites for airports or landing fields and easements; and for ~~improvements,~~ maintenance, clearing of sites, marking, lighting, and engineering and navigational aids, all related to aeronautics in such amounts as the North Dakota aeronautics commission may determine and upon such projects as the North Dakota aeronautics commission may approve.

SECTION 5. 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 to the North Dakota aeronautics commission for the purpose of making the distribution of grants to eligible airports as provided in section 2 of this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981. During each year of the biennium, the grants shall be equal to fifty percent of the total appropriation provided in this Act.

Approved March 25, 1979

CHAPTER 90

SENATE BILL NO. 2043
(Legislative Council)
(Interim Committee on Agriculture)

WEATHER MODIFICATION RESEARCH
AND DEVELOPMENT

AN ACT to create and enact two new sections to chapter 2-07 of the North Dakota Century Code, relating to the establishment of a program of weather modification research and development under the coordination and supervision of the weather modification board, and reports by the weather modification board to the governor; and to provide an appropriation.

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

SECTION 1.) A new section to chapter 2-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

WEATHER MODIFICATION BOARD TO ESTABLISH RESEARCH AND DEVELOPMENT PROGRAM.) The weather modification board shall establish a program of weather modification research and development in this state. The board shall supervise and coordinate all research and development activities in the state or research and development activities outside of the state participated in or conducted by any state institution or state or county agency.

SECTION 2.) A new section to chapter 2-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

REPORT TO GOVERNOR.) The weather modification board shall prepare and transmit a biennial report to the governor describing the research and development activities conducted during the biennium, and the outcome thereof, and other related work and activities. The report shall be submitted in accordance with sections 54-06-03 and 54-06-04.

SECTION 3. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, and from special funds derived from federal funds or other income the sum of \$2,000,000.00 or so much thereof as may be necessary, to the weather modification board for the purposes of carrying out the research and development program under this Act for the biennium beginning July 1, 1979, and ending June 30, 1981. Such moneys shall not be expended until the budget section of the legislative council shall determine that adequate federal funds are available pursuant to this appropriation.

Approved April 7, 1979

CHAPTER 91

SENATE BILL NO. 2436
(Hanson, Olin)

BIDDER'S BOND SUBMITTAL

AN ACT to amend and reenact sections 2-07-09.1, 11-11-28, 15-34.2-07, 39-03-08.3, 40-22-20, 40-28-07, 40-29-07, 40-31-03, 40-54-01, 48-02-04, and 61-19-08 of the North Dakota Century Code, relating to submission of bidders' bonds in envelopes separate from bids.

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

SECTION 1. AMENDMENT.) Section 2-07-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-07-09.1. BID BOND REQUIRED.) All bids submitted to the board of weather modification for operations conducted under this chapter shall be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guaranty that the bidder will enter into the contract if it is awarded to him.

SECTION 2. AMENDMENT.) Section 11-11-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-28. BID MUST BE ACCOMPANIED BY A BOND - WHEN CERTIFIED CHECK ALLOWED.) A bid shall be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state 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. When the bid is ten thousand dollars or less, the bidder may in lieu of such bond accompany the bid with a separate envelope containing a certified check equal to five percent of the full amount of the bid made payable to the board with authority and direction to the board that if the bidder is successful in obtaining the award and fails to enter into the contract, the board may endorse, deposit, and receive the face amount of the certified check as liquidated damages.

SECTION 3. AMENDMENT.) Section 15-34.2-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 submitted in a separate envelope 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.

SECTION 4. AMENDMENT.) Section 39-03-08.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-08.3. BIDS - REQUIREMENT.) All bids shall be opened at the time and place specified. Each bid shall be accompanied by a separate envelope containing a certified or cashier's check of the bidder in an amount equal to ten percent of his bid or by a separate envelope containing a bidder's bond in a sum equal to ten percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state. Such check or bond shall be forfeited to the state highway patrol fund should the bidder fail to deliver according to the bid within thirty days after a notice of an award.

SECTION 5. AMENDMENT.) Section 40-22-20 of the 1977 Supplement to 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 separate envelope containing 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 city auditor 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 6. AMENDMENT.) Section 40-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-07. BIDS FOR SERVICE CONNECTIONS - ADVERTISING - ACCOMPANIED BY CHECK - AWARDING - RETURNING CHECKS.) The governing body shall direct the city auditor to advertise for bids for the laying and construction of service connections in accordance with the plans and specifications therefor. Each bid shall be accompanied by a separate envelope containing a certified check in the amount of five hundred dollars to guarantee the entering into the contract if the contract is awarded to him. Bids shall be received by the governing body. The governing body may reject any or all bids for work on service connections and may readvertise for other bids. If all the bids are not rejected, the contract shall be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment for the work if such bidder has complied with all the requirements of this chapter and furnished the required bond. Upon the awarding of the contract, the checks of all unsuccessful bidders shall be returned to them.

SECTION 7. AMENDMENT.) Section 40-29-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-07. ADVERTISING FOR BIDS FOR SIDEWALKS - MAKING OF BIDS.) The city auditor shall advertise in the official municipal newspaper once each week for two consecutive weeks for bids for the construction of the various kinds of sidewalks in the municipality. The bids shall be made in accordance with the specifications of the ordinance required by section 40-29-01 and shall be accompanied by a separate envelope containing a certified check in the amount of fifty dollars in accordance with section 40-22-20, and by a separate envelope containing a bond in the amount of five hundred dollars conditioned as provided in section 40-22-23.

SECTION 8. AMENDMENT.) Section 40-31-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-31-03. REQUIREMENTS AS TO CERTIFIED CHECK AND BIDDER'S BOND ACCOMPANYING BIDS.) The provisions of chapter 40-29, insofar as the same apply to the letting of contracts for the construction or repair of sidewalks, may be made applicable to the letting of contracts for the construction or repair of curbing and gutters, by resolution of the governing body of a city. The governing body, by resolution adopted prior to the advertising for bids for contracts for any such work, may provide that, in lieu of a certified check in the amount of fifty dollars and a bidder's bond in the amount of five hundred dollars, a certified check only shall be required to accompany such bid in a separate envelope.

SECTION 9. AMENDMENT.) Section 40-54-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-54-01. BIDS - ADVERTISING - REQUIREMENTS.) On or before the fifteenth day of March in each year, the city auditor of each city within the state may at the discretion of the governing board advertise in the official newspaper once each week for two consecutive weeks for bids for the furnishing of gravel in place for gravel surfacing of highways within the city, upon a cubic yard basis. The bids shall be made in accordance with such specifications as to type, grade, and quality of material as shall be specified by the city engineer and approved by the governing board, and shall provide for the delivery of such gravel along such streets of the city as may thereafter be designated, in such manner as may be designated in the specifications. The notice shall specify that payment for such gravel in cash or by special assessment warrants issued against the graveling special assessment fund created by this chapter, and each bidder shall specify in his bid the lowest rate of interest which he will accept upon such warrants, and that payment for such gravel will be accepted by him in the manner herein provided. Each bid shall be accompanied by a separate envelope containing a certified check in such amount as may be fixed by the governing board, and the award of the contract shall be made only to such person who shall furnish good and sufficient bond for the performance thereof, in such amount as shall be fixed by the governing board at the time of calling for bids.

SECTION 10. AMENDMENT.) Section 48-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-04. CONTENTS OF ADVERTISEMENT.) The advertisement for bids required by section 48-02-03 shall state:

1. When and where the plans, drawings, and specifications therefor may be seen and examined;
2. The place where, and the day and hour when, the bids will be opened;
3. That the right of the board to reject any and all bids is reserved;
4. Each bid shall be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the governing board;

5. All bidders must be licensed for the highest amount of their bids, as provided by section 43-07-05; and
6. No bid will be read or considered which does not fully comply with the above provisions as to bond and licenses, and any deficient bid submitted will be resealed and returned to the bidder immediately.

SECTION 11. AMENDMENT.) Section 61-19-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-19-08. BIDS TO BE ACCOMPANIED BY CHECK - FORFEITURE.) Each bid must be accompanied by a separate envelope containing a certified or cashier's check in the sum of five percent of the total amount bid, endorsed or made payable to the chairman of the board of county commissioners or by a separate envelope containing a bidder's bond in a sum equal to five percent of the total 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, if successful, will enter into a contract and will furnish a surety bond for the faithful performance of the work, if such contract is awarded to him. If the bidder to whom the work is awarded fails to execute such contract and bond as provided, the check or bond accompanying his bid shall be and remain the property of the county and shall be turned over to the county treasurer, who shall credit the proceeds of such check or bond to the fund out of which the cost of the work is to be paid.

Approved March 8, 1979

AGRICULTURE

CHAPTER 92

HOUSE BILL NO. 1083
(Legislative Council)
(Interim Committee on State and Federal Government)

MINOT DISTRICT FAIR TERMINATED

AN ACT to provide for the transfer of property and funds of the Minot district fair; and to repeal sections 4-02-17, 4-02-18, 4-02-19, 4-02-20, 4-02-22, 4-02-23, 4-02-24, and 4-02-25 of the North Dakota Century Code, relating to the location, premises, title to land, board of directors, executive committee, contributions, and report of the prize list of the Minot district fair.

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

SECTION 1. MINOT DISTRICT FAIR - TRANSFER OF PROPERTY.) The title to any real property owned by the Minot district fair is hereby transferred to the state fair association.

SECTION 2. MINOT DISTRICT FAIR - TRANSFER OF FUNDS.) Any funds belonging to the Minot district fair are hereby transferred to the state fair operating fund of the state treasury.

SECTION 3. REPEAL.) Sections 4-02-17, 4-02-18, 4-02-19, 4-02-20, 4-02-22, 4-02-23, 4-02-24, and 4-02-25 of the North Dakota Century Code are hereby repealed.

Approved February 8, 1979

CHAPTER 93

HOUSE BILL NO. 1079
(Legislative Council)
(Interim Committee on State and Federal Government)

CERTAIN INACTIVE ENTITIES REPEALED

AN ACT to repeal chapters 4-06 and 25-04.1 and section 55-01-09 of the North Dakota Century Code, relating to the federated cooperative agricultural association and agricultural code commission, compulsory sterilization, and the North Dakota heritage study committee.

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

* SECTION 1. REPEAL.) Chapters 4-06 and 25-04.1 and section 55-01-09 of the North Dakota Century Code are hereby repealed.

Approved February 8, 1979

* NOTE: Section 55-01-09 was also repealed by section 15 of House Bill No. 1085, chapter 550.

CHAPTER 94

HOUSE BILL NO. 1237
(Nicholas, Peltier)

AGRICULTURAL SEED WEED SEED LABELING

AN ACT to amend and reenact subsections 4 and 5 of section 4-09-10 of the North Dakota Century Code, relating to weed seed labeling requirements for containers of agricultural seed.

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

SECTION 1. AMENDMENT.) Subsections 4 and 5 of section 4-09-10 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. Percentage by weight of all weed seeds, which shall not exceed one percent;
5. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present, if the said restricted noxious weed seeds are present singly or collectively in amounts:
 - a. In--the--case--of--quack--grass--(agropyron--repens--&--beauv.)--and--dodder--(cuscuta--species--except--coryli)},--in--excess--of--twenty-one--seeds--per--pound In seeds of grasses and small seeded legumes, in excess of thirteen seeds per pound; and
 - b. In--case--of--wild--mustard--(brassica--spp)},--frenchweed--(thlaspi--arvense)},--wild--morning-glory--(ipomeea--spp)} and--wild--oats--(avena--fatua)},--in--excess--of--thirty-one seeds--per--pound,--provided,--however,--that--the--commissioner--may,--through--promulgation--of--regulations--change--the--requirements--under--this--subsection In other agricultural seeds including the cereals, oil seed crops, millets, and seeds of similar size, in excess of five seeds per pound;

Approved March 3, 1979

CHAPTER 95

SENATE BILL NO. 2306
(Vosper, Erdman)

AGRICULTURAL COMMODITIES REGULATION

AN ACT to provide for the inspection and grading of agricultural commodities by the North Dakota seed commission; to repeal section 4-25-05 of the North Dakota Century Code, relating to seed sales regulation by the North Dakota seed commission; and providing an appropriation.

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

SECTION 1. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Commission" means the state seed commission.
2. "Commissioner" means the state seed commissioner.
3. "Commodities" means any agricultural product of the soil for which grades, standards, or inspection services, or all of them, have not been established by the United States department of agriculture pursuant to the United States Grain Standards, as amended August 15, 1968, [Pub. L. 90-487; 82 Stat. 761; 7 U.S.C. 71 et seq.].

SECTION 2. SEED COMMISSIONER - DUTIES.) The commissioner may establish commodity grades and inspection services for the purpose of making inspection and otherwise providing for the proper handling and marketing of the agricultural commodities defined in this chapter and may adopt rules necessary for and consistent with the provisions of this Act. The commissioner shall appoint a chief inspector and other agents, inspectors, assistants, and clerical aides as are necessary to assist, represent, and act for the commissioner in carrying out the provisions of this Act. The commissioner shall fix the salaries of employees of the commission within the limits of legislative appropriations therefor.

SECTION 3. GRADE INSPECTION - FEES AND CHARGES.) The commission shall fix by rule the fees for making commodity grade inspections, and the fees shall be uniform throughout the state for

periods of time as shall be specified. The fee for commodity grade inspection shall, as nearly as possible, approximate the cost of the service.

SECTION 4. COOPERATION WITH DEPARTMENTS AND BUREAUS.) The commissioner may cooperate with the United States department of agriculture or any bureau or division thereof, and with similar state inspection service departments of the several states, and with any person, with the intent and purpose that the grade inspection service in this state, and any or all of the grade certificates issued on North Dakota commodities, shall be officially recognized and accepted elsewhere in the United States, and to protect and promote the interests of any and all persons having an interest in the commodities grown or handled in this state, and to provide for any necessary joint arrangements to further the purpose of this Act.

SECTION 5. SEED COMMISSION MAY RECEIVE AND EXPEND FUNDS.) All moneys arising from the collection of fees and other charges under the provisions of this chapter shall be deposited by the commissioner with the state treasurer and credited to the seed department revolving fund. All proceeds deposited by the state treasurer in the revolving fund shall be subject to appropriation by the legislative assembly.

SECTION 6. REPEAL.) Section 4-25-05 of the North Dakota Century Code is hereby repealed.

SECTION 7. APPROPRIATION.) There is hereby appropriated out of any moneys in the seed department revolving fund in the state treasury, not already appropriated, the sum of \$43,069.00, or so much thereof as may be necessary, to the state seed commission for the purposes of carrying out the provisions of this Act for the biennium beginning July 1, 1979, and ending June 30, 1981 as follows:

Salaries and wages	\$ 23,500
Fees and services	10,850
Supplies and materials	725
Equipment	6,494
Land, structures, and major improvements	1,500
Total appropriation from seed department revolving fund	<u>\$ 43,069</u>

Approved March 21, 1979

CHAPTER 96

HOUSE BILL NO. 1407
(Peltier)

SUNFLOWER AND BEAN COUNCIL ELECTIONS

AN ACT to amend and reenact sections 4-10.2-03 and 4-10.3-03 of the North Dakota Century Code, allowing the commissioner of agriculture or a designated county agent, in cooperation with the cooperative extension service, to conduct an election for the North Dakota sunflower council or the North Dakota edible bean council and to allow for the elections to be conducted within seventy-five days prior to April first; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 4-10.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.2-03. NORTH DAKOTA STATE SUNFLOWER COUNCIL - MEMBERSHIP - ELECTION - TERM.) There is hereby established a North Dakota sunflower council. The council shall be composed of one participating grower elected from each of the districts established in section 4-10.2-04. The chairman of the council shall be a member of the council elected by a majority vote of the council. The commissioner of agriculture shall be an ex officio member of the council. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district the member represents. The term of each elected member shall be three years and shall begin on ~~July~~ April first of the year of election, except that initially two members shall be elected for a three-year term; two members shall be elected for a two-year term; and two members shall be elected for a one-year term as designated by the commissioner. If at any time during a member's term the member shall cease to possess any of the qualifications provided for in this chapter, the member's office shall be deemed vacant and the remaining members of the council shall appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in

the manner the commissioner deems fair and reasonable. The first election shall be held within forty-five days after April 9, 1977, and all elections thereafter shall be conducted ~~in June~~ within seventy-five days prior to April first. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

SECTION 2. AMENDMENT.) Section 4-10.3-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.3-03. NORTH DAKOTA STATE EDIBLE BEAN COUNCIL - MEMBERSHIP - ELECTION - TERM.) There is hereby established a North Dakota edible bean council. The council shall be composed of one participating grower elected from each of the districts established in section 4-10.3-04. The chairman of the council shall be a member of the council elected by a majority vote of the council. The commissioner of agriculture shall be an ex officio member of the council. Every elected council member shall be a citizen of the state and a bona fide resident of and participating grower in the district the member represents. The term of each elected member shall be three years and shall begin on ~~July~~ April 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 the member shall cease to possess any of the qualifications provided for in this chapter, the member's office shall be deemed vacant and the council shall, by majority vote, appoint another qualified participating grower for the remainder of the term of the office vacated. The commissioner, or a county agent designated by the commissioner, in cooperation with the cooperative extension service, shall conduct all elections under this section in each district in the manner the commissioner deems fair and reasonable. The first election shall be held within forty-five days after April 20, 1977, and all elections thereafter shall be conducted ~~in June~~ within seventy-five days prior to April first. No elected member of the council shall be eligible to serve more than two consecutive three-year terms.

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

Approved March 10, 1979

CHAPTER 97

SENATE BILL NO. 2386
(Senator Vosper)
(Representative Olson)

EDIBLE BEAN HANDLER REPORTS

AN ACT to amend and reenact section 4-10.3-08 of the North Dakota Century Code, requiring a handler of edible beans to record in the report to the council the individual and total amounts of edible beans received, sold, or shipped by the handler.

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

SECTION 1. AMENDMENT.) Section 4-10.3-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-10.3-08. TAX LEVIED - COLLECTION - REPORTS.) Effective July 1, 1977, an assessment at the rate of five cents per hundredweight shall be levied and imposed upon all edible beans grown in the state or sold to a designated handler. This assessment shall be due upon any identifiable lot or quantity of edible beans.

A designated handler of edible beans shall file an application with the council on forms prescribed and furnished by the council which shall contain the name under which the handler is transacting business within the state, the place or places of business, the location of loading and shipping places of agents of the first handler, the names and addresses of the several persons constituting the firm partnership, and if a corporation, the corporate name and the names and addresses of its principal officers and agents within the state. The council shall issue a certificate to the designated handler. A designated handler shall not sell, process, or ship any edible beans until it has furnished a certificate as required by this section.

Every designated handler of edible beans shall collect the assessment imposed by this section by charging and collecting from the seller the assessment at the rate of five cents per hundredweight by deducting the assessment from the purchase price of all edible beans subject to the assessment and purchased by the designated handler.

Every designated handler shall keep as a part of its permanent records a record of all purchases, sales, and shipments of raw edible beans, which may be examined by the council at all reasonable times. Every designated handler shall report to the council stating the quantity in individual and total amounts of edible beans received, sold, or shipped by it. The report shall state from whom each individual amount as received. The report shall be made at the times and in the manner prescribed by the council. The remittance of the assessment as provided in this section shall accompany the report. All moneys levied and collected under this chapter shall be paid to the council for deposit in the state treasury to the credit of an account or accounts designated "edible bean fund" to be used exclusively to carry out the intent and purposes of this chapter. Regular audits of the council's accounts shall be conducted in accordance with chapter 54-10 and submitted to the commissioner of agriculture.

Approved March 19, 1979

CHAPTER 98

HOUSE BILL NO. 1244

(Committee on Agriculture)

(At the request of the Department of Agriculture)

BEEKEEPER REGULATION

AN ACT to amend and reenact subsection 1 of section 4-12-01, and sections 4-12-03, 4-12-03.1, 4-12-03.2, 4-12-04, 4-12-08, and 4-12-22 of the North Dakota Century Code, relating to the keeping of bees and the powers and duties of the apiary division of the North Dakota department of agriculture with respect thereto; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 4-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Beekeeper" shall mean any person, firm, association, or corporation owning, ~~possessing~~, or controlling one or more colonies of ~~bees~~ honeybees for pollination or the production of honey, beeswax, or byproducts either for personal or commercial use.

SECTION 2. AMENDMENT.) Section 4-12-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03. BEEKEEPER'S LICENSE REQUIRED.) Every beekeeper, on or before the first day of May in each year ~~or--within--twenty--days thereafter~~, shall make application to the commissioner of agriculture, on a form to be furnished by him, for a license certificate, and such certificate shall be granted to every beekeeper who makes a satisfactory application in the form prescribed by the commissioner and pays the license fee required in this chapter. Any person ~~procuring or coming into possession of~~ newly acquiring bees within this state shall, within ten days thereafter ~~shall~~, make an application to the commissioner of agriculture for a license. Each applicant shall include on his application a legal description, to the nearest quarter section, of each apiary ~~to be maintained by him. The application shall also set out the number of hives or colonies of bees maintained at each apiary described in the application.~~ An application completed by a

commercial operator or a person intending to be a commercial operator shall also set forth the total number of hives or colonies of bees to be maintained by him within this state. An application to be completed by any beekeeper who is not a commercial operator shall also set forth the number of hives or colonies of bees maintained at each apiary described in the application. Applications completed by all beekeepers shall specify which apiaries, if any, are to remain vacant in accordance with the provisions of this chapter. No beekeeper shall maintain bees in this state unless he possesses a valid beekeeper's license. The license certificate required by this section shall be nontransferable. He Any licensed beekeeper shall first have obtained a permit to enter if bringing in bees and equipment from out of state.

SECTION 3. AMENDMENT.) Section 4-12-03.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03.1. ESTABLISHMENT OF LOCATIONS - EXCEPTION - LOCATION RIGHTS.)

1. No new commercial location may be established within two miles of another commercial location. No commercial operator may establish an apiary within two miles of another commercial operator. The noncommercial beekeeper with one to twenty-four colonies will have territorial rights on one location.
2. If any seed grower requests the commissioner of agriculture to include additional locations for the purpose of pollinating his crop, the restriction prohibiting the maintaining of locations within two miles of one another shall not apply; provided however that the movement of bees onto fields of clover and alfalfa for pollination purposes shall be limited to a maximum of thirty days from the date of the request. The name and address of each apiary shall be displayed at each location.
3. The A property owner will be exempt from this section. For the purposes of this section, a "property owner" means the person who has actual use and exclusive possession of the land; provided however that any person leasing land for the primary purpose of establishing an apiary thereon shall not be considered property owners, nor shall any person who does not own and personally manage and operate the bees and hives placed on such land.

SECTION 4. AMENDMENT.) Section 4-12-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-03.2. RETENTION OF LOCATIONS.) A commercial operator may register prospective commercial locations with the commissioner

of agriculture if such locations contained in the application do not exceed in number ~~twenty-five~~ ten percent of the number of active commercial locations maintained by him. ~~All~~ Ninety percent of all commercial locations must be occupied by July first, ~~at least~~ every other year. Any commercial location left unoccupied by the first of July shall be canceled by the department. The department of agriculture shall cancel the entire license of any beekeeper failing to comply with the requirements of this section.

SECTION 5. AMENDMENT.) Section 4-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-04. BEEKEEPER'S LICENSE - FEES.) Any beekeeper, resident or nonresident, upon making application for a license certificate, shall pay a license fee of one dollar up to ten colonies and ten cents per colony for every colony more than ten for the total number of colonies owned ~~or possessed~~ by the applicant in North Dakota.

SECTION 6. AMENDMENT.) Section 4-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-08. COMMISSIONER TO MAKE REGULATIONS GOVERNING DISEASES OF BEES - ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.) The commissioner of agriculture shall prescribe and issue such emergency regulations and orders as are necessary to ~~prevent, eradicate, or control the introduction, spread, or dissemination of all contagious or infectious diseases of honey bees.~~ implement the provisions of this chapter. Any proceeding under this chapter for:

1. The issuance or modification of rules and regulations including emergency orders relating to control of bee diseases; or
2. Determining compliance with rules and regulations of the department,

shall be conducted in accordance with the provisions of chapter 28-32, and appeals may be taken as therein provided. Where an emergency exists requiring immediate action to the spread of bee diseases, the department may, without notice or hearing, issue an order reciting the existence of such emergency and requiring that such action be taken as is necessary to meet this emergency. Notwithstanding any provision of this chapter, such order shall be effective immediately, but on application to the department an interested person shall be afforded a hearing before the commissioner within ten days. On the basis of such hearing, the emergency order shall be continued, modified, or revoked within thirty days after such hearing.

SECTION 7. AMENDMENT.) Section 4-12-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-12-22. SHIPMENTS INTO STATE - PERMIT - FEES.) Before any person transports into this state any bees on comb, used hives, or used apiary equipment he shall obtain from the state bee inspector a permit for such transportation. A copy of the certificate of health issued by the official bee inspector of the state or country of origin, a complete description of the shipment, and such other information as may be required by regulations established by the commissioner of agriculture shall be provided the state bee inspector who shall upon receipt of this information issue the required permit if the permit applicant holds a valid license under this chapter. Immediately upon the arrival of any bees into this state the owner thereof shall comply with the provisions of this chapter relating to the registration of bees. Upon the issuance of the permit authorized in this section, a nonresident applicant shall pay to the commissioner of agriculture an entrance fee of one dollar and fifty cents for each hive or colony of bees transported into the state of North Dakota. Provided, however, no applicant for a permit shall be charged more than one entrance fee for any hive or colony of bees, regardless of the number of times the colony or hive of bees is transported into or out of the state. The permit fee authorized in this section shall apply only if the state from which the hives or colonies of bees were imported requires entrants to pay an inspection or entrance fee for hives or colonies of bees brought into that state.

SECTION 8. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 10, 1979

CHAPTER 99

HOUSE BILL NO. 1258
(Boyum, Lee)

HONEY PROMOTION

AN ACT relating to the promotion, advertising, research and development of honey, prescribing a tax on honey production, providing for its collection; providing penalties for the violation of the Act; and declaring an emergency.

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

SECTION 1. TITLE OF ACT.) This Act shall be known as the "North Dakota Honey Promotion Act".

SECTION 2. DEFINITIONS.) Whenever used in this Act:

1. "Association" means the North Dakota beekeeper's association.
2. "Beekeeper" means any person, firm, association, or corporation owning or controlling one or more colonies of bees for the production of honey, beeswax or byproducts either for personal or commercial use.
3. "Commissioner" means the commissioner of agriculture.
4. "Market development" means research, promotion, and education programs toward better and more efficient production, marketing and utilization of honey for resale. The term also means the use of other methods including, but not limited to, public relations and other promotion techniques, for the maintenance of present honey markets, for the development of new or larger domestic or foreign markets, for the sale of honey and for prevention, modification or elimination of trade barriers which obstruct the free flow of agricultural commodities to market. The term includes providing promotion funds for a North Dakota honey queen program.

SECTION 3. ASSESSMENT.) There is hereby levied on beekeepers an assessment of five cents per colony of honey bees licensed by the

beekeeper. The minimum assessment shall be one dollar for the first twenty colonies. The assessment shall be remitted to the commissioner at the same time the annual license fees are due as specified in section 4-12-04.

SECTION 4. SPECIAL FUND.) The state treasurer shall deposit all moneys received under this Act in a special fund to be known as the honey fund. All moneys deposited in the honey fund shall, subject to legislative appropriation, be expended by the commissioner for use pursuant to this Act.

SECTION 5. REFUNDS.) Any beekeeper who makes a written application under separate cover therefore to the commissioner within thirty days of the remission of his fees to the commissioner shall receive a refund of the assessment submitted by him.

SECTION 6. COMMISSIONER TO EFFECTUATE PURPOSES OF THIS CHAPTER - ADVICE OF THE ASSOCIATION SOUGHT.) The commissioner is hereby authorized to expend moneys and take the actions it deems necessary and proper to effectuate the purposes and policies of this Act. The commissioner shall request the advice, review, and comment of a committee appointed by the association regarding the projects, programs, and policies undertaken to carry out the provisions of the Act.

SECTION 7. HONEY INFORMATION IN REPORT.) The commissioner shall include information concerning its activities under the provisions of this Act, including a complete listing of the assessments collected and the moneys spent under this Act, in its report to the governor.

SECTION 8. COLLECTION OF UNPAID ASSESSMENTS.) If a beekeeper fails to remit the proper assessment, the commissioner may enforce the remittance in any court of competent jurisdiction in the state.

SECTION 9. DELINQUENT ASSESSMENT REMITTANCE.) Any beekeeper who fails to remit the assessment as specified shall be delinquent and shall levy a penalty assessment of five percent of the assessment due plus interest at the rate of six percent per annum, from the due date. The penalty and interest shall be collected in the manner described in section 8.

SECTION 10. PENALTY.) Any person who willfully violates this Act is guilty of a class B misdemeanor.

SECTION 11. 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, 1979

CHAPTER 100

HOUSE BILL NO. 1384
(Representatives Richie, Nicholas)
(Senators Shablow, Tallackson, Vosper)

AGRICULTURAL PRODUCTS
UTILIZATION COMMISSION

AN ACT to provide for the creation of an agriculturally derived alcohol motor vehicle fuel tax fund, for its administration by the agricultural products utilization commission to further the production and marketing of agriculturally derived alcohol-blended motor vehicle fuels and motor vehicle fuels blended with methanol derived from biomass residue; to amend and reenact sections 57-50-01, 57-50-03.1, 57-50-05, and 57-54-08 of the North Dakota Century Code, relating to refunding the motor vehicle fuel tax and to the amount of the motor vehicle fuel tax on fuel with an agriculturally derived alcohol blend; to provide for a transfer of funds; and to provide an appropriation.

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

SECTION 1. LEGISLATIVE POLICY AND PURPOSE.) It is hereby declared to be the public policy of the state of North Dakota to protect and foster the prosperity and general welfare of its people by providing a new domestic source of energy, and by stimulating the agricultural economy of the state. In furtherance of this policy, it is the purpose of this Act to provide necessary assistance in the construction, operation, and maintenance of an agriculturally derived alcohol plant in North Dakota for the manufacture and marketing of agriculturally derived alcohol and methanol derived from biomass residue.

SECTION 2. AGRICULTURALLY DERIVED ALCOHOL MOTOR VEHICLE FUEL TAX FUND - PURPOSES.) There is hereby created in the state treasury, a fund, to be known as the agriculturally derived alcohol motor vehicle fuel tax fund, which shall be used to provide a program for the implementation of a state agriculturally derived alcohol industry for motor vehicle fuels. The fund shall be used for the following purposes:

1. Establishment, with cooperation from private industry, of procedures and processes necessary to the manufacture and marketing of agriculturally derived alcohol-blended fuels

and motor vehicle fuels blended with methanol derived from biomass residue.

2. Establishment of a procedure for entering the agriculturally derived alcohol-blended fuel and fuel blended with methanol derived from biomass residue into the marketplace by private enterprise.
3. Analysis of the marketing process and testing of marketing procedures to assure acceptance of agriculturally derived alcohol-blended fuels, motor vehicle fuels blended with methanol derived from biomass residue, and byproducts resulting from their manufacture, in the private marketplace.
4. Cooperation with private industry to establish privately owned agriculturally derived alcohol manufacturing plants in this state to supply demand for agriculturally derived alcohol and methanol derived from biomass residue.

SECTION 3. AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - COMPOSITION - APPOINTMENT.) The agriculturally derived alcohol motor vehicle fuel tax fund shall be administered by the agricultural products utilization commission which is hereby established. The commission shall consist of seven members to be appointed by the governor for terms of two years each, arranged so that at least three terms expire every year. Four members shall be actively engaged in farming in this state, one member shall be actively engaged in the petroleum industry, and two members shall be actively engaged in business in this state. Commission members may be reappointed to the commission. Terms of commissioners shall run from the first day of July of odd-numbered years.

SECTION 4. AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - MEETINGS - PERSONNEL - ADVISORY COMMITTEE.) The agricultural products utilization commission shall meet at least once annually, and shall report to each session of the legislative assembly. The commission may secure office space and employ needed personnel for the performance of its duties, may hire consultants, and may contract with public entities or private parties for services. The agricultural products utilization commission shall have an advisory committee composed of three persons, one each designated by the director of the business and industrial development department, the president of the North Dakota state university, and the state commissioner of agriculture.

SECTION 5. AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - EXPENSE REIMBURSEMENT ONLY.) All members of the agricultural products utilization commission shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties, in the same manner as other state officials are reimbursed, according to sections 44-08-04 and 54-06-09 of the North Dakota Century Code, and shall receive no other compensation.

SECTION 6. AMENDMENT.) Section 57-50-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-01. REFUND OF TAX PROVIDED FOR - REDUCTION FOR AGRICULTURALLY DERIVED ALCOHOL MOTOR VEHICLE FUEL TAX FUND.) Any person who shall buy or use any motor vehicle fuel as defined in subsection 2 of section 57-54-03, for agricultural or industrial purposes, except motor vehicle fuel used in motor vehicles operated or intended to be operated in whole or in part upon any of the public highways of the state of North Dakota on which the motor vehicle fuel tax has been paid, shall be reimbursed or repaid within the time hereinafter provided, the amount of such tax paid by him upon the presentation to and the approval of the tax commissioner of a claim for refund. Provided, however, the amount of the tax refund provided for in this section shall be reduced by one-eighth cent per gallon, and the one-eighth cent per gallon withheld from the refund shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund. Those persons who have a valid tax assignment permit issued by the state tax commissioner under the provisions of section 57-50-11.1 shall be charged one-eighth cent per gallon by the dealer and the one-eighth cent charge shall be remitted to the state tax commissioner by the dealer when the dealer submits the tax assigned invoices for credit. Those aviation gasoline fuel taxes collected, upon which no refund is claimed and those revenues remaining as unclaimed refunds under the provisions of the statutory refunds on aviation gasoline and aviation motor fuels are hereby appropriated, in accordance with the time limitations as provided by law, and used exclusively for construction, reconstruction, repair, maintenance, and operation of small landing strips near highways and communities in this state and for the purchase of necessary land required therefor and shall be administered and expended by the state of North Dakota aeronautics commission for the above purpose.

SECTION 7. AMENDMENT.) Section 57-50-03.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-03.1. REFUND TO PREVENT DOUBLE TAXATION - REDUCTION FOR AGRICULTURALLY DERIVED ALCOHOL MOTOR VEHICLE FUEL TAX FUND.) Any person to whom special fuel or motor vehicle fuel is sold on which the tax imposed by chapter 57-52 or chapter 57-54 has been paid who thereafter removes such fuel from this state to another state which requires payment of a tax upon the use of the fuel in that state shall be granted a refund of the tax that was paid pursuant to chapter 57-52 or chapter 57-54. Provided, however, the refund of tax paid pursuant to chapter 57-54 shall be reduced by the amount provided in section 57-50-01, and the reduction shall be deposited in the agriculturally derived alcohol motor vehicle fuel tax fund. Such refund shall be granted only upon application to the tax commissioner on forms prescribed by the tax commissioner, including proof of payment of the tax imposed by the other state, and shall be subject to the limitations provided in section 57-50-03. The tax provided for in chapter 57-53 shall not be levied on sales of any

such fuel for which a refund of tax is made pursuant to this section.

SECTION 8. AMENDMENT.) Section 57-50-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-50-05. REFUND TO STATE OR POLITICAL SUBDIVISION.) When any construction, reconstruction, or maintenance of a public road, highway, street, or airport is undertaken by the state or any county, city, township, park district, or other municipality in the state and where public funds of the United States, state, county, city, township, park district, or other municipality are directly used for the purchasing of motor vehicle fuel to be used in publicly owned vehicles for such construction, reconstruction, or maintenance, such motor vehicle fuel shall be subject to a refund of the tax paid thereon as provided for in this chapter and under the same terms and conditions. Provided, however, the refund provided for in this section shall not be reduced for deposit to the agriculturally derived alcohol motor vehicle fuel tax fund.

* SECTION 9. AMENDMENT.) Section 57-54-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-08. TAX IMPOSED ON MOTOR VEHICLE FUELS - TAX REDUCED FOR AGRICULTURALLY DERIVED ALCOHOL-BLENDED FUELS.) There is hereby imposed a tax of eight cents per gallon on all motor vehicle fuel sold or used in this state. Provided, however, the tax imposed by this section on gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol whose purity is at least ninety-nine percent alcohol shall be four cents per gallon. The tax imposed by this section shall be collected by the dealer from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer, and he shall have the option of collecting the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be liable for the tax thereon.

SECTION 10. APPROPRIATION.) There is hereby appropriated out of any moneys in, or to be deposited in, the agriculturally derived alcohol motor vehicle fuel tax fund, from public or private sources, the sum of \$200,000.00, so much thereof as may be necessary, to the agricultural products utilization commission for the administration of this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 11. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the agricultural products utilization commission for the purpose of administering the provisions of this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981.

* NOTE: Section 57-54-08 was also amended by section 1 of Senate Bill No. 2338, chapter 621.

SECTION 12. TRANSFER.) There shall be transferred prior to July 1, 1981, to the general fund in the state treasury out of the agriculturally derived alcohol motor vehicle fuel tax fund the sum of \$50,000.00, upon order of the agricultural products utilization commission, to repay the general fund appropriation provided by section 11 of this Act.

Approved April 7, 1979

CHAPTER 101

HOUSE BILL NO. 1327
(Representatives Marsden, Houmann)
(Senator Erdman)

STATE FORESTER RESPONSIBILITIES

AN ACT to amend and reenact sections 4-19-05, 4-19-07, and 4-19-08 of the North Dakota Century Code, relating to the duties of the state forester, the authority to charge a user fee for state forest facilities, and the disposition of revenues derived from forestry activities; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 4-19-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-19-05. STATE FORESTER MAY ACCEPT LAND FOR FORESTS OR PARKS.) The state forester may accept gifts, donations, or contributions of land suitable for forestry ~~ex-park~~ purposes and may enter into agreements ~~with-the-federal-government-or-other--agencies~~ for acquiring, by lease, purchase, or otherwise, such lands as in his judgment are desirable for state ~~forests-or-state--parks~~ forest purposes.

SECTION 2. AMENDMENT.) Section 4-19-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-19-07. POWERS OF STATE FORESTER WHEN LANDS ACQUIRED OR LEASED.) When lands are acquired or leased under section 4-19-05 of this chapter, the state forester may make expenditures from any funds not otherwise obligated, for the management, development, and utilization of such areas. He may provide recreational services within those areas and may charge a user fee in an amount sufficient to cover the cost of providing such services. He may sell or otherwise may dispose of products from such lands, and may make necessary rules and regulations to carry out the purposes of this chapter.

SECTION 3. AMENDMENT.) Section 4-19-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-19-08. REVENUE RECEIVED FROM LANDS ACQUIRED OR LEASED - REGULATIONS GOVERNING.) All revenues derived from lands acquired or leased under the provisions of this chapter shall be segregated by the state treasurer for the use of the state forester in the acquisition, management, development, and use of such lands until ~~all obligations incurred have been paid in full, except that the state forester shall not expend more than ten thousand dollars in any one fiscal year for such purposes. After all obligations for the acquisition of land have been extinguished, fifty percent of all net profits accruing from the administration of such lands shall be subject to use for such purposes as the legislative assembly may prescribe, and fifty percent shall be paid into the school fund of the county in which the lands are located; provided, however, that~~ from those revenues derived from agricultural leases there shall be paid over to the governing body of the county in which those lands are located, an amount sufficient to cover the loss of tax revenues, if any, resulting from such acquisition or lease.

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

Approved March 8, 1979

CHAPTER 102

HOUSE BILL NO. 1243
(Committee on State and Federal Government)
(At the request of the State Auditor)

AUDITS BY THE STATE AUDITOR

AN ACT to amend and reenact section 4-27-11, subsection 10 of section 4-34-05, section 18-03-08, section 18-05-13 and section 18-10-09 of the North Dakota Century Code, relating to the duty of the state auditor to audit books and accounts.

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

SECTION 1. AMENDMENT.) Section 4-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-27-11. DAIRY PRODUCTS PROMOTION COMMISSION.) The commission shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04. The books, records, and accounts shall be audited ~~annually~~ biennially by the state auditor, the cost of such audit to be paid from the funds of the North Dakota dairy products promotion commission.

SECTION 2. AMENDMENT.) Subsection 10 of section 4-34-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 chapter. Such records, books, and accounts shall be audited ~~annually,--ex--oftener,~~ by the state auditor, in accordance with established auditing and accounting procedures.

SECTION 3. AMENDMENT.) Section 18-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-03-08. REPORT OF USE OF MONEY.) On or before the first day of July of each year, the president, secretary, and treasurer of the North Dakota firemen's association shall make to the department of accounts and purchases a full and complete report, duly verified

by the secretary, of the disposition of all moneys received; and the state auditor shall examine the books of the said association annually, the cost of said audit to be borne by the firemen's association the association shall provide for an audit annually by a certified public accountant or licensed public accountant who shall submit the audit report to the state auditor's office. When the report is in the form and style prescribed by the state auditor, the state auditor shall not conduct an audit of the records of the association.

* SECTION 4. AMENDMENT.) Section 18-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-05-13. ~~STATE AUDITOR TO EXAMINE~~ AUDIT OF BOOKS OF RELIEF ASSOCIATION - REPORT OF UNAUTHORIZED SPENDING TO GOVERNOR - DUTY OF GOVERNOR.) ~~The state auditor, annually, shall examine the~~ The books and accounts of the secretary and treasurer of each firemen's relief association receiving funds under the provisions of this chapter shall be audited as required by section 54-10-14. If he finds that the money, or any part of it, has been or is being expended for unauthorized purposes, ~~he shall report the facts shall be reported~~ to the governor. Thereupon, the governor shall direct the department of accounts and purchases not to prepare any warrants for the benefits of the fire department or relief association of the municipality in which such association is organized until it shall be made to appear to the state auditor who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand. ~~Each firemen's relief association shall pay into the state treasury fees for such annual examinations at the same rate as fixed by section 6-01-21, 2* for the examination of the books and accounts of city auditors and city treasurers.~~

** SECTION 5. AMENDMENT.) Section 18-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-09. FUNDS COLLECTED TO BE DEPOSITED.)

1. All funds collected on behalf of the district through the levy of taxes;
2. All donations, contributions, bequests, or annuities, and
3. All borrowed money received by or on behalf of the district shall be deposited in a state or national bank to the credit of the district fund and shall be drawn out only by warrant.

Such claim voucher shall be authorized by the board of directors and shall bear the signature of the treasurer and the countersignature of the president of such district. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. ~~Once each year at the same time the state examiner*~~

* NOTE: Section 18-05-13 was also amended by section 22 of House Bill No. 1073, chapter 187.

** NOTE: Section 18-10-09 was also amended by section 23 of House Bill No. 1073, chapter 187.

~~examines--other--county--records--he--shall--examine--the--records--of--the--secretary--treasurer--of--the--rural--fire--protection--district,--and--the--cost--of--such--examination--shall--be--paid--by--such--district.--The--secretary--treasurer--of--the--rural--fire--protection--district--shall--bring--his--records--to--the--office--of--the--county--auditor--for--such--examination.~~ The books and accounts of the secretary-treasurer shall be audited or annual reports shall be filed as required by section 54-10-14.

Approved March 3, 1979

CHAPTER 103

SENATE BILL NO. 2142
(Committee on Agriculture)
(At the request of the Wheat Commission)

WHEAT TAX LEVY INCREASED

AN ACT to amend and reenact section 4-28-07 of the North Dakota Century Code, relating to the wheat tax levy.

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

SECTION 1. AMENDMENT.) Section 4-28-07 of 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~~ 1979, a tax of ~~two~~ three 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.

Approved March 21, 1979

CHAPTER 104

HOUSE BILL NO. 1495
(Committee on Appropriations)

FLAX UTILIZATION RESEARCH TAX REPEALED

AN ACT to appropriate the remaining moneys in the flax utilization research fund to North Dakota state university for crop byproduct research, to hold all revenues received during the remainder of this biennium available for the purposes of this Act; to repeal chapter 4-28.1 of the North Dakota Century Code, relating to the flax utilization research tax; and declaring an emergency.

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

SECTION 1. APPROPRIATION - PURPOSE.) There is hereby appropriated from the flax utilization research fund the sum of \$34,195.00, and any other moneys remaining in the fund, to North Dakota state university to be used by the agricultural engineering department for research on the utilization of crop residue, such as flaxstraw or sunflower stalks or hulls, as an energy source. The moneys appropriated herein may be used by North Dakota state university to match federal or private funds available for like research, and such federal or private funds are hereby appropriated. It is the intent of the legislative assembly that this section appropriate all funds remaining in the flax utilization research fund as of July 1, 1979, and that the fund account be thereafter closed.

SECTION 2. FLAX TAX REVENUES HELD.) All revenues held or collected from and after the effective date of this section shall be retained by the wheat commission in the flax utilization research fund to be available pursuant to the appropriation contained in section 1 of this Act. The commission shall not enter into any contracts or agreements for research after the effective date of this section, nor shall any further payments be made from the flax utilization research fund, except according to agreements or contracts made prior to the effective date of this section.

SECTION 3. REPEAL.) Chapter 4-28.1 of the North Dakota Century Code is hereby repealed.

SECTION 4. EMERGENCY.) Section 2 of this Act is hereby declared to be an emergency measure and shall be in force and effect from and after the passage and approval of this Act.

Approved March 8, 1979

CHAPTER 105

SENATE BILL NO. 2410
(Albers)

DAIRY PRODUCTS REGULATION

AN ACT to create and enact section 4-30-38.1; and to amend and reenact sections 4-30-02, 4-30-12, 4-30-13, 4-30-14, 4-30-16, 4-30-17, 4-30-18, 4-30-19, 4-30-20, 4-30-27, 4-30-33, 4-30-36, 4-30-38, 4-30-39, 4-30-55, and 4-30-56; and to repeal chapter 19-06 and section 4-30-36.1 of the North Dakota Century Code, all relating to dairy products production and regulation.

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

SECTION 1. AMENDMENT.) Section 4-30-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-02. LICENSES REQUIRED - FEES - TERM.) Every producer-processor, peddler, distributor, and every person purchasing milk or milk products for processing or manufacturing, or owning, operating, or leasing a creamery, cheese factory, condensery, drying plant, ice cream plant, ice milk plant, cream station, milk plant, and every other business engaged in the processing or manufacturing of milk or milk products and every organization acquiring milk or milk products as an agent for sale on behalf of others and doing business within this state shall obtain the license required by this section for each such place of business. Application for ~~such~~ license shall be made to the dairy commissioner upon ~~such--form~~ forms as the commissioner may require. Upon making application for license, it is implied that consent is given by the applicant for inspection by the state dairy department. If the commissioner finds that the applicant conforms to the North Dakota laws and the rules and regulations of the ~~dairy~~ department, he shall issue a license for conducting ~~such~~ those operations as listed on the application form. If a licensee wishes to conduct operations other than those ~~se~~ listed, he may request that the commissioner approve them, and if the commissioner finds that the proposals are in conformance with North Dakota laws and the rules and ~~regulations~~ of the ~~dairy~~ department, he shall approve them. The license, together with a summary of the North Dakota dairy laws and the rules ~~and-regulations~~ of the ~~dairy~~ department shall be posted conspicuously in each ~~place~~ of licensed business ~~se-licensed~~. All licenses issued under this

section shall expire on the thirtieth day of June of each year and shall not be transferable. The fee for ~~such~~ licenses shall be ~~ten~~ twenty-five dollars. Every organization acquiring milk or milk products as an agent for sale on behalf of others shall, for the purposes of this chapter, be deemed to be a purchaser of milk or cream from a dairy producer.

SECTION 2. AMENDMENT.) Section 4-30-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-12. LICENSE NEEDED TO SAMPLE, GRADE, OR TEST - TRAINING - 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~~ shall receive training in the sampling or grading of milk or milk products as may be required by the department, and shall pass a written examination prepared and given by the ~~dairy~~ department, -he. 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 taken any additional training and has satisfactorily passed the required examinations for each ~~such~~ addition. All--examinations--should Examinations shall be given by the ~~dairy~~ department ~~within-fifteen days-after-receiving-the-application~~ four times per year at a time and place or places as the department shall determine. 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. Retraining or retesting or both may be required by the commissioner at any time when the commissioner reasonably determines it to be necessary. 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.

SECTION 3. AMENDMENT.) Section 4-30-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-13. COMPLAINT UPON VIOLATION - NOTICE OF HEARING.) Any person who has information that any person or business licensed under the provisions of this chapter has violated any of its provisions or any rule or regulation of the dairy department, may file with the dairy commissioner, an affidavit, setting forth any such violations and it is hereby made the duty of all peace officers who have information of any such violations committed by such the licensee to file such an affidavit with the dairy department. Such The affidavit shall state the facts constituting the violations charged therein with such clarity and certainty so that the licensee may be reasonably apprised of the offense alleged to have been committed by him. Upon receipt of any such the affidavit, it--shall be--the--duty--of the dairy commissioner to set the matter down for hearing at an early date. The dairy commissioner shall send by registered or certified mail to the licensee a copy of the affidavit together with a notice of the time and place of hearing thereon, which date of hearing shall not be less than ten days after such copy of affidavit and notice has been mailed to the licensee shall investigate the complaint and shall, if he deems action warranted, require retraining, retesting or both, or shall suspend or revoke the license of the licensee under the procedure provided in this chapter.

SECTION 4. AMENDMENT.) Section 4-30-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-14. HEARING - PLACE.) The commissioner of agriculture or the dairy commissioner or his designee may conduct any hearing herein provided for in this chapter. Such hearing Hearings shall be held, at the direction of the commissioner, in the county where the licensed person resides or, in the county in which the licensed premises are located, or in Burleigh County.

SECTION 5. AMENDMENT.) Section 4-30-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-16. WITNESSES - SUBPOENA --FEES.) The commissioner of agriculture or the dairy commissioner shall have the power to subpoena witnesses, to compel their attendance, and to administer oaths as provided for in chapter 28-32. Such witnesses shall be allowed a fee of ten dollars per day, together with their mileage in attending such hearing at the rate of eight and one-half cents per mile, such fees and expenses to be paid by the state treasurer on voucher duly approved by the commissioner of agriculture.

SECTION 6. AMENDMENT.) Section 4-30-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-17. REVIEW BY THE COURT.) The action of the commissioner of agriculture or the dairy commissioner in suspending a license may be appealed to the district court of the county and district in which the hearing provided for in section 4-30-14 is held by procedure applicable to appeals taken in the manner provided in chapter 28-32 of title 28, Judicial Procedure, Civil, as now or

hereafter--amended, except that the ~~commissioner-of-agriculture-or the-dairy-commissioner~~ commissioner's order suspending the license may be stayed by the court appealed to upon filing with the clerk of said the court a bond approved by and in the amount set by the judge of said the district court for the faithful observance of the laws of the state and the rules and ~~regulations~~ of the dairy department relative to the operation of the business licensed during the pendency of the appeal.

SECTION 7. AMENDMENT.) Section 4-30-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-18. SAMPLING AND TESTING PROCEDURES - EQUIPMENT - SUPPLIES.) The procedures, equipment, chemicals, and other apparatus or substances used in the sampling, grading, or testing of milk or milk products shall conform to that described in the latest edition of "Standard Methods for the Examination of Dairy Products" published by the American Public Health Association, Inc., ~~or--the "Official--Methods--of--Analysis--of--the--Association--of--Official Agricultural-Chemists"~~, a copy of each ~~being~~ which shall be on file in the dairy department. No equipment, chemicals, or other apparatus or substance used in the sampling, grading, or testing of milk or milk products which is not in conformance with the requirements of this chapter shall be sold or offered for sale. The dairy commissioner may alter, amend, or prohibit any specific requirement of this section and may approve other sampling, grading, or testing procedures or equipment by issuing rules and ~~regulations~~ pertaining thereto but only after consulting with the director of the state laboratories department, the state health officer, and the chairman of the department of animal science at the North Dakota state university. The dairy commissioner, where he deems it appropriate, shall check calibration of farm bulk milk tanks and equipment.

SECTION 8. AMENDMENT.) Section 4-30-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-19. SAMPLING MILK--OR CREAM - CARE OF SAMPLES.) Every purchaser of ~~milk-or~~ cream from a dairy producer shall take a representative sample of at least two ounces from each container in which the ~~milk-or~~ cream is delivered. All the ~~milk-or~~ cream from one producer may be transferred from the containers in which they are it is received into an empty dump tank or vat and the sample taken from it. Before emptying any part ~~thereof~~ of the cream or adding any substance ~~thereto~~ to it and before the sample is taken, the ~~milk--or~~ cream must be thoroughly mixed. The device used in taking the sample must be clean and the container used to hold the sample must be clean and dry. The containers holding the samples must be kept securely covered and marked or kept by some approved system whereby they will be readily identifiable with the producer whose milk cream it represents. Records must be kept which readily identify the sample with the weight, butterfat content, and the amount of money paid for ~~said-milk-or~~ the cream. A record of the weight of all cream held over from one shipment to another shall be

kept and a representative sample taken, held, and identified as a "hold over sample". All samples must be protected from extreme temperatures and retained at least twenty-four hours after testing has been completed.

SECTION 9. AMENDMENT.) Section 4-30-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-20. ~~COMPOSITE--SAMPLES----OPTIONAL---GARE-OF-SAMPLES-)~~
~~Every-purchaser-of-milk-from-a-dairy-producer,-as-an-option-to-the~~
~~provisions--of--section-4-30-19,-may-use-composite-samples-which-are~~
~~obtained-by-taking-a-representative-sample-of-the-milk-each-time-the~~
~~milk--is-received-at-the-plant-or-picked-up-at-the-farm-for-a-period~~
~~not-to-exceed-fifteen-days,-after--thoroughly-mixing,-and--before~~
~~emptying--any-part--thereof--or--adding-any-substance-thereto--The~~
~~device-used-to-take-the-sample-must-be-clean-and-the-container--used~~
~~to--hold--the--sample-must-be-clean-and-dry---Approved-preservedives~~
~~may-be-added--Samples-must-be-held-under--refrigeration--and--shall~~
~~never--be--kept--out--of--refrigeration--for-a-period-any-longer--than~~
~~actually-necessary-in-the-routine-of-sampling,-grading,-or-testing.~~
~~The--sample--containers--must-be-kept-securely-covered-and-marked-or~~
~~kept--by--some--approved--system--whereby--they--will--be--readily~~
~~identifiable--with--the--producer--whose-milk-the-sample-represents.~~
SAMPLING OF MILK.) Every purchaser of milk from a dairy producer
shall collect a minimum sample of two ounces from each bulk tank of
milk received from a producer. Samples shall be collected and
maintained in accordance with those procedures contained in the
latest edition of "Standard Methods for the Examination of Dairy
Products" published by the American Public Health Association, Inc.
 Records must be kept which readily identify the sample with the
 weight, butterfat content, and the amount of money paid for said the
 milk. All milk samples shall be kept for at least twenty-four hours
 after testing has been completed.

SECTION 10. AMENDMENT.) Section 4-30-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-27. STANDARDS FOR THE PRODUCTION OF MANUFACTURING GRADE
MILK - COMMISSIONER TO ADOPT RULES.) Milk--for--manufacturing
purposes--shall--be--produced--from--cows-in-a-healthy-condition-and
shall-be-from-dairy-farms-where-herds-are-kept-in-conformance-with
state--laws--and--the--rules--and--regulations--of--the-North-Dakota
livestock--sanitary--board--and--the--dairy---department--regarding
tuberculosis,-brucellosis,-and-other-animal-diseases--Cows-shall-be
fed-properly-and-shall-not-be-fed-any-hay,-silage,-or-other--feeds
which--contain--any--unwholesome-substances--Milk-from-cows-treated
with-an-antibiotic-or-other-drug-shall-be-excluded-from--the--market
for-at-least-seventy-two-hours-unless-the-label-thereon-specifically
states-otherwise--The-cowyard,-loading,-and-holding-areas-shall--be
kept--reasonably--clean--and--shall--have--reasonably-good-drainage.
Milking-barns-and-parlors-shall-be-kept-clean,-well-lighted,-and
well-ventilated---Gutters-shall-be-of-concrete-or-other-impervious
material,-Manure-shall-be-properly-disposed-of-and--shall-not--be

accessible--to--milking--cows---Flanks--of--milk-cows--shall--be--kept reasonably-clean-and-udders--shall--be--properly-washed-before-milking-

A--milk--house--of--adequate-size--shall--be--provided---Interior walls-and-ceiling--shall--be--tight-and-constructed--of--a--smooth--and easily-cleaned--material---and--shall--be--finished--in--an-approved manner---The--floor--shall--be--of--concrete--or--other--impervious, approved,--material--and--shall--be--sloped-and-drained-to-a-trapped drain---All-openings-out--of--the--milk--house--shall--be--protected against--the-entrance-of-flies,--rodents,--and-sediment,--by-the-use-of doors,--screens,--flaps,--fans,--or--other--approved--methods---Adequate fly--and--rodent--control-methods--must--be--practiced---Doors--shall--be tight-and-self-closing---The-milk-house--shall--be--well-ventilated-and well--lighted-with-artificial-light---Facilities--must--be--provided--to cool--all-milk--to--fifty-degrees-Fahrenheit--or--lower--within--two--hours after--milking--and--must--be--maintained--at--that-temperature--until delivery---If-a-bulk-tank-is-used,--it--shall--be--so--installed--that there--is--at-least-eighteen-inches--of-clearance--between--the-tank--and other-equipment--or--walls--on--the-nonworking-side--and--end--of--the--tank and--twenty-four--inches--on--the-working-side--and--end---Twenty-four inches--on--the-nonworking-side--and--end--and--thirty-six--inches--on--the working--side--and--end--is--strongly--recommended---The-bulk-tank--shall not--be--located--over--a--floor-drain--or--under--a--ventilator---A--two compartment--wash--vat--large-enough--to--submerge--all-utensils--and--an adequate,--safe,--and--clean-supply--of--hot--water--shall--be--provided---The--milk--must--be--protected--from--flies,--rodents,--and--sediment--at--all times---Utensils,--equipment,--and--other-items--used--in--handling--milk shall--be--in--good-condition,--free--from--rust,--and--properly-cleaned, and--shall--be--properly-sanitized--before--use---Garbage--and--wastes shall--be--properly-disposed-of---The-milk-house--must--be--kept--clean and--orderly---All-new--equipment--and--replacement--equipment--shall conform--to--3A-standards--if--standards--have--been--established--for--said equipment--- The commissioner shall adopt rules governing the production and processing of milk for manufactured dairy products. Rules shall, at a minimum, comply with United States department of agriculture minimum standards for manufacturing grade dairy products.

SECTION 11. AMENDMENT.) Section 4-30-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-33. STANDARDS FOR DAIRY MANUFACTURING OR PROCESSING PLANTS---REQUIREMENTS-----COMMISSIONER-----TO-----APPROVE-----NEW PLANTS - COMMISSIONER TO ADOPT RULES.) All--dairy-processing-or manufacturing-plants--shall--be--large-enough--that--there--will--never--be undue--crowding--with--normal--and--expected--volumes--of--business---Dairy plants--shall--not--be--used--for--any--other--purpose--than--the--purchase, handling,--processing,--manufacturing,--or--storage--of--milk--or--milk products--unless--specific--approval--is--obtained--from--the--dairy commissioner--and--shall--be--kept--clean--and--orderly--at--all--times---The premises--surrounding--a--dairy-plant--shall--be--kept--clean--and--orderly. All--outer-doors--and--all--doors--leading--into--rooms--not--used--in--normal dairy-plant-operations--shall--be--solid,--tight-fitting,--and--self-closing---All-openings--from--the-plant--shall--be--screened--or--otherwise

effectively-protected-to-prevent-the-entrance-of-flies,-rodents,-and-sediment.---Floors-shall-be-impervious,-in-good-condition,-graded-to-drain,-and-kept-clean-at-all-times.---Walls-and-ceilings-shall-have-a-smooth,-washable,-light-colored-surface-and-shall-be-kept-clean-and-in-good-repair.---Dairy-plants-shall-be-well-ventilated--to--prevent-odors---and--condensation,--and--shall--be--supplied--with--adequate-artificial-light.---Areas-where-testing-and-washing-are--done--shall-have-an-equivalent-of-at-least-one-watt-of-light-to-each-square-foot-of-floor-space.---All-milk-and-milk-product-containers-and-equipment,-except--single-service-containers,-shall-be-thoroughly-cleaned-after-each-usage.---All-such-containers-shall-be-subjected-to-an-effective-and-approved-bactericidal-process.---After-bactericidal-treatment,-all-bottles,-cans-and-other-multiuse-milk-or-milk-product-containers-and-equipment-shall-be-transported-and-stored-in-such-a-manner-as-to-be-protected-from-contamination.---Pasteurized-milk-or-milk-products-shall-not-be-permitted-to-come-in-contact-with-equipment-which-has-been-in-contact-with-unpasteurized-or-a-lower-grade-of-milk-or-milk-products-unless-such-equipment-has-first-been-thoroughly-cleaned-and-subjected-to-an-effective-and-approved-bactericidal-process.---All-products,-equipment,-and-utensils-used-in-the-plant-shall-be-handled-and-stored-in-a-safe-and-sanitary-manner.---Convenient-hand-washing-facilities-shall-be-provided-with-hot-and-cold-running-water,-soap-and-approved-towels.---A-common-towel-is-prohibited.---The-hot-and-cold-water-supply-shall-be-adequate-and-convenient,-of-a-safe-and-sanitary-quality,-and-shall-be-in-conformance-with-the-state-plumbing-code.---Approved-toilet-facilities-must-be-provided.---No-employee-shall-resume-work-after-using-the-toilet-without-washing-his-hands.---A-plant-must-have-an-adequate-and-safe-sewage-disposal-system.---Wastes-shall-be-properly-disposed-of-in-a-public-sewer,-or-in-containers-which-are-fully-covered-except-when-in-actual-use.---All-employees-working-in-a-dairy-plant-who-come-in-contact-with-milk-or-milk-products,-or-the-equipment-or-utensils-used-in-the-handling,-processing,-or-manufacture-thereof,-shall-have-medical-certificates-which-assure-that-they-are-not-afflicted-with-a-communicable-disease.---All-employees-who-become-ill-with-a-communicable-disease-must-obtain-the-approval-of-and-a-medical-certificate-from-a-medical-doctor-before-returning-to-work.---Employees-shall-keep-themselves-and-their-apparel-as-clean-as-practicable-at-all-times.---Smoking-or-expectorating-is-not-permitted-in-the-part-of-the-plant-where-milk-or-milk-products-are-handled,-processed,-or-manufactured.---Before-the-construction-of-any-new-dairy-manufacturing-or-processing-plant,-and-before-any-major-remodeling,-rebuilding,-or-renovating-plans-are-carried-out,-a-copy-of-the-plans-shall-be-submitted-to-the-dairy-commissioner-for-his-approval.---The-dairy-commissioner-shall-issue-rules-and-regulations-from-time-to-time-relative-to-the-various-dairy-plant-operations. The commissioner shall adopt rules governing the approval of dairy processing and manufacturing plants and standards for grades of dairy products. Rules shall, at a minimum, comply with United States department of agriculture general specifications for approved dairy plants and standards for grades of dairy products. No plant shall be operated or any dairy products sold in violation of these rules.

SECTION 12. AMENDMENT.) Section 4-30-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-36. STANDARDS FOR GRADE A MILK AND MILK PRODUCTS - ADOPTION OF AMENDMENTS.) Only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A shall be the same as the minimum requirements of the "Grade A Pasteurized Milk Ordinance, 1965 Recommendations of the United States Public Health Service" and all supplements added thereto. The dairy commissioner may adopt as dairy department regulations any amendments, supplements to, or new editions of said milk ordinance which are in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, salability and promotion of grade "A" milk and milk products.

SECTION 13. AMENDMENT.) Section 4-30-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-38. TRANSPORTATION OF MILK OR AND CREAM FOR MANUFACTURING, PROCESSING, OR BOTTLING PURPOSES - REQUIREMENTS COMMISSIONER TO ADOPT RULES.) ~~Vehicles used in the transportation of milk or cream must be kept clean if the vehicle is not enclosed, other means of protecting the milk or cream must be practiced such as covering the containers with a tarp or having individual hoods over each container. Milk or cream shall not be placed near hides, petroleum products, live poultry, or other articles or substances which may cause the milk or cream to become contaminated with flavors or sediment.~~ The commissioner shall adopt rules governing the transportation of milk and cream to be used for manufacturing, processing or bottling purposes. No facility or vehicle shall be used or operated in violation of these rules.

SECTION 14.) Section 4-30-38.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

4-30-38.1. MILK HAULERS - LICENSE REQUIRED - COMMISSIONER TO ADOPT RULES.) No natural person shall operate any tank truck, bulk milk hauler, or other vehicle used or designed to carry bulk raw milk without a license issued by the department. The commissioner shall promulgate rules governing the operation, inspection, design, and licensure of such persons. The license of any person operating a vehicle in violation of this section or the rules of the department shall be subject to revocation or suspension in accordance with procedure established by law. A license to haul milk issued under this section may be issued in conjunction with or as part of any license to sample, grade, or test milk or milk products issued pursuant to section 4-30-12.

SECTION 15. AMENDMENT.) Section 4-30-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-39. TRANSPORTATION OF PROCESSED OR AND MANUFACTURED PRODUCTS - COMMISSIONER TO ADOPT RULES.) ~~Vehicles transporting~~

~~processed or manufactured milk or milk products shall be clean and enclosed, and shall be insulated or refrigerated if the product is being transported--requires it--Shipments of milk or milk products through this state are not required to be unloaded under the provisions of this chapter.~~ The commissioner shall adopt rules governing the transportation of processed and manufactured milk or milk products. No facility or vehicle shall be used or operated in violation of these rules.

SECTION 16. AMENDMENT.) Section 4-30-55 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~4-30-55. SALE OF RAW MILK OR RAW MILK PRODUCTS RESTRICTED--> After the effective date of this chapter, no person may begin selling or offering for sale at wholesale any milk or milk products which are not pasteurized unless specific approval is granted by the dairy commissioner or the local health officer.~~ FOR DIRECT CONSUMER CONSUMPTION.) Milk sold in the raw or unpasteurized condition is restricted to direct sales between the producer and consumer, and the sales are restricted to the premises where produced. Only dairy farms approved by the dairy department may retail raw milk. The dairy department shall regulate the conditions pertaining to the production and retail sale of raw milk. This section shall not apply to the sale of raw milk for processing.

SECTION 17. AMENDMENT.) Section 4-30-56 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~4-30-56. ENFORCEMENT.) The dairy commissioner is authorized and directed to administer and supervise the enforcement of this chapter; to provide for such periodic inspections and investigations as he may deem necessary to disclose violations of any acts prohibited by this chapter or the rules of the department; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both, upon his own initiative. The provisions of this chapter and the rules of the department may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and filled dairy products illegally held or otherwise involved in violation of this chapter shall be subject to seizure and disposition in accordance with an appropriate court order.~~

SECTION 18. REPEAL.) Chapter 19-06 and section 4-30-36.1 of the North Dakota Century Code are hereby repealed.

Approved April 7, 1979

CHAPTER 106

SENATE BILL NO. 2096
(Albers)

DAIRY INDUSTRIES LICENSE REQUIREMENTS

AN ACT to create and enact nine new sections to chapter 4-30 of the North Dakota Century Code, relating to applicants for a dairy industries license satisfying the dairy department as to financial condition or otherwise providing security for payments to dairy producers; to amend and reenact sections 4-30-04, 4-30-07, 4-30-08, and 4-30-15 of the North Dakota Century Code, relating to the dairy department becoming trustee upon default of the licensee, remedies of claimants upon default of the licensee, dairy department appeals or compromises of actions, and suspension or revocation of license and judicial review; and to repeal section 4-30-03 of the North Dakota Century Code, relating to bonding of purchasers of dairy products.

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

SECTION 1.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FINANCIAL CONDITION - ASSURANCE OF PROMPT PAYMENT.) Each applicant for a license under section 4-30-02 who purchases milk or cream from a dairy producer shall have first satisfied the department that the applicant's financial condition is such as to reasonably assure prompt payment to the dairy producers for purchased milk and cream.

SECTION 2.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATEMENT OF BUSINESS OPERATIONS OR FINANCIAL CONDITION - FILING - REVIEW BY BANK OF NORTH DAKOTA - CONFIDENTIAL - AUDITED.) Each applicant for a license under section 4-30-02 who purchases milk or cream from a dairy producer, except cream stations, shall annually file with the department an audited financial statement prepared by an independent certified public accountant or licensed public accountant in accordance with generally accepted accounting practices and principles, verified by the accountant as accurately

representing business operations and financial conditions of the plant business for which the statement is rendered, prepared as of the close of the plant's most recent fiscal year. In lieu of filing an audited financial statement an applicant may file other forms of security as provided in section 3 of this Act. All audited financial statements shall be reviewed by the Bank of North Dakota. All statements shall be confidential and shall not be open for public inspection. The department may require additional statements to be audited by a certified public accountant or a licensed public accountant. The applicant shall pay the cost of any statements and audits made by the department.

SECTION 3.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

SURETY BOND, TRUSTEE AGREEMENT, OTHER SECURITY OR ASSURANCES.) In all cases where it appears that the financial condition of any applicant or licensee who purchases milk or cream from a dairy producer is not adequate to reasonably assure payment to dairy producers when due for the milk or cream to be purchased, or in lieu of annually filing with the department an audited financial statement as required in section 2 of this Act, the department shall require security or other assurances in one of the following forms:

1. The filing of a surety bond acceptable to the department. The amount of the surety bond shall be determined on the basis of average purchases of milk or cream from dairy producers during the previous year. Where payment for milk or cream purchased from dairy producers is made on a weekly basis, the amount of the surety bond shall be in an amount equal to the average weekly purchases of milk or cream. Where payment for milk or cream purchased from dairy producers is made on a semimonthly basis, the amount of the surety bond shall be in an amount equal to the average semimonthly purchases of milk or cream. Where the period of payment for milk or cream purchased from dairy producers is made on a basis involving periods of time greater than semimonthly, the amount of the surety bond shall be in an amount equal to the average purchases of milk or cream for that greater period of time. The amount of the bond for each period of payment shall also include an amount equal to the average purchases for three days following the close of the period of payment. The commissioner shall be named as obligee, but the bond or draft shall be held for the purpose of protecting, and for the benefit of, any dairy producer, and the full and complete payment to the seller for all milk or cream purchased by the licensee. The aggregate liability of the bonding company or the department to all dairy producers shall in no event exceed the amount of the bond.
2. The providing of an amount of protection for dairy producers, from whom milk or cream is purchased, equal to the amount of protection provided in subsection 1, whereby

the security is to be held by the department solely for the protection of dairy producers, in one or more of the following forms:

- a. Cash deposited with a bank or trust company and held under an escrow agreement with the department.
 - b. Bonds of the United States deposited with the department.
 - c. Stocks, bonds, or other marketable securities at current market values, which securities have regularly reported quotations, deposited with the department.
 - d. A certified bank draft, certified check, irrevocable letter of credit, or certificate of deposit held in favor of the department.
3. The filing of an agreement providing for the complete control over all manufactured or processed milk and dairy products by a trustee to be selected at least annually by the dairy producers. The trustee shall make and file a trustee's bond and contracts signed by the owner or operator and the purchaser of the dairy products requiring that payment for all dairy products sold be made to the trustee. The trustee shall maintain a separate bank account for that purpose and shall at least annually render a true and correct account of trustee dealings to the department and to the dairy producers.

SECTION 4.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FINANCIAL BASIS FOR LICENSE - STATEMENT TO PRODUCER - NOTIFICATION TO DEPARTMENT.) All milk or cream purchasers licensed under section 4-30-02 shall inform producers delivering milk and cream of the financial basis on which the license was issued including the type and amount of security, if any, filed under section 3 of this Act by a written statement to each producer patron at least once every year. No person shall receive milk or cream which will increase the amount due and accrued beyond the amount represented as a basis for the issuance of a license without first notifying the department.

SECTION 5.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

ADDITIONAL SECURITY.) Whenever the department determines that the value of milk or cream purchased or received from producers has increased or that an increase may reasonably be anticipated, so that the total amount of security does not comply with the amount required by subsection 1 or 2 of section 3 of this Act, the department shall require additional security as will afford producers the protection intended by section 3 of this Act. The

department may suspend or revoke any license if the licensee fails to provide the additional security required by the department pursuant to this section.

SECTION 6.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FILING OF SECURITY BEFORE LICENSE YEAR.) Surety bonds or other security for the license year shall be filed with the department not later than the first day of the month before the beginning of each license year. If any applicant or licensee who purchases or receives milk or cream from dairy producers has not filed a surety bond or other security, and has not been relieved from filing a surety bond or other security, by the first day of the month of the license year, the department shall notify producers selling milk or cream to the applicant or licensee that the applicant or licensee has not filed any security or made other provisions for assuring payments for milk or cream purchases, for the license year.

SECTION 7.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

FAILURE TO FILE SECURITY - NOTICE TO PRODUCERS.) Whenever an applicant or licensee fails to file a surety bond or other security within the time fixed by section 6 of this Act or the department's demand for additional security, the department shall publish in a newspaper or newspapers having circulation in the area or areas in which the producers whose milk or cream is sold or delivered to the applicant or licensee reside, a notice stating that the department made demand or request of the applicant or licensee; that the applicant or licensee has failed to comply; that the department does not have on file a surety bond or other security as demanded; and that adequate security to protect producers may not be available to them. In addition to published notice to producers, the department shall send by registered mail, a copy of the notice to each producer delivering milk or cream to the applicant or licensee as may be able to be determined from available records and the notice shall be addressed to the producer's last known place of residence.

SECTION 8.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

OUT-OF-STATE DEALERS, PROCESSORS, OR PRODUCERS NOT EXEMPT.) The provisions of sections 1 through 8 of this Act apply to all milk or cream purchasers licensed under section 4-30-02 doing business in whole or in part within the state. The protection to producers afforded by sections 1 through 8 of this Act is available to the producers of any state selling milk or cream to any licensee licensed under section 4-30-02.

SECTION 9.) A new section to chapter 4-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

RULES FOR ENFORCEMENT OF CHAPTER.) The department is authorized to adopt rules, in accordance with chapter 28-32, consistent with and necessary for the enforcement of this chapter.

SECTION 10. AMENDMENT.) Section 4-30-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-04. DAIRY DEPARTMENT TO BECOME TRUSTEE UPON DEFAULT IN BOND-OR-CERTIFIED-BANK-DRAFT REQUIRED SECURITY.) If any licensee defaults in the provisions of any bond-or-certified-bank-draft-as provided-for-in-section-4-30-03, he required security, the licensee shall be deemed to be insolvent within the meaning of this chapter. The cause of action for damages upon any such-bond-or-draft required security, and the amount recovered in any cause of action for the conversion of milk, or milk products, as the case may be, purchased by such the licensee while such the license is in force and effect, and the assets of the licensee not made subject to any claim in federal bankruptcy by any secured or general creditor within four months of the appointment of the department as trustee under this chapter, shall constitute a trust fund in the hands of the dairy department for all persons having a cause of action against such the licensee on said-bond-or-draft the required security.

SECTION 11. AMENDMENT.) Section 4-30-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-07. REMEDY OF CLAIMANTS - SEPARATE ACTION BY CLAIMANT PERMISSIBLE.) No claimant shall have a separate cause of action against the any licensee's bond-or-certified-bank-draft required security unless the dairy department shall-fail-or-refuse fails or refuses to apply for its own appointment as trustee as provided in this chapter. The-provisions-of-this-chapter-shall-not-prohibit-any Any claimant, either independently or in conjunction with other claimants, from-pursuing may pursue concurrently with the dairy department any other remedy which he--or--they the claimant or claimants may have against the licensee, or against the property of the licensee, for the whole of his-or their claim or claims or for any deficiency which occurs after payments have been made from the trust fund.

SECTION 12. AMENDMENT.) Section 4-30-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-08. APEAL OR COMPROMISING OF ACTION BY DAIRY DEPARTMENT.) The dairy department may prosecute an action for any claims arising under the provisions of this chapter in any court, may appeal from any adverse judgment to the courts of last resort, and may settle and compromise any such action whenever in its judgment it will be for the best interests of the claimants. Upon payment to it of the amount of any such compromise, or of the full amount of any bond-or-certified-bank-draft required security, the dairy department may exonerate the person compromising or paying the same from further liability growing out of such the action.

SECTION 13. AMENDMENT.) Section 4-30-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-15. SUSPENSION OR REVOCATION OF LICENSE - JUDICIAL REVIEW.) If, after such hearing, the commissioner of agriculture or the dairy commissioner finds that the violations charged in the affidavit have been established by the evidence, he may order the suspension of the license for a period not to exceed thirty days. If the commissioner of agriculture or the dairy commissioner finds that the licensee has not previously violated the law in the operation of his licensed business, or that no license held by him has previously been suspended, or if it appears to the satisfaction of the commissioner of agriculture or the dairy commissioner that it is reasonable to believe that the licensee will not again commit the offenses charged in the affidavit and that to suspend the license would be unduly severe, then the commissioner of agriculture or the dairy commissioner may, in his discretion, withhold suspension of the license for such period of time as he deems proper. Any proceedings under this chapter for the suspension or revocation of any license, or to otherwise determine compliance with this chapter and the rules and regulations of the dairy department, shall be conducted in accordance with the provisions of chapter 28-32 and appeals may be taken as therein provided. Where an emergency exists requiring immediate action to protect the public health and safety, the department may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that action be taken as necessary to meet the emergency. Notwithstanding any provision of this chapter, the order shall be effective immediately, but on application to the department an interested person shall be afforded a hearing before the department within ten days. On the basis of the hearing, the emergency order shall be continued, modified, or revoked within thirty days after the hearing.

Any person, firm, or corporation whose license for any place of business is suspended shall not be eligible during the period of such the suspension to engage in the purchase, sale, processing, manufacturing, sampling, grading, or testing of milk or milk products at such the place of business either personally, or indirectly by having a financial interest in such the business.

SECTION 14. REPEAL.) Section 4-30-03 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1979

CHAPTER 107

HOUSE BILL NO. 1191
(Conmy)

VENUE OF VARIOUS ACTIONS

AN ACT to amend and reenact sections 4-30-05, 6-07-14, 25-09-05, 32-12-02, 36-04-11, 36-04-13, 52-06-27, 57-08-01, 57-08-02, 60-04-03, and 65-10-01 of the North Dakota Century Code, relating to the venue of various actions.

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

SECTION 1. AMENDMENT.) Section 4-30-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-30-05. APPLICATION BY DAIRY DEPARTMENT FOR APPOINTMENT OF TRUSTEE - HEARING - APPOINTMENT.) Upon the insolvency of a licensee as defined in section 4-30-04, the dairy department shall apply to the district court of ~~Burleigh--County~~ the county in which the licensee maintains its principal place of business for the appointment of itself as trustee. Upon such notice to the licensee as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by the licensee, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court that the licensee is insolvent within the meaning of this chapter and that it would be for the best interest of persons holding claims against the licensee for the purchase price of milk or milk products sold to such licensee or to his agent that the dairy department shall execute such trust, the court shall issue an order appointing the dairy department as a trustee, without bond, and the dairy department shall proceed in the manner set out in this chapter without further direction from the court.

SECTION 2. AMENDMENT.) Section 6-07-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-07-14. RECOURSE OF AGGRIEVED BANK - INJUNCTION IN DISTRICT COURT ~~OF BURLEIGH-COUNTY~~ - APPEAL TO SUPREME COURT.) Any bank deeming itself aggrieved by the action of the state banking board in taking possession of its assets, within ten days after such possession has been taken, may apply to the district court of

Burleigh County the county in which the bank is located for an order enjoining further proceedings by the state banking board or by the receiver appointed by it. The court, after notifying the ~~state examiner commissioner~~ to appear at a specified time and place to show cause why further proceedings should not be enjoined, and after hearing, may dismiss such application or enjoin the state banking board and the receiver appointed by it from further proceedings and may direct them to surrender the business and assets of such bank. The application may be heard at any time after five days' notice to the ~~state--examiner commissioner~~, or at any time prior thereto with the consent of the ~~state--examiner commissioner~~. Application for an injunction shall be made on the verified complaint of the bank, a copy of which must be served on the ~~state--examiner commissioner~~. The ~~state--examiner commissioner~~, at least two days before the time set for hearing, shall serve upon counsel for the applicant and file in the court an answer to the complaint. If the state banking board makes no appearance within the time limited, the court shall proceed to hear the proofs of the applicant and may enter judgment as in a default in other civil actions. Such judgment entered either after hearing on the merits or by default shall be a final judgment from which either party may appeal to the supreme court in the same manner as from a final judgment in a civil action. Notice of such appeal must be filed within ten days after notice of entry of such judgment.

SECTION 3. 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.)

1. The patient, former patient, his responsible relatives, or the ~~executor--administrator,~~ personal representative 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. 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 social service board of the county from which the patient was admitted 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 social service 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~~ personal representative 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.

2. The patient, former patient, ~~executor~~, ~~administrator~~ personal representative, 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 school. Such application shall be accompanied by proof of the patient's or the estate of the patient's inability to pay. Upon receipt of such application, the supervising department shall direct the county social service board of the county from which the patient was admitted to determine whether the patient, former patient, or the patient's estate is 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 social service board. The determination made by the supervising department may be appealed to the ~~district court of Burleigh County~~ ~~ex--the~~ district court of the county of residence of the patient. Any patient, former patient, guardian, ~~executor~~, or ~~administrator~~ personal representative 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 4. AMENDMENT.) Section 32-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32-12-02. ACTION AGAINST STATE - WHEN AUTHORIZED - WHERE BROUGHT - UNDERTAKING FOR COSTS.) An action respecting the title to property, or arising upon contract, may be brought in the district court against the state the same as against a private person. ~~When such~~ Such ~~actions are not of a local nature they~~ shall be brought in

the county of Burleigh in which the property is situated, or the county in which the plaintiff resides. The plaintiff at the time of commencing such action shall file an undertaking with sufficient surety to be approved by the clerk of court to the effect that he will pay any judgment for costs that may be rendered against him.

SECTION 5. AMENDMENT.) Section 36-04-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-11. HEARING HAD BEFORE LICENSE REVOKED - REGULATIONS GOVERNING - APPEAL FROM ORDER.) Before any license issued shall be revoked, the licensee shall be furnished with a copy of the complaint made against him, and a hearing shall be had thereon before the department to determine whether or not ~~such~~ the license shall be revoked. The licensee shall be given notice of ~~such~~ the hearing at least fifteen days prior thereto. ~~Such~~ The notice may be served either by registered or certified mail addressed to the given address of the licensee or in the manner provided by ~~this code and~~ the North Dakota Rules of Civil Procedure for the service of a summons. At the time and place fixed for the hearing, the department, or any member or duly authorized agent thereof, shall take and receive evidence, administer oaths, examine witnesses, and take the testimony offered, and shall submit and file the same with the department. The department upon the evidence received, shall make and file an order either dismissing the proceedings or revoking the license. The aggrieved party may take an appeal to the district court of ~~Burleigh County~~ the county in which the licensee maintains its principal place of business.

SECTION 6. AMENDMENT.) Section 36-04-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-13. APPLICATION BY DEPARTMENT FOR APPOINTMENT OF TRUSTEE - HEARING - APPOINTMENT.) Upon the insolvency of a dealer as defined in section ~~36-04-12~~ 36-04-01, the department shall apply to the district court of ~~Burleigh County~~ the county in which the dealer maintains its principal place of business for the appointment of itself as trustee. Upon such notice to the dealer as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by the dealer, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court that the dealer is insolvent within the meaning of this chapter and that it would be for the best interest of persons holding claims against the dealer for the purchase price of livestock or wool sold to such dealer or to his agent that the department shall execute such trust, the court shall issue an order appointing the department as a trustee, without bond, and the department shall proceed to perform its duties as such trustee in the manner set out in this chapter without further direction from the court.

SECTION 7. AMENDMENT.) Section 52-06-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-27. JUDICIAL REVIEW OF DECISION - PETITION - FILING.) A party to proceedings before the bureau may obtain a judicial review of the decision of the bureau by filing a petition for such review within thirty days after the date of mailing the bureau's decision to such party at his last known address, or in the absence of mailing, within thirty days after delivery of the decision to such party. The petition for review shall be filed in the district court of ~~Burleigh-County~~ the county in which the petitioner resides, and shall be verified and shall state the grounds upon which review is sought. All other parties to the proceeding before the bureau shall be parties respondent. The bureau shall be deemed to be a party to any such proceeding. If the bureau is a party respondent the petition shall be served upon it by leaving with it or its chairman or any other representative as it may designate for that purpose, as many copies of the petition as there are respondents. With its answer or petition, the bureau shall certify and file with the court a verified copy of the record of the case, including all documents and papers and a transcript of all testimony taken in the matter, together with the bureau's findings, conclusions, and decision therein. Upon the filing of a petition for review by the bureau or upon the service of the petition upon it, the bureau forthwith shall send by registered or certified mail to each other party to the proceeding a copy of such petition and such mailing shall be deemed to be completed service upon all such parties. In any proceeding under this section the finding of the bureau as to the facts, if supported by evidence and in the absence of fraud, shall be conclusive and the review by the court shall be confined to questions of law. Such proceedings shall be heard by the court and shall be given precedence over all other civil cases except cases arising under the workmen's compensation statute of this state. An appeal may be taken from the decision of the district court of ~~Burleigh-County~~ to the supreme court of the state of North Dakota in the same manner as is provided in civil cases. Upon the final termination of such judicial proceeding, the bureau shall enter an order in accordance with the mandate of the court.

SECTION 8. AMENDMENT.) Section 57-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-08-01. ACTION TO REVIEW ASSESSMENT OF PUBLIC UTILITY.) If any company whose property has been valued and assessed for taxation purposes by the state board of equalization under the constitution or statutes of this state, or against whom any tax is levied or assessed by said board, feels aggrieved for any reason with the assessment so made, ~~such the~~ the company may bring an action in the district court of ~~Burleigh-County~~ the county in which the company maintains its principal place of business in this state, against the state and any subdivisions thereof which may be interested, for relief therefrom. Any such action must be brought on or before the date on which the taxes to be collected under the assessment involved become due.

SECTION 9. AMENDMENT.) Section 57-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-08-02. PROCEDURE - ACTION FOR RELIEF BY UTILITY FROM ASSESSMENT.) ~~The district court of Burleigh County shall have jurisdiction over any action brought under section 57-08-01, whether such action is brought against the state only or against the state and one or more of its subdivisions jointly.~~ At any time after such an action is brought pursuant to section 57-08-01, the district court, either before or during trial, may allow the plaintiff to pay to the state or municipalities interested any part of the taxes involved in the action under such agreement as may be made between the plaintiff or plaintiffs and the attorney general ~~in~~ on behalf of all defendants, or under such terms as the court may fix. Such agreement, when ratified by the court, shall be binding upon all parties to the action. At the time the action is brought, the plaintiff shall be required to file with the clerk of the district court ~~of Burleigh County~~ a bond payable to the state of North Dakota, in such form as may be fixed by ~~said~~ the district court, and in an amount sufficient to cover all anticipated costs of the action, said bond to be approved as to amount and form by the clerk of ~~said~~ the district court. The decision of the district court in such action shall be subject to appeal to the supreme court in the manner now provided by statute for appeal in civil actions. No application need be submitted to the board of county commissioners before such action is commenced.

SECTION 10. AMENDMENT.) .Section 60-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-04-03. APPOINTMENT OF COMMISSION AS TRUSTEE.) Upon the insolvency of any warehouseman, the commission shall apply to the district court of ~~Burleigh~~ the county in which the warehouseman maintains his principal place of business for appointment of itself as trustee of ~~said~~ the trust fund defined in section 60-04-02. Upon such notice to said warehouseman as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by said warehouseman, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court or to the judge thereof, that such warehouseman is insolvent within the meaning of this chapter and that it would be for the best interests of the receipt holders that the commission shall execute such trust, he shall issue an order appointing the commission trustee, without bond, of said fund, whereupon the commission shall proceed to perform its duties as such trustee without further direction from said court.

SECTION 11. AMENDMENT.) Section 65-10-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-10-01. APPEAL FROM DECISION OF BUREAU.) If the final action of the bureau denies the right of the claimant to participate at all in the fund on the ground that the injury was self-inflicted,

or on the ground that the accident did not arise in the course of employment, or upon any other ground going to the basis of the ~~claimant's right~~ claim, or if the bureau allows the claimant to participate in the fund to a lesser degree than that claimed by the claimant, if such allowance is less than the maximum allowance provided by this title, the claimant may appeal to the district court of the county wherein the injury was inflicted or of ~~a county~~ agreed--to-by-stipulation-of-the-appellant-and-the-bureau the county in which the claimant resides. An employer may also appeal a decision of the bureau in any injury case in the manner prescribed in this section. An appeal involving injuries ~~received--under~~ allegedly covered by insurance provided under contracts with extraterritorial coverage shall be triable in the district court of Burleigh County. Any appeal under this section shall be taken in the manner provided in chapter 28-32. Any appeal to the district court shall be heard on the record, transmitted from the bureau, and, in the discretion of the court, additional evidence may be presented pertaining to the questions of law involved in the appeal.

Approved March 8, 1979

CHAPTER 108

HOUSE BILL NO. 1452
(Representative Nicholas)
(Senator Redlin)

BEEF COMMISSION PURPOSES

AN ACT to amend and reenact subsection 3 of section 1 and section 6 of chapter 59 of the 1977 Session Laws of North Dakota, relating to the purpose and use of assessments by the beef commission and effective date of the Act.

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

SECTION 1. AMENDMENT.) Subsection 3 as contained in section 1 of chapter 59 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

3. ~~To support research efforts toward solving problems, primarily health, involved in the production of North Dakota beef cattle with no less than twenty-five percent of available annual funds. To sponsor, initiate, and encourage research designed to solve problems in beef production, primarily in, but not limited to, animal health and human nutrition with no less than twenty-five percent of available annual funds.~~

SECTION 2. AMENDMENT.) Section 6 of chapter 59 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 6. EFFECTIVE DATE.) The provisions of this Act shall become effective only upon the passage of a referendum, provided by the Beef Research and Information Act [94 Pub. L. 294; 90 Stat. 529; 7 U.S.C. 2901 et seq.], before July 1, 1981, and upon the date assessments for sales of beef under the Beef Research and Information Act are imposed by or on behalf of the beef board.

Approved March 3, 1979

CHAPTER 109

HOUSE BILL NO. 1178
(Committee on Agriculture)
(At the request of the Agriculture Department)

PESTICIDE DEALER LICENSE RENEWAL

AN ACT to create and enact subsection 6 of section 4-35-12 of the North Dakota Century Code, relating to renewal of a pesticide dealer license.

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

SECTION 1.) Subsection 6 of section 4-35-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Any person holding a current valid license may renew such license for the next year without taking another examination unless the board determines additional knowledge related to pesticides makes a new examination necessary or that a new evaluation is necessary to assure a continuing level of competence and ability to distribute pesticides safely and properly.

Approved March 3, 1979

CHAPTER 110

SENATE BILL NO. 2155
 (Committee on Agriculture)
 (At the request of the Disaster Emergency Services)

PESTICIDE ACCIDENT REPORTS

AN ACT to amend and reenact section 4-35-21 of the North Dakota Century Code, relating to reports of pesticide accidents or loss.

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

SECTION 1. AMENDMENT.) Section 4-35-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4-35-21. REPORTS OF PESTICIDE ACCIDENTS~~7--INCIDENTS7~~ OR LOSS.)

1. The board shall, by regulation, require the reporting to the commissioner of agriculture of ~~significant~~ pesticide accidents ~~or incidents involving pesticides by commercial and private applicators and dealers.~~
- 2- Any person claiming damages from a pesticide application shall report such loss in accordance with sections 28-01-40 and 28-01-41. Where damage is alleged to have occurred and the claimant has filed a report of loss in accordance with sections 28-01-40 and 28-01-41, the claimant shall permit the commissioner, the licensee, and his representatives to observe, during reasonable hours, the lands or nontarget organism alleged to have been damaged in order that such damage may be examined. Failure of the claimant to permit such observation and examination of the damaged lands shall automatically bar the claim against the licensee. The number of licensee's representatives who may make an observation under this subsection may be limited by the board.
- 3- 2. A commercial applicator shall inform any person employing him to apply to land any pesticide of the reporting requirements of section 28-01-40.

Approved March 8, 1979

ALCOHOLIC BEVERAGES

CHAPTER 111

HOUSE BILL NO. 1512
(Gerl)

SPECIAL EVENT ALCOHOLIC BEVERAGE PERMIT

AN ACT to amend and reenact section 5-02-01.1 and subsection 2 of section 53-02-05 of the North Dakota Century Code, relating to allowing the on and off sale of alcoholic beverages by special permit at special events, and allowing an alcoholic beverage licensee to conduct special events and sell beverages on and off sale.

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

SECTION 1. AMENDMENT.) Section 5-02-01.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-01.1. SPECIAL PERMIT AUTHORIZED.) The local governing body and the attorney general may by special permit authorize an on sale, off sale, or on or off sale alcoholic beverage licensee to engage in the sale of alcoholic beverages at special events on such licensed premises as may be designated by such the permit. A fee for such the local special permit may be set by ordinance or resolution at not more than twenty-five dollars. The permit shall not be valid for a period greater than three consecutive days. The local governing body may establish such rules and ~~regulations~~ as it may deem proper to regulate and restrict the operation of a special permit.

SECTION 2. AMENDMENT.) Subsection 2 of section 53-02-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. An on sale, off sale, or on or off sale alcoholic beverage licensee desiring to conduct a special event, public dance, or music festival wherein alcoholic beverages will be sold shall make an application for a special permit to do so to the governing body of the municipality or organized township in which it is to be conducted, if it is to be conducted within the limits of any city or organized township. In all other cases, the application shall be made to the board of county commissioners of the county in which such special event, dance, or music festival is to be conducted. The application shall set forth the information required in subsection 1.

Not approved or disapproved by the Governor

Filed March 6, 1979

CHAPTER 112

HOUSE BILL NO. 1353
(Kloubec)

SUNDAY CONVENTION ALCOHOLIC BEVERAGE PERMIT

AN ACT to create and enact section 5-02-05.1 of the North Dakota Century Code, providing for a special Sunday convention alcoholic beverage permit which may be issued by the governing body of a city to a private club, lodge, motel, or hotel serving as a state or national convention headquarters; to amend and reenact section 5-02-05, subsection 11 of section 12.1-30-02, and subsection 29 of section 12.1-30-03 of the North Dakota Century Code, relating to prohibited liquor disposal on certain days, personal property sales allowable on Sunday, and businesses allowed to operate on Sunday; and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 5-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-02-05. DISPOSAL PROHIBITED ON CERTAIN DAYS - PENALTY.) Anyone Except as permitted by section 5-02-05.1, any person who dispenses or permits the consumption of alcoholic beverages on licensed premises after one ~~o¹e¹e¹e¹e¹k~~ a.m. on Sundays, before eight ~~o¹e¹e¹e¹e¹k~~ a.m. on Mondays, or between the hours of one ~~o¹e¹e¹e¹e¹k~~ a.m. and eight ~~o¹e¹e¹e¹e¹k~~ a.m. on all other days of the week, or who so dispenses or permits such consumption on Memorial Day, Good Friday, Thanksgiving Day, Christmas Day, or after six ~~o¹e¹e¹e¹e¹k~~ p.m. on Christmas Eve, or between the hours of one ~~o¹e¹e¹e¹e¹k~~ a.m. and eight ~~o¹e¹e¹e¹e¹k~~ p.m. on the day of any statewide special, primary, or general election is guilty of a class A misdemeanor.

SECTION 2.) Section 5-02-05.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

5-02-05.1. SPECIAL SUNDAY CONVENTION ALCOHOLIC BEVERAGE PERMIT.)

1. Any city may issue a special Sunday convention alcoholic beverage permit to a private club, lodge, motel, or hotel,

as defined under municipal ordinances and licensed as a retail alcoholic beverage establishment pursuant to chapter 5-02, which serves as the headquarters for the state or national convention of a bona fide organization recognized by the governing body of the city in which the convention is held.

2. The authority for issuing such special permit shall rest solely with the governing body of the city. A special permit shall be granted only upon proper application to and approval by the governing body, and shall include payment of a fee determined by such governing body. A special permit granted by the city shall be effective for one Sunday only.
3. Under the special permit, alcoholic beverages may be distributed and dancing may be permitted in those rooms of the private club, lodge, motel, or hotel which have been specifically reserved for convention activities, but shall not be permitted in bar and lounge areas containing the permanent bar fixtures and normally open to the public. A city may permit dancing and the distribution of alcoholic beverages between the hours of twelve noon on the specified Sunday and one a.m. on Monday. Under no circumstances shall the general public be permitted to participate in the consumption of alcoholic beverages distributed under the authority and conditions of the special permit. It shall be the duty of the private club, lodge, motel, or hotel granted the special permit to enforce the requirements of this section and the conditions established by the city under the permit.
4. The special Sunday convention alcoholic beverage permit shall not be granted to allow the distribution of alcoholic beverages at gatherings or meetings which, in the opinion of the governing body of the city, are primarily local in nature.
5. Any person who dispenses, sells, or permits the consumption of alcoholic beverages in violation of this section or the conditions of a special permit, or who furnishes information required by this section which is false or misleading, shall be guilty of a class A misdemeanor.

SECTION 3. AMENDMENT.) Subsection 11 of section 12.1-30-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. Beer and alcoholic beverages ~~but only~~ until one ~~o'clock~~ a.m., except as provided by section 5-02-05.1.

SECTION 4. AMENDMENT.) Subsection 29 of section 12.1-30-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in ~~section~~ sections 5-02-05 and 5-02-05.1.

Not approved or disapproved by the Governor

Filed March 13, 1979

BANKS AND BANKING

CHAPTER 113

SENATE BILL NO. 2199
(Committee on Industry, Business and Labor)
(At the request of the Department of Banking
and Financial Institutions)

STATE BANKING BOARD

AN ACT to amend and reenact subsection 1 of section 6-01-03 of the North Dakota Century Code, relating to the makeup of the banking board and regular meetings thereof.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 6-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The state banking board shall consist of the ~~state examiner~~ commissioner and ~~five~~ six members to be appointed by the governor, three of whom shall each have had at least five years' experience in an executive capacity in the management of a state bank in the state of North Dakota, one of whom shall have had at least five years' experience in an executive capacity in the management of any state or national bank in North Dakota, and one of whom shall have had at least five years' experience in an executive capacity in the management of any state chartered building and loan association, and one of whom shall be a lay member from the public at large. The term of office of the members of such board, other than the ~~state examiner~~ commissioner, shall be for a period of five years, ~~except that the members appointed hereunder shall choose by lot which shall serve for one, two, three, four, or five years respectively, provided, however, that the members of the board serving in office at the effective date hereof shall continue to serve until the end of their respective terms and the term of no new member shall be set to end at the same time as the term of any board member in office. At the expiration of the terms of the members of the board in office at the effective date of this section, their replacements will be appointed as set forth herein.~~ The lay member's term shall begin July 1, 1979. In case of a vacancy in such board, by death, resignation, or removal of an appointed member, the

vacancy shall be filled by appointment by the governor for the unexpired term. The ~~state-examiner~~ commissioner shall be the ~~chairman~~ chairperson of such board and the attorney general shall be, ex officio, the attorney for such board. The ~~chief-deputy--examiner~~ assistant commissioner shall serve as its secretary. The board shall hold regular meetings in January, March, ~~April~~, May, July, September, and ~~October~~ November of each year ~~in the office of the state-examiner-in-the-state-capitol-at-Bismarek~~, and shall hold special meetings at the call of the ~~state-examiner~~ commissioner in such place as he ~~the commissioner~~ may designate within the state of North Dakota. The members of such board, other than the ~~state-examiner~~ commissioner, shall receive ~~twenty-five~~ fifty dollars per day and their actual necessary expenses for transportation while attending meetings, or in the performance of such special duties as the board may direct. In the event of travel by automobile, they shall receive the same mileage expense allowed state employees.

Approved March 8, 1979

CHAPTER 114

SENATE BILL NO. 2172
(Committee on State and Federal Government)
(At the request of the
Department of Banking and Financial Institutions)

STATE CREDIT UNION BOARD

AN ACT to amend and reenact subsection 2 of section 6-01-03 of the North Dakota Century Code, relating to the makeup of the state credit union board.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 6-01-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The state credit union board shall consist of the commissioner and ~~two~~ four members to be appointed by the governor from a panel of five names of persons, residents of North Dakota, ~~who have had at least three years' experience as an officer, director, or committee member of a North Dakota state chartered credit union, said panel of five names~~ to be furnished to the governor by the North Dakota credit union league. Two of the members of the state credit union board shall have at least three years experience as an officer, director, or committee member of a North Dakota state chartered credit union, one member of the board shall have had at least three years of experience as an officer, director, or committee member of a federally chartered credit union and one member of the board shall be a lay member from the public at large. The panel of names submitted to the governor by the North Dakota credit union league shall consist of persons whose qualifications satisfy the requirements created by the specific vacancy being filled. Appointments of board members shall be for a term of five years. The members of the board serving in office at the effective date of this section shall continue to serve until the end of their respective terms. The appointments of the two additional members shall be effective July 1, 1979, except that these two additional members shall choose by lot which shall serve for two and three years respectively. In case of a vacancy in such board, by death, resignation, or removal

of an appointed member, the vacancy shall be filled by appointment by the governor for the unexpired term. The commissioner shall be ~~chairman~~ chairperson of such board and the attorney general shall be, ex officio, the attorney for such board. The ~~chief--deputy--examiner~~ assistant commissioner shall serve as its secretary. The members of the state credit union board shall receive the same remuneration as is provided for the members of the state banking board. The state credit union board shall hold meetings in March, June, September, and December of each year ~~in-the-office-of-the-commissioner-in--the--state~~ capital-at-Bismarck and shall hold special meetings at the call of the commissioner in such places as ~~he~~ the commissioner may designate within the state of North Dakota.

Approved March 13, 1979

CHAPTER 115

SENATE BILL NO. 2223
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

STATE BANKING RECORD ACCESS

AN ACT to amend and reenact section 6-01-07 of the North Dakota Century Code, relating to records of state banking board, state credit union board and commissioner of banking and financial institutions.

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

SECTION 1. AMENDMENT.) Section 6-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-07. RECORDS OF STATE BANKING BOARD, ~~STATE-EXAMINER COMMISSIONER~~ AND STATE CREDIT UNION BOARD.) The state banking board and state credit union board shall keep a full and complete record of all their proceedings and of all orders made by them, ~~and the records of the board and of the~~. The records and the proceedings of the boards and commissioner shall be open in accordance with sections 44-04-18 and 44-04-19. All state-examiner, and any and all reports made by or filed with the board or the state-examiner commissioner relating to any financial institution, shall be open to inspection and examination by stockholders, shareholders, depositors, creditors, and sureties on any bonds of any such institution or on the bonds of any officer or employee thereof, under proper restrictions and during regular business hours subject, however, to the following restrictions:

1. Any stockholder, shareholder, depositor, creditor or surety of any institution desiring to inspect the information specified above of any such institution shall make a written request for such inspection.
2. Any such written request shall
 - a. Specify the information to which access is requested, and
 - b. Give the reasons for the request.

3. Upon such written request, the commissioner, or any person designated in writing by the commissioner, may disclose information specified in subsection 1 of section 6-01-07.1 only upon determining and to the extent that good cause exists for the disclosure.
4. Either prior to or at the time of any disclosure, the commissioner or designee shall impose such terms and conditions as the commissioner deems necessary to protect the confidential nature of the information, the financial integrity of the financial institution to which the information relates, and the legitimate privacy interests of any individual named in such information.

Approved March 8, 1979

CHAPTER 116

SENATE BILL NO. 2224
(Committee on Industry, Business and Labor)
(At the request of the Department of Banking
and Financial Institutions)

STATE BANKING RECORD CONFIDENTIALITY

AN ACT to create and enact section 6-01-07.1 of the North Dakota Century Code, relating to confidentiality of records.

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

SECTION 1.) Section 6-01-07.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

6-01-07.1. RECORDS - CONFIDENTIAL.)

1. All facts and information obtained by the commissioner or the department in the following ways shall be confidential, except as provided in subsections 2 through 7.
 - a. In the course of examining financial institutions under the supervision of the commissioner, or in the course of receiving audit reports, reports of examining committee and reports of annual meetings of stockholders and directors of such institutions;
 - b. From the federal reserve system, federal deposit insurance corporation, federal home loan bank board, or national credit union administration;
 - c. In the course of investigating an institution under the supervision of the commissioner, until such investigation is complete;
 - d. In the course of a special investigation being carried out at the request of the governor or any court; and
 - e. In the form or nature of an application for a charter, license or permission which meets any of the following criteria:

- (1) Trade secrets and commercial or financial information.
- (2) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.
- (3) Information contained in the application form which is in the nature of examination report information.

Determination of what required application information falls within each category shall be made by the body before which the application is brought.

2. When the commissioner is required or permitted by law to report upon or take special action regarding the affairs of any institution under the commissioner's supervision, the commissioner shall divulge only such information specified in subsection 1 as is necessary and sufficient for the action taken or to be taken.
3. The commissioner may, in the commissioner's discretion, furnish information to the attorney general, other state agencies, any prosecuting officials requiring the information for use in pursuit of official duties, and legislative investigations under chapter 54-03.2.
4. The commissioner may, in the commissioner's discretion, furnish information as to matters of mutual interest to an official or examiner of the federal reserve system, federal deposit insurance corporation, federal home loan bank board, or national credit union administration.
5. The commissioner shall not be required to disclose the name of any debtor of any financial institution reporting to or under the supervision of the commissioner or anything relative to the private accounts, ownership, or transactions of any such institution, or any fact obtained in the course of any examination thereof, except as herein provided.
6. Nothing in this section shall be construed to limit the right of access of the Bank of North Dakota to the department's records of all state banks, savings and loan associations, and credit unions, as provided by section 6-01-20, nor to limit the right of access of stockholders, shareholders, depositors, creditors, and sureties on bonds to specified department records as, and to the extent, provided by section 6-01-07.
7. The standards for confidentiality and disclosure by the commissioner set forth in this section, except the standard of the exercise of discretion, which shall only be exercised by the commissioner, shall apply equally to the state banking board, the state credit union board and all department employees.

Approved March 8, 1979

CHAPTER 117

SENATE BILL NO. 2187
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

BANK EXAMINATIONS

AN ACT to amend and reenact section 6-01-09 of the North Dakota Century Code, relating to the supervision and examination of banks.

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

SECTION 1. AMENDMENT.) Section 6-01-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-09. SUPERVISION AND EXAMINATION BY COMMISSIONER OF BANKING AND FINANCIAL INSTITUTIONS.) The commissioner shall exercise a constant supervision over the business affairs of all financial corporations and institutions placed within the jurisdiction of the board. Either the commissioner or one or more examiners shall visit each of the state banking associations and other corporations and associations placed under the commissioner's jurisdiction at least once each ~~year~~ eighteen months to examine their affairs and ascertain their financial condition. The visits shall be made without previous notice to the corporation or institution to be examined. The commissioner shall inspect and verify the assets and liabilities of the institution to ascertain with reasonable certainty that the value of the assets and the amounts of the liabilities are correctly carried on its books. The commissioner shall examine the validity of mortgages held by savings institutions, and shall see that all of the mortgages are properly recorded. The commissioner shall investigate the method of operation and conduct of the corporations and institutions and their systems of accounting to ascertain whether such methods conform to the law and sound banking usage and principles. The commissioner shall inquire into and report any infringement of the laws governing such corporations and institutions, and for such purpose the commissioner may examine the officers, agents, and employees of such corporations and institutions and all persons doing business therewith. The commissioner shall report the condition of such corporations and institutions, together with the commissioner's recommendations or suggestions in connection therewith, to the state banking board, and the board may take such action as, in its discretion, the exigencies may demand.

Approved March 8, 1979

CHAPTER 118

SENATE BILL NO. 2184
 (Committee on Industry, Business and Labor)
 (At the request of the
 Department of Banking and Financial Institutions)

BIENNIAL REPORTS

AN ACT to create and enact a new section to chapter 13-05 of the North Dakota Century Code, relating to biennial report of collection agencies; and to amend and reenact sections 6-01-10, 7-05-03, 13-03-10, and 13-03.1-10 of the North Dakota Century Code, relating to the biennial reports of the state banking board, state credit union board, and department of banking and financial institutions.

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

SECTION 1. AMENDMENT.) Section 6-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-10. ~~STATE-EXAMINER COMMISSIONER TO KEEP RECORDS AND MAKE REPORTS - BIENNIAL REPORT OF STATE-BANKING-BOARD THE DEPARTMENT.~~)

1. The ~~chief-deputy-examiner~~ assistant commissioner shall act as secretary and keep all proper records and files pertaining to the duties and work of ~~his~~ the office of the assistant commissioner and the proceedings of the board. The ~~state-examiner commissioner~~ shall report to the board annually, touching on all ~~his~~ the commissioner's official acts and those of ~~his~~ the deputy examiners, giving abstracts of statistics and of the conditions of the various institutions to which ~~his~~ the commissioner's duties relate, and making such recommendations and suggestions as ~~he~~ the commissioner may deem proper.
2. The state banking board shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, there shall be included in the banking board's report a summary or abstract of the reports of the ~~state--examiner~~ commissioner.

3. The commissioner shall report to the state credit union board annually in the same manner as this section provides for the commissioner's report to the state banking board. The state credit union board shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04, and in addition, there shall be included in the credit union board's report a summary or abstract of the reports of the commissioner.
4. The biennial reports of the state banking board and the state credit union board shall be published in the form of a combined biennial report of the department of banking and financial institutions. The biennial report of the department shall be submitted to the governor and the department of accounts and purchases as prescribed by section 54-06-04. The biennial report of the department shall include all other biennial reports which the commissioner or the boards are required by law to submit to the governor and the department of accounts and purchases.

SECTION 2. AMENDMENT.) Section 7-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-05-03. BUILDING AND LOAN ASSOCIATIONS.) ~~The state-examiner commissioner shall keep and preserve in permanent form a full record of his the proceedings of the commissioner, including a concise statement of each association examined, and he the commissioner shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04, in addition to any requirements established pursuant to section 54-06-04, the report shall include the general conduct and condition of the building and loan associations doing business in this state with such suggestions as he may deem expedient, the information contained in the statement required of the association arranged in tabulated form, the whole amount of the income of his office paid by such associations, the source from which derived, and the expense in detail during the preceding two fiscal years~~ report to the state banking board as provided by section 6-01-10.

SECTION 3. AMENDMENT.) Section 13-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-03-10. BOOKS AND RECORDS - ANNUAL REPORTS - BIENNIAL REPORTS.)

1. Each licensee shall keep and use in his business such books and accounting records as are in accord with sound and accepted accounting practices and as may be prescribed by the ~~state-examiner~~ commissioner. Such licensee shall preserve such books and accounting records for at least two years after making the final entry on any loan recorded therein.

2. Each licensee shall annually on or before the ~~fifteenth~~ thirty-first day of ~~September~~ July file a report for the preceding fiscal year with the ~~state--examiner~~ commissioner. Such report shall give information with respect to the financial condition of such licensee and shall include:
- a. ~~the~~ The name and address of the licensee, balance sheets at the beginning and end of the accounting period;
 - b. ~~a~~ A statement of income and expenses for said period, a reconciliation of surplus or net earnings with the balance sheets;
 - c. ~~a~~ A schedule of assets used and useful in the small loan business;
 - d. ~~an~~ An analysis of charges, size of loans and types of security on loans of one thousand dollars or less; and
 - e. ~~an~~ An analysis of delinquent accounts, an analysis of suits, repossessions and sales of chattels and such other relevant information as the ~~state--examiner~~ commissioner may require concerning the business and operations during the preceding fiscal year.

Such report shall be made under oath and shall be in the form prescribed by the ~~state--examiner~~ commissioner who ~~shall~~ may make and publish annually an analysis and recapitulation of such reports.

3. The commissioner shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, there shall be included in the commissioner's report a summary or abstract of the annual reports filed with the commissioner.

SECTION 4. AMENDMENT.) Section 13-03.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-03.1-10. RECORDS - ANNUAL REPORTS - BIENNIAL REPORT.)

1. Every licensee shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the administrator to determine whether the licensee is complying with the provisions of this chapter. The record keeping system of a licensee shall be sufficient if he the licensee makes the required information reasonably available. The records pertaining to any loan need not be preserved for more than two years

after making the final entry relating to the loan, but in the case of a revolving loan account the two years is measured from the date of each entry.

2. On or before ~~September-fifteenth~~ July thirty-first each year every licensee shall file with the administrator a composite annual report in the form prescribed by the administrator relating to all loans made by ~~him~~ the licensee. The administrator shall consult with comparable officials in other states for the purpose of making the kinds of information required in annual reports uniform among the states. ~~Information-contained-in-annual-reports shall-be-confidential-and-may-be-published-only-in-composite-form.~~ The administrator may make and publish annually an analysis and recapitulation of such reports.
3. The administrator shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04. In addition to any requirements established pursuant to section 54-06-04, there shall be included in the administrator's report a summary or abstract of the annual reports filed with the administrator.

SECTION 5.) A new section to chapter 13-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

BIENNIAL REPORT.) The commissioner shall submit a biennial report to the governor and the department of accounts and purchases as prescribed by section 54-06-04.

Approved March 10, 1979

CHAPTER 119

HOUSE BILL NO. 1218
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

DEPARTMENT OF BANKING EMPLOYEE INVESTMENTS

AN ACT to amend and reenact section 6-01-15 of the North Dakota Century Code, requiring officers and employees of the department to be disinterested.

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

SECTION 1. AMENDMENT.) Section 6-01-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-15. ~~DEPUTIES~~ OFFICERS AND EMPLOYEES TO BE DISINTERESTED.)

1. No ~~deputy-examiner~~ officer or employee of this department shall have any interest, directly or indirectly, in any corporation or institution within the jurisdiction of the banking department, nor in any corporation or institution engaged wholly or in part in the writing or issuing of bonds of or for any such corporation or institution or any officer or employee thereof. Provided, however, this prohibition shall not apply to membership in a state chartered credit union or savings and loan association.
2. For purposes of this section, "interest" shall mean ownership of or investment in such corporations or institutions.

Approved March 3, 1979

CHAPTER 120

SENATE BILL NO. 2198
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

BANK EXAMINATION FEES

AN ACT to amend and reenact section 6-01-17 of the North Dakota Century Code, relating to fees for the examination of banks.

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

SECTION 1. AMENDMENT.) Section 6-01-17 of 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, and banking institution, ~~and trust company~~ placed under the jurisdiction and control of the ~~state examiner~~ commissioner and ~~his the commissioner's~~ 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 ~~and one-half-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~~ fifteen thousand dollars. Examination fees shall not be computed on the combined assets of the bank and its trust department for those banks exercising trust powers. The minimum and maximum shall apply to the assets of the bank separate from the assets of the trust department, and fees for examination of the trust department shall be computed in accordance with section 6-05-28. 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.

Approved March 12, 1979

CHAPTER 121

SENATE BILL NO. 2175
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

APPLICATION FEES

AN ACT to provide for fees for applications presented to the state banking board; and to amend and reenact sections 6-02-06 and 6-03-15 of the North Dakota Century Code, relating to fees for applications presented to the state banking board.

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

SECTION 1. APPLICATION FEES - COST OF TRANSCRIPT.) The following fees shall accompany an application presented to the state banking board and shall be paid by the commissioner into the general fund of the state treasury:

1. For a certificate of authority to organize a banking association, a fee of two thousand five hundred dollars.
2. A banking association's application for authority to remove its business to some place within the state other than the town in which it is presently located and to change its name, a fee of two thousand five hundred dollars.
3. A banking association's application to establish and operate a separate facility for drive-in and walk-up service, a fee of one thousand five hundred dollars.
4. A banking association's application to establish and operate a paying and receiving station, a fee of one thousand five hundred dollars.
5. A banking association's application to establish customer electronic funds transfer centers, a fee not to exceed one thousand five hundred dollars.
6. For a certificate of authority to organize an annuity, safe deposit, surety or trust company, a fee of two thousand five hundred dollars.

7. A banking association's application for authority to exercise trust powers, a fee of one thousand five hundred dollars.
8. For a certificate of authority to organize a savings and loan association, a fee of two thousand five hundred dollars.
9. A savings and loan association's application to establish and operate a branch office, a fee of one thousand five hundred dollars.

The commissioner shall cause a certified transcript to be prepared for any hearing conducted on an application. The costs for the original and up to six copies of the transcript shall be paid by the applicant.

SECTION 2. AMENDMENT.) Section 6-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-02-06. HEARING BY BOARD - CONCLUSIONS.) At the time and place stated, and through any sources of information at its command, the board diligently shall inquire whether the place where such banking association is proposed to be located is in need of further banking facilities, whether the proposed association is adapted to the filling of such need, and whether the proposed incorporators are possessed of such character, integrity, reputation, and financial standing as shown by a detailed financial statement to be furnished by them, that their connection with the banking association will be beneficial to the public welfare of the community in which such bank is proposed to be established. The state banking board shall inquire into the qualifications of the management of the proposed bank. Qualifications of management shall include adequate experience, as determined by the board, with financial institutions or other approved related experience. ~~Prior to such hearing, the applicants shall pay to the board such sum as it may designate not exceeding five hundred dollars to defray the cost of investigation and hearing by the board.~~ The board shall hear any reasons advanced by the applicants why they should be permitted to organize the proposed association, and any reasons advanced by any person why such association should not be permitted to be organized. At the termination of such hearing, the board shall make a brief statement in writing of its conclusions, and if it finds that the proposed association should not be permitted to organize, it shall state briefly the reasons why. A copy of such conclusions either shall be endorsed upon or attached to the organization certificate, together with the refusal or grant of permission to the proposed incorporators to present the said organization certificate to the secretary of state. A determination in favor of such organization must be joined in by a majority of all the members of the board.

SECTION 3. AMENDMENT.) Section 6-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-15. APPLICATION TO STATE BANKING BOARD TO ESTABLISH STATIONS.) Any institution desiring to establish a paying ~~ex~~ and receiving station shall make application to the state banking board in such manner and form as shall be prescribed by it, giving such information as the board may require, ~~and, at the time of filing the application, shall pay to the board such sum as it may designate, not exceeding the sum of one hundred dollars, to defray the cost of investigation by the board.~~

Approved March 21, 1979

CHAPTER 122

SENATE BILL NO. 2185

(Committee on Industry, Business and Labor)

(At the request of the Department of Banking and Financial Institutions)

FEDERAL RESERVE SYSTEM EXAMINATIONS

AN ACT to amend and reenact section 6-01-18 of the North Dakota Century Code, relating to reports and examinations of institutions insured in federal deposit insurance corporation.

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

SECTION 1. AMENDMENT.) Section 6-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-01-18. REPORTS AND EXAMINATIONS OF INSTITUTIONS INSURED IN FEDERAL DEPOSIT INSURANCE CORPORATION.) The ~~state--examiner commissioner~~, in ~~his~~ the commissioner's discretion, may accept, in lieu of any examination authorized or required by this title to be conducted by ~~his~~ the department of any banking institution, the examination that may have been made of such institution within a reasonable period by the ~~Federal--Deposit--Insurance--Corporation~~ federal deposit insurance corporation or the federal reserve system, if a copy of such examination is furnished to the ~~state--examiner commissioner~~. The ~~state--examiner commissioner~~, in ~~his~~ the ~~commissioner's~~ discretion, also may accept any report relative to the condition of any banking institution which may have been obtained by said corporation or system within a reasonable period in lieu of any similar report which the examiner commissioner is authorized by this title to require of such institution, if a copy of such report is furnished to the examiner commissioner. The ~~state examiner commissioner~~ may furnish to said corporation or system, or to any official or examiner thereof, a copy or copies of any or all examinations made of any banking institutions and of any or all reports made by them, and may give access to and disclose to said corporation or system, or any official or examiner thereof, any and all information possessed by the office of the ~~state--examiner commissioner~~ with reference to the conditions or affairs of any such institution insured with the ~~Federal--Deposit--Insurance--Corporation~~ federal deposit insurance corporation. Nothing in this section shall be construed to limit the duty of any banking institution in this state, the deposits of which are to any extent insured under the provisions of the federal act creating the ~~Federal--Deposit~~

~~Insurance--Corperation~~ federal deposit insurance corporation, or of any amendment of or substitution for the same, to comply with the provisions of said act, its amendments or substitutions, or the requirements of said corporation relative to examinations and reports, nor to limit the powers of the ~~state-examiner~~ commissioner with reference to examinations and reports under this title.

Approved March 8, 1979

CHAPTER 123

HOUSE BILL NO. 1464
(Thorsgard, Langley)

ADDITIONAL OPTIONAL LOANS AND ADVANCES

AN ACT to amend and reenact section 6-03-05.1 of the North Dakota Century Code, relating to advancement of funds to protect liens and providing for subordination of such advancements with respect to certain mortgages, liens, and judgments.

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

SECTION 1. AMENDMENT.) Section 6-03-05.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-05.1. ~~ADVANCEMENT--OF-FUNDS-TO-PROTECT-LIENS~~ ADDITIONAL OPTIONAL LOANS AND ADVANCES.) Any banking association or other mortgagee may advance funds or make additional optional loans to borrowers, from time to time, ~~covering~~ secured by real estate on which the mortgagee ~~owns~~ has a first mortgage lien, with or without changing the terms of ~~said~~ the mortgage, and may carry ~~such~~ the optional advances or loans upon its books as assets of the mortgagee, ~~provided if the said-first~~ provided if the said-first mortgage by its terms reserves in the mortgagee the right to make ~~such~~ the optional advances or additional optional loans. ~~Such~~ The optional advances or loans shall be deemed to be merged, incorporated in, and become a part of and secured by ~~said-first~~ the mortgage, and the mortgagee ~~shall have a good and valid first lien against such real estate to secure the payment of funds so advanced or loaned,~~ to secure the optional advances or loans, shall retain a lien against the real estate of the same status and priority as the existing mortgage. However, the optional advances or additional optional loans, except for optional advances to pay real estate taxes, assessments against the property, or property insurance premiums, are inferior to the lien of any other mortgage, mechanic's lien, judgment, or other lien against the real estate which has been duly filed for record or docketed. In the case of a subsequent mortgage, the optional advances or additional optional loans shall retain the same priority as the existing mortgage may have unless written notice of the subsequent mortgage has been received by the previous mortgagee prior to making the optional advances or additional optional loans.

Approved March 13, 1979

CHAPTER 124

HOUSE BILL NO. 1118
(Richard, Solberg)

PAYING AND RECEIVING STATION LOCATION

AN ACT to amend and reenact section 6-03-14 of the North Dakota Century Code, relating to paying and receiving stations and authorizing such stations to be established in unincorporated townsites located within Indian reservations; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 6-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-14. PAYING AND RECEIVING STATIONS AUTHORIZED.) Any banking institution may establish and maintain within the county in which the home office of the applicant banking institution is located, or in any adjoining county, or in any other county provided the location of the community to be served is within a thirty-five mile [56.33 kilometer] radius of ~~such~~ the home office, subject to the approval and supervision of the state banking board, a receiving and paying station in any city ~~or town~~ organized under the laws of this state, or in any unincorporated townsite located within the limits of any Indian reservation, not having an established banking institution located therein. Provided, however, this limitation shall not apply to any banking institution which has already received a permit for the construction of such a receiving and paying station. No additional capital shall be required for the operation of ~~such~~ the station. This section shall not be construed as committing this state in any manner to a policy of permitting branch banking.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 7, 1979

CHAPTER 125

SENATE BILL NO. 2183
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

NOTIFICATION OF CHANGE IN CONTROL

AN ACT to amend and reenact section 6-03-27 of the North Dakota Century Code, relating to list of shareholders and requirement of notification of change in control.

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

SECTION 1. AMENDMENT.) Section 6-03-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-27. LIST OF SHAREHOLDERS TO BE KEPT AND FILED.)

1. The president or cashier of every banking association formed pursuant to the provisions of this title, at all times, shall keep a true and correct list of the names and post-office addresses, which shall be verified every six months, of all shareholders of such association, with the amount of stock held by each, the time date of transfer and to whom transferred, and shall file a copy of such list in the office of the state examiner which list shall be verified on the thirty-first day of December of each year. A copy of such verified list shall be filed in the office of the commissioner on the same date.
2. Whenever a change in control occurs, a letter indicating the parties involved in the change, the amount of stock, the date of transfer, and to whom transferred shall be forwarded to the commissioner within ten days of such change. For purposes of this section "control" shall mean the power, directly or indirectly, to direct the management or policies of the banking association or to vote twenty-five percent or more of any class of voting securities of the banking association.

Approved March 8, 1979

CHAPTER 126

SENATE BILL NO. 2182

(Committee on Industry, Business and Labor)

(At the request of the Department of Banking and Financial Institutions)

BANK LOAN LIMITATION

AN ACT to amend and reenact section 6-03-59 of the North Dakota Century Code, relating to loan limitation.

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

SECTION 1. AMENDMENT.) Section 6-03-59 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-59. LOAN - LIMITATION TO ONE PERSON OR CONCERN.) The total liability of any person, corporation, company, or firm to any state banking association shall not exceed at any time twenty-five percent of the unimpaired capital and surplus of such association. The liability of a firm shall include the liabilities of the several members thereof for money borrowed and on paper purchased by the association upon which they are liable as makers, ~~and the head of a family and all the dependent members thereof shall be regarded as one person.~~ The discount of bills of exchange drawn in good faith against actual existing values, loans secured by bills of lading drawn against produce in transit, and loans secured by bonded warehouse receipts or elevator storage tickets covering produce actually in storage shall not be considered as money borrowed if all paper relating to such transactions is made payable to, and such paper and the security therefor remains in the possession and control of the association until the advance or debt is paid. An association may discount commercial or business paper actually owned by the person negotiating it without such discounting being deemed an addition to any loan made to the negotiator.

Approved March 8, 1979

CHAPTER 127

SENATE BILL NO. 2264
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

LOAN RESTRICTIONS TO CERTAIN INDIVIDUALS

AN ACT to amend and reenact section 6-03-60 of the North Dakota Century Code, relating to restrictions and conditions on loans to and purchases from directors, officers, and employees of state banking associations and officers and employees of banking department.

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

SECTION 1. AMENDMENT.) Section 6-03-60 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-60. LOANS TO AND PURCHASES FROM DIRECTORS, OFFICERS, AND EMPLOYEES - RESTRICTIONS - CONDITIONS - PENALTY - CIVIL LIABILITY.) No director, or managing officer, or employee of any state banking association, nor the ~~state~~ examiner commissioner, assistant commissioner, nor any deputy examiners, shall be permitted to borrow any of the funds of an amount in excess of twenty-five thousand dollars from any state banking association without first obtaining the approval of a majority of the board of directors of said banking association, excluding from such majority any director whose application is to be acted upon, and no action upon any loan herein provided for shall be taken by the board in the presence of the applicant. Every loan ~~provided for herein~~ shall be open--like--and equal security required of other borrowers made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons and shall be in strict conformity with the association's rules and regulations. No officer of any state banking association shall borrow from or otherwise become indebted to any state banking association of which he is an officer in an aggregate amount exceeding ten thousand dollars for any loan or extension of credit, other than a loan secured by a first mortgage on ~~his~~ the officer's residence, which loan shall not exceed sixty thousand dollars, and a loan or extension of credit to finance the education of the officer's children, which loan or extension of credit shall not exceed the aggregate amount of twenty thousand dollars. At no time shall any combination of loans or extensions of credit or both made

by a state banking association to an officer of that association ~~exceed an aggregate amount of fifty thousand dollars~~ the limitation on loans to one person or concern specified in section 6-03-59. No state banking association may pay an overdraft on an account at such bank of an officer or director.

No director, officer, or employee of a bank shall sell to such bank, directly or indirectly, any mortgage, bond, note, stock, or other property whatsoever without first obtaining the written approval of the board of directors. The action of the board of directors in connection with the loans and discounts required under this section shall be made a matter of permanent record in the minute books of the banking association. Any shareholder, officer, or director of any banking association who knowingly shall violate the provisions of this section shall be held liable in his personal and individual capacity for all loss or damage which the association or any person shall sustain in consequence thereof and shall be guilty of a class B misdemeanor. The ~~state--examiner~~ commissioner may require, at any time, the payment or repurchase of loans, securities or obligations herein referred to.

Approved March 13, 1979

CHAPTER 128

SENATE BILL NO. 2181
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

SUBMITTAL OF BANK REPORTS

AN ACT to amend and reenact section 6-03-70 of the North Dakota Century Code, relating to submission of reports to the commissioner.

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

SECTION 1. AMENDMENT.) Section 6-03-70 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-70. REPORTS - REGULAR AND SPECIAL - PUBLICATION - PENALTY.) Every state banking association shall make three or more reports each year, the number to be determined by the state banking board, to the state--~~examiner~~ commissioner. The board shall prescribe the forms for such reports as nearly as possible like those prescribed by the comptroller of currency for similar reports by national banks. The reports shall exhibit in detail, under appropriate headings, the resources and liabilities of the association at the close of business on a past day specified by the board, which, if practicable, shall be the same day on which similar reports are required from national banking associations by the comptroller of currency. Each report must be verified by the oath of the president or the cashier and attested as correct by at least two of the directors, and must be transmitted to the ~~examiner~~ commissioner within ~~seven~~ thirty days after receipt of the request for the same, and an abstract of not less than three of such reports, in a form prescribed by the board, shall be published, at the expense of the association, in some newspaper in the city where such bank is located, and in case there is no such newspaper, then in a legal newspaper of the county in which such association is located. The board also shall call for a special report from any association whenever in its judgment the same is necessary in order to obtain full and complete knowledge of its condition. Every association which fails to make and transmit any report required in pursuance of this section shall forfeit and pay to the state a penalty of two hundred dollars for each delinquency.

Approved March 8, 1979

CHAPTER 129

HOUSE BILL NO. 1505
(Boyum)

TRUST COMPANY INVESTMENT OF FUNDS

AN ACT to amend and reenact section 6-05-15 of the North Dakota Century Code, relating to investment of trust funds by trust companies.

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

SECTION 1.) Section 6-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-15. INVESTMENT OF TRUST FUNDS.) Any sum of money, which shall be collected or received by any such corporation in its trust capacity, and which shall not be required for the purposes of such the trust, or which is not to be accounted for within one year from the date of such collection, receipt, or deposit, shall be invested by the corporation as soon as practicable. ~~At least fifteen percent of the funds available for investment shall be invested in bonds of the United States.~~

In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing the property for the benefit of another, the trustee shall exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the trustee is authorized to acquire and retain every kind of property real, personal or mixed, and every kind of investment, specifically including but not by way of limitation, bonds, debentures, and other corporate obligations and stocks, preferred or common, including investment trusts, which men of prudence, discretion, and intelligence acquire or retain for their own account, and within the limitations of the foregoing standard, the trustee may retain property properly acquired without limitation as to time and without regard to its suitability for original purchase. The net interest and profits of such investments, less the reasonable charges and disbursements of the corporation in connection therewith, shall be accounted for and paid over as a part of such the trust. The net accumulations of such interest and profits likewise shall be invested and reinvested as a part of the principal, and such investments shall be received and allowed in the settlement of the trust.

Approved March 15, 1979

CHAPTER 130

HOUSE BILL NO. 1366
(F. Larson)

COMMON TRUST FUNDS

AN ACT to create and enact a new section to chapter 6-05 of the North Dakota Century Code, relating to common trust funds of affiliates.

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

SECTION 1.) A new section to chapter 6-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

COMMON TRUST FUNDS, AFFILIATES.) Notwithstanding the provisions of section 6-05-15, any bank or trust company qualified to act as fiduciary in this state may:

1. Establish and maintain common trust funds for the collective investment of funds held in any fiduciary capacity by it or by another bank or trust company which is owned or controlled by a corporation which owns or controls such bank or trust company.
2. As a fiduciary or co-fiduciary, invest funds which it holds for investment in common trust funds established and maintained pursuant to subsection 1 if such investment is not prohibited by the instrument, judgment, decree or order creating such fiduciary relationship. This section applies to fiduciary relationships now in existence or hereafter created.

To the extent not inconsistent with the provisions of this section, the provisions of section 6-05-15.1 relating to common trust funds shall apply to the establishment and maintenance of common trust funds under this section.

Approved March 8, 1979

CHAPTER 131

SENATE BILL NO. 2177
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

TRUST COMPANY EXAMINATIONS

AN ACT to amend and reenact section 6-05-28 of the North Dakota Century Code, relating to the examination of annuity, deposit, surety, and trust companies, fees therefor, and the commissioner's authority over such companies.

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

SECTION 1. AMENDMENT.) Section 6-05-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-05-28. EXAMINATION BY STATE-EXAMINER COMMISSIONER - FEES - POWER OVER BUSINESS, OFFICERS, AND EMPLOYEES.) The state--examiner commissioner shall make a full, true, complete, and accurate examination and investigation of the affairs of each corporation doing business under this chapter once in each ~~six~~ eighteen months, or oftener if required to do so by a verified information in writing filed with ~~him~~ the commissioner by any person interested in any trust with which any such corporation may be charged. Such examination shall be made without previous notice to the corporation to be examined. Fees for such examinations shall be charged by the department of banking and financial institutions for the examinations provided for by this section at the rate of sixty-five dollars per day for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with such examination and report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examination herein provided for. The commissioner, in the commissioner's discretion, may accept, in lieu of any examination authorized or required by this title to be conducted by the department of banking and financial institutions, the examination that may have been made of such institution within a reasonable period by the federal reserve bank, if a copy of such examination is furnished to the commissioner. The examiner commissioner shall assume and exercise over each such corporation and its business, officers, directors, and employees all the power and authority conferred upon ~~him~~ the commissioner over banking and other financial or moneyed corporations or associations.

Approved March 8, 1979

CHAPTER 132

SENATE BILL NO. 2363
(Reiten, Barth)

CREDIT UNION AUTHORITY

AN ACT to create and enact subsection 11 of section 6-06-06 of the North Dakota Century Code, relating to authority of state credit unions to exercise federal powers; and to amend and reenact sections 6-06-04 and 6-06-14 of the North Dakota Century Code, relating to amendments to bylaws and certificate of organization and to loan limits.

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

SECTION 1. AMENDMENT.) Section 6-06-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-04. AMENDMENT OF CERTIFICATE OR BYLAWS - APPROVAL BY STATE CREDIT UNION BOARD.) The certificate of organization or bylaws of a credit union may be amended ~~at a regular or special meeting of the members thereof. The proposed amendments must be fully set forth in the notice of the meeting at which the proposed amendments are to be submitted for action. Any amendment to the certificate of organization and any amendment to the bylaws must be approved by three-fourths of the members present at the meeting. Proposed amendments to the certificate of organization or the bylaws shall, before submission to members for adoption, be approved by the state credit union board, and shall become operative immediately upon approval of the membership of the credit union. The resolution containing the full text of any amendment of the certificate of organization verified by the president and the treasurer of the credit union and approved by the state credit union board, shall be filed with the secretary of state for permanent record. The fee for filing the amendment with the secretary of state shall be five dollars. The applicants shall, within thirty days thereafter, provide the commissioner with a true and correct copy of the amendment to the certificate of organization or the amendments to the bylaws.~~ by an affirmative vote of two-thirds of the authorized number of members of the board of directors of the credit union at any duly held meeting of the board, if the members of the board have been given prior written notice of said meeting and the notice

contains a copy of the proposed amendment or amendments. No amendment of these bylaws or of the certificate of organization shall become effective, until approved in writing by the state credit union board. Amendments to the certificate of organization shall be filed with the secretary of state within thirty days after the amendments have been approved by the state credit union board.

SECTION 2.) Subsection 11 of section 6-06-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

11. The state credit union board may authorize credit unions to engage in any activity in which they could engage if they were federally chartered.

SECTION 3. AMENDMENT.) Section 6-06-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-14. LOANS - HOW MADE - SECURITY - MEETINGS AND DUTIES OF CREDIT COMMITTEE.) The credit committee shall have general supervision over all loans to members, and shall meet as often as may be necessary to perform its duties and at least once each month. Notice must be given to each member of the committee before any meeting is held. All applications for a loan shall be made on a form approved by the committee and shall set forth the purpose for which the loan is desired, the security, if any, which is offered, and such other data as the committee may require. The maximum loan that may be made without adequate security shall be two thousand five hundred dollars or one percent of the credit union's total share and deposit accounts, whichever is the higher, but not to exceed ~~five~~ ten thousand dollars. Security, under this section shall include an assignment of shares or deposits, an endorsement made on the note by a responsible person, and such other security as the committee in its discretion may deem adequate. No loan shall be made unless it is approved by a majority of the entire committee; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans up to the limit established by the credit committee, or in excess of such limit if such excess is fully secured by unpledged shares. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer.

Approved March 18, 1979

CHAPTER 133

SENATE BILL NO. 2174
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

CREDIT UNION EXAMINATIONS

AN ACT to amend and reenact section 6-06-08 of the North Dakota Century Code, relating to the supervision of credit unions by the state credit union board, examinations, and fees.

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

SECTION 1. AMENDMENT.) Section 6-06-08 of the 1977 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.)

1. 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 commissioner at least once annually, upon call of the commissioner, on blanks supplied by the commissioner for that purpose. Additional reports may be required by the board or commissioner. Annual reports must be transmitted to the commissioner by January thirty-first of the following year. Other reports must be transmitted to the commissioner within fifteen days after receipt of the request for the same. Every credit union which fails to make and transmit any report required in pursuance of this section shall forfeit and pay to the state a penalty of five dollars for each delinquency.
2. Credit unions shall be examined at least once each year eighteen months by the commissioner, or with his the commissioner's 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. In lieu of the examinations herein required, the commissioner may accept any examination made or obtained by the national credit union administration, and may in his or her discretion conduct a joint

examination with said federal agency. Examinations made by the commissioner or deputy examiners shall be made without previous notice to the credit union. If the examination is not made by the commissioner, 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 commissioner may require. Two copies of such examination shall be filed with the commissioner within thirty days after completion of the examination and shall be approved by him the commissioner.

3. 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.
4. The credit union shall, within thirty days after each examination from date of billing, pay to the ~~commissioner~~ state treasury for examination a fee equal to sixty-five dollars per examiner day, for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with such examination and report of examination and for 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, except that the minimum fee for the examination of a credit union shall be one hundred dollars. If any such credit union shall be delinquent more than twenty days in making such payment, the board may make an order suspending the functions of such delinquent credit union until payment of the amount due, plus a penalty of five dollars a day additional for the delay.

Approved March 8, 1979

CHAPTER 134

SENATE BILL NO. 2176
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

CREDIT UNION DIRECTORS AND COMMITTEES

AN ACT to amend and reenact section 6-06-11 of the North Dakota Century Code, relating to annual meetings, election of directors and committees of credit unions.

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

SECTION 1. AMENDMENT.) Section 6-06-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-11. ANNUAL MEETINGS - ELECTION OF DIRECTORS AND COMMITTEES.) The organization meeting of the members of a credit union shall be the first annual meeting. At its annual meeting, its members shall elect a board of directors of not less than five members and a credit committee of not less than three members. A supervisory committee of not less than three members shall be elected at the annual meeting, unless the bylaws of the credit union provide that the supervisory committee members be appointed by the board of directors of the credit union. The directors and committee members shall hold office for such terms, respectively, as provided by the bylaws of the credit union and until their successors qualify. A record of the names and addresses of the officers and members of the board and committees shall be filed with the commissioner within ten days after their election. Notice of any change in membership on the board or committees by appointment to fill an unexpired term or otherwise, must be filed with the commissioner within ten days of such change.

Approved March 8, 1979

CHAPTER 135

SENATE BILL NO. 2469
(Senators Barth, Krauter)
(Representatives Meyer, Riehl)

CORPORATE CENTRAL CREDIT UNIONS

AN ACT to create and enact subsection 6.1 to section 6-01-02 of the North Dakota Century Code, relating to definition of corporate central credit unions; to amend and reenact section 6-06-19 of the North Dakota Century Code, relating to exemption of North Dakota central credit union from borrowing limitations; to amend and reenact section 6-06-21 of the North Dakota Century Code, relating to reserving requirements of corporate central credit unions.

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

SECTION 1.) Subsection 6.1 to section 6-01-02 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

6.1. "Corporate central credit union" means a credit union operated for the primary purpose of serving corporate accounts. A credit union is deemed to be a corporate central credit union when its total dollar amount of outstanding corporate loans plus corporate share and deposit holdings is equal to or greater than seventy-five percent of its outstanding loans plus share and deposit holdings.

SECTION 2. AMENDMENT.) Section 6-06-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-19. MAY AUTHORITY TO BORROW MONEY - LIMITATION - EXCEPTION.) A credit union may borrow money from any source, but the total borrowings shall not exceed twenty-five percent of its assets unless the state--examiner commissioner shall authorize a larger amount. The limitation on borrowing does not apply to a corporate central credit union which shall be limited to borrowing up to five times its capital, surplus and reserve fund.

SECTION 3. AMENDMENT.) Section 6-06-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-06-21. RESERVE FUND - AMOUNT REQUIRED AND HOW RAISED.) Every credit union, except corporate central credit unions, shall maintain a reserve fund to be used as a reserve against bad loans and other losses. Such This fund shall not be distributed except upon liquidation. All--entrance-fees-and-fines-shall-be-paid-into such-reserve-fund,-and--in--addition--thereto,-each-credit-union, annually,-until-such-time-as-its-reserve-fund-shall-equal-ten percent-of-its-paid-in-capital-and-surplus,-shall-transfer-twenty percent-of-its-net-earnings-to-such-reserve-fund.---Thereafter,-there shall-be-added-annually-to-the-reserve-fund-at-the-end-of--each fiscal--year,-such--percentage-of-the-gross-earnings--of-the-credit union-as-shall-be-required-to-maintain-its-reserve-fund--at--ten percent--of--its--paid-in--capital--and--surplus. A credit union in operation for more than four years and having assets of five hundred thousand dollars or more shall set aside ten percent of gross income until the reserve fund equals four percent of the total of outstanding loans and risk assets, then five percent of gross income until the reserve fund equals six percent of the total of outstanding loans and risk assets. A credit union in operation for less than four years or having assets of less than five hundred thousand dollars shall set aside ten percent of gross income until the reserve fund equals seven and one-half percent of the total of outstanding loans and risk assets, then five percent of gross income until the reserve fund equals ten percent of the total of outstanding loans and risk assets.

Every corporate central credit union shall maintain a reserve fund to be used as a reserve against bad loans and other losses. This fund shall not be distributed except upon liquidation. At the end of each fiscal year, the corporate central credit union shall transfer to the reserve fund two percent of gross earnings until the reserve fund equals one and one-half percent of total assets. Thereafter, there shall be added annually to the reserve fund at the end of each fiscal year the contribution amounts or the percentage of the gross earnings of the corporate central credit union, not to exceed two percent of gross earnings, required to maintain its reserve fund at one and one-half percent of total assets.

Approved March 23, 1979

CHAPTER 136

SENATE BILL NO. 2071
(Legislative Council)
(Interim Committee on Industry, Business & Labor)

SALE OR PURCHASE OF BANKING INSTITUTIONS

AN ACT to create and enact a new section to chapter 6-08 of the North Dakota Century Code, relating to requirements governing the sale or purchase of banking institutions.

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

SECTION 1.) A new section to chapter 6-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

SALE OR PURCHASE OF BANKING INSTITUTIONS - NOTIFICATION TO COMMISSIONER - HEARING.)

1. No person shall sell or otherwise dispose of or purchase or otherwise acquire control of a banking institution without notifying the state banking board.
2. Within thirty days after the date of mailing the notification, the transaction shall be deemed approved, unless the board issues an order calling a hearing. If a hearing is called by the board, the parties to the transaction shall be given at least a ten-day written notice of the time, date, and place of the hearing, to be held before the board, to examine into the following matters:
 - a. The character, reputation, general fitness, financial standing, and responsibility of the persons proposed as new stockholders, directors, or officers.
 - b. Whether the qualifications of management include adequate experience with financial institutions or other approved related experience.
 - c. Whether the interests of the other stockholders, depositors, and creditors of the institution and the public generally will be jeopardized by the change in control and management.

The determination to call a hearing may be made by the commissioner after consulting the board members and an order calling a hearing may be issued by the board without a formal meeting.

3. If the evidence produced at the hearing establishes that the character, reputation, general fitness, financial standing, and responsibility of the persons proposed as stockholders, directors, or officers is such that the interests of other stockholders, depositors, creditors, and the general public might be jeopardized by the change in control and management, then the board, within five business days of the date of the hearing, shall issue its order disapproving the transaction and shall notify the parties thereto. If no order is issued within ten business days after the hearing is held, the transaction is deemed approved by the board. Any decision of the board shall be reviewable under the provisions of chapter 28-32.
4. For purposes of this section, "control" means the direct or indirect ownership of, control of, or power to vote twenty-five percent or more of any class of voting shares at the election of directors of the association or one bank holding company, whether by individuals, corporations, partnerships, trusts, or other organizations.

Approved March 7, 1979

CHAPTER 137

HOUSE BILL NO. 1106
 (Committee on Industry, Business and Labor)
 (At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA EMPLOYEE BONDING

AN ACT to amend and reenact section 6-09-04 of the North Dakota Century Code, relating to the bonding of Bank of North Dakota employees.

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

SECTION 1. AMENDMENT.) Section 6-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-04. COMMISSION TO EMPLOY PRESIDENT AND EMPLOYEES - EXPENDITURES LIMITED TO APPROPRIATIONS.) The industrial commission shall obtain such assistance as in its judgment may be necessary for the establishment, maintenance, and operation of the Bank. To that end, it shall appoint a president, and may appoint such subordinate officers and employees as it may judge expedient. It may constitute such president its general agent in respect to the functions of said Bank, but subject, nevertheless, in such agency, to the supervision, limitation, and control of the commission. It shall employ such contractors, architects, builders, attorneys, cashiers, tellers, clerks, accountants, and other experts, agents, and servants as in the judgment of the commission the interests of the state may require, and shall define the duties, designate the titles, and fix the compensation, within legislative appropriation, and the bonds of all such persons so engaged. Subject to the control and regulation of the commission, the president of the Bank shall appoint and employ such deputies, cashiers, tellers, and other subordinates, and such contractors, architects, builders, attorneys, clerks, accountants, and other experts, agents, and servants, as he, in his judgment, shall deem required by the interests of the Bank. The total compensation of such appointees and employees, together with other expenditures for the operation and maintenance of the Bank, shall remain within the appropriation lawfully available in each year for such purpose. ~~All--officers--and--employees--of--the--Bank engaged--upon--its--financial--functions,--before--entering--upon--their duties,--shall--furnish--respectively--good--and--sufficient--bonds--to--the state--in--such--amount--and--upon--such--conditions--as--the--commission--may require--and--approve.--The--bond--of--the--president--shall--not--be--less than--fifty--thousand--dollars,--and--such--bond--shall--be--filed--with--the secretary--of--state.~~

Approved March 3, 1979

CHAPTER 138

HOUSE BILL NO. 1107
(Committee on Industry, Business and Labor)
(At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA CAPITAL

AN ACT to repeal section 6-09-06 of the North Dakota Century Code, relating to authorization of Bank of North Dakota to transact business after delivery of two million dollars in bonds as capital.

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

SECTION 1. REPEAL.) Section 6-09-06 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

CHAPTER 139

SENATE BILL NO. 2109
(Committee on Industry, Business and Labor)
(At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA FARM LOAN AUTHORITY

AN ACT to amend and reenact section 6-09-15 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to increase maximum loan value of farmland from one-half to sixty-five percent.

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

* SECTION 1. AMENDMENT.) Section 6-09-15 of 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~~ LOAN LIMITATIONS.)

1. The Bank of North Dakota may make:

- a. Make loans to, and purchase securities issued by instrumentalities of this state, ~~and such.~~ Such loans shall be repaid with interest to the Bank. ~~The Bank of North Dakota may make~~
- b. Make loans to state or national banks, ~~and may participate.~~
- c. 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. ~~The Bank may buy~~
- d. Buy and sell federal funds, ~~ex~~ excess reserves, bankers' acceptances, participation loans, and all securities issued by the United States government or its instrumentalities. ~~The Bank of North Dakota may invest~~
- e. Invest its funds in bonds, notes, or debentures of any corporation incorporated under the laws of any state

* NOTE: Section 6-09-15 was also amended by section 1 of Senate Bill No. 2110, chapter 140.

of the United States rated at "A" or higher by a nationally recognized rating service approved by the industrial commission, ~~provided that such~~. Such investments shall not be made to exceed for any one corporation, ten percent of the combined capital, and surplus of the Bank. ~~The Bank may make~~

- f. 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~~ certificates and savings accounts offered as security.
 - g. Make loans to actual farmers who are residents of this state, if such loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed sixty-five percent of the value of the security.
 - h. Make United States insured and guaranteed loans as specifically authorized by law.
2. The Bank of North Dakota 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 recorded mortgages giving the Bank of North Dakota a first lien on real estate in 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.~~
 3. The Bank of North Dakota 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, excluding those loans insured or guaranteed by the United States or its agencies.

Approved March 27, 1979

CHAPTER 140

SENATE BILL NO. 2110
 (Committee on Industry, Business and Labor)
 (At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA INVESTMENT AND LOAN AUTHORITY

AN ACT to amend and reenact section 6-09-15 of the North Dakota Century Code, relating to the authority of the Bank of North Dakota to participate with subsidiary corporations, to purchase short term commercial and finance company paper, and to increase maximum loan value of farmland from one-half to sixty-five percent.

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

* SECTION 1. AMENDMENT.) Section 6-09-15 of 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 LOAN LIMITATIONS.)

1. The Bank of North Dakota may make:

- a. Make loans to, and purchase securities issued by instrumentalities of this state, ~~and such.~~ Such loans shall be repaid with interest to the Bank. ~~The Bank of North Dakota may make~~
- b. Make loans to state or national banks, ~~and may participate.~~
- c. Participate with state or national banks, savings and loan associations, subsidiary corporations of state banking associations approved by the state banking board pursuant to section 6-03-38, and credit unions, in loans being made by them, on such terms and under such rules and regulations as the industrial commission may determine. ~~The Bank may buy~~
- d. Buy and sell federal funds, ~~or~~ excess reserves, bankers' acceptances, participation loans, and all securities issued by the United States government or

* NOTE: Section 6-09-15 was also amended by section 1 of Senate Bill No. 2109, chapter 139.

its instrumentalities. ~~The Bank of North Dakota may invest~~

- e. Invest its funds in bonds, notes, or debentures of any corporation 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 and short term commercial and finance company paper rated A-1 or P-1. Such investments shall not be made to exceed for any one corporation, ten percent of the combined capital, and surplus of the Bank. The Bank may make
 - f. 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 certificates and savings accounts offered as security.
 - g. Make loans to actual farmers who are residents of this state, if such loans are secured by recorded mortgages giving the Bank of North Dakota a first lien on real estate in North Dakota in amounts not to exceed sixty-five percent of the value of the security.
 - h. Make United States insured and guaranteed loans as specifically authorized by law.
2. The Bank of North Dakota 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 recorded mortgages giving the Bank of North Dakota a first lien on real estate in 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.
 3. The Bank of North Dakota 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, excluding those loans insured or guaranteed by the United States or its agencies.

Approved April 7, 1979

CHAPTER 141

HOUSE BILL NO. 1348
 (Representative Kloubec)
 (Senators Tennefos and Lodoen)

BANK OF NORTH DAKOTA BANK STOCK LOANS

AN ACT to amend and reenact section 6-09-15.3 of the North Dakota Century Code, permitting loans secured by stock in bank holding companies, eliminating prohibition of loans in excess of North Dakota correspondent balances, and extending the disposal period of bank stock acquired by Bank of North Dakota in foreclosure from one year to three years.

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

SECTION 1. AMENDMENT.) Section 6-09-15.3 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-15.3. BANK STOCK LOANS - REQUIREMENTS.) The Bank of North Dakota may make loans to those who have resided in this state for at least one year ~~for the purpose of purchasing stock in banks .~~ These loans shall be secured by bank stock or stock of a bank holding company located in the state. For this purpose, loans to purchase secured by stock in any one bank or bank holding company shall not exceed twenty-five percent of the total of capital and surplus of the Bank of North Dakota. At no time shall the total of all such loans exceed the total deposits in the Bank of North Dakota by all correspondent-respondent banks located within the state.

The industrial commission shall adopt rules and regulations to carry out the purpose of this section which shall include provisions for terms under which such loans shall be made, the types of security required in addition to the stock purchased under the loan, and the procedure for disposition of stock acquired by the Bank.

In the event the Bank of North Dakota becomes the owner of stock in a bank pursuant to foreclosure proceedings on such loan, such stock shall be disposed of within ~~one-year~~ three years after acquisition by the Bank.

Approved March 8, 1979

CHAPTER 142

HOUSE BILL NO. 1447
(Peltier)

FUND TRANSFERS REPEALED

AN ACT to repeal sections 6-09-16 and 6-09-17 of the North Dakota Century Code, relating to funds transferred to state departments, how credited by state treasurer, and to department of accounts and purchases issuance of warrants against transferred funds.

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

SECTION 1. REPEAL.) Sections 6-09-16 and 6-09-17 of the North Dakota Century Code are hereby repealed.

Approved April 3, 1979

CHAPTER 143

SENATE BILL NO. 2200
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

FINANCIAL EXAMINATION FEES

AN ACT to amend and reenact sections 6-09-29, 6-10-06, and 7-05-01 of the North Dakota Century Code, relating to fees for the examination of the Bank of North Dakota, agents for deposits, and savings and loan associations.

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

SECTION 1. AMENDMENT.) Section 6-09-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09-29. DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS AND THE INDUSTRIAL COMMISSION RESPONSIBLE FOR EXAMINATIONS AND AUDIT REPORTS.) The industrial commission shall be responsible for contracting with a nongovernment certified public accounting firm to annually audit 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 auditor so hired shall audit the Bank's methods of operation and accounting, shall report the results to the industrial commission as soon as practicable, and shall furnish one copy to the legislative assembly. The costs of such audit shall be paid for by the Bank of North Dakota. The department of banking and financial institutions, through the ~~state-examiner~~ commissioner, shall be responsible for an annual examination of the Bank of North Dakota and for any investigation of the Bank which may be necessary. The results of this examination, and any necessary investigation, shall be reported to the industrial commission as soon as practicable and to the legislative assembly. Fees for such examinations shall be charged by the department of banking and financial institutions for the examinations ~~in provided for by this section~~ provided at the rate of ~~forty~~ sixty-five dollars per day for the time used by the ~~state examiner~~ commissioner or other person designated by ~~him~~ the commissioner in supervising, filing, and corresponding in connection with such examination and report of examination 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.

SECTION 2. AMENDMENT.) Section 6-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-10-06. DUTY OF EXAMINER COMMISSIONER.) The state-examiner commissioner shall make an examination of the business of such licensee at least once in each year, and such applicant shall pay an examination fee on-the-basis-provided-by-law-for-the-examination--of municipalities to the state treasurer. Fees for such examinations shall be charged by the department of banking and financial institutions for the examinations provided for by this section at the rate of sixty-five dollars per day for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with such examination and report of examination and for time used by each deputy examiner, or other person or persons in making and otherwise preparing and typing the reports of examination herein provided for.

SECTION 3. AMENDMENT.) Section 7-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-05-01. EXAMINATION AND FEES THEREFOR.) The state-examiner commissioner, at least once each year or oftener if he the commissioner deems it necessary or expedient, shall examine into the affairs of all domestic associations doing business in this state. Whenever persons holding ten percent or more of the subscribed shares of any association file a written application with the state examiner commissioner requesting him the commissioner to make an examination of any such association, he the commissioner shall make such examination forthwith. Upon the completion of any examination of any association made by the state-examiner commissioner or under his the direction of the commissioner, the association so examined shall pay to the state examiner treasurer a fee to-be-determined--as follows:---for--the--first--one--hundred--thousand--dollars--of--assets,--a fee--of--fifty--dollars;--for--each--additional--one--hundred--thousand dollars--of--assets--or--major--portion--thereof,--an--additional--fee--of--ten dollars. Fees for such examination shall be charged by the department of banking and financial institutions for the examinations provided for by this section at the rate of sixty-five dollars per day for the time used by the commissioner or other person designated by the commissioner in supervising, filing, and corresponding in connection with such examination or report of examination and for 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. The minimum fee for any such examination, however, shall be one hundred dollars. The maximum-fee-shall-not-be-more-than-three--thousand--dollars;--except that--when--a--special--examination--of--an--association--is--requested--by holders--of--ten--percent--or--more--of--the--subscribed--shares--the--maximum fee--shall--not--apply. The state-examiner commissioner shall report such payment to the state banking board, and if any such association shall be delinquent more than twenty days in making such payment,

the state banking board may make an order suspending the functions of such association until payment of the amount due, together with a penalty of five dollars additional for each day of delay in payment. All fees collected by the state ~~examiner~~ treasurer shall be ~~paid by him to the state treasurer for credit~~ credited to the general fund. In lieu of the examinations herein required, the ~~state examiner~~ commissioner may accept any examination made by a federal home loan bank, the federal home loan bank board, or, if an insured association, by the federal savings and loan insurance corporation. The ~~state examiner~~ commissioner may in his or her discretion conduct a joint examination with said described federal agencies, ~~in which case the fee paid to the state treasurer as provided herein shall be one-half of the amount specified herein.~~

Approved March 13, 1979

CHAPTER 144

SENATE BILL NO. 2107
(Committee on Industry, Business and Labor)
(At the request of the Bank of North Dakota)

BANK OF NORTH DAKOTA ADVISORY BOARD

AN ACT to amend and reenact section 6-09.1-02 of the North Dakota Century Code, relating to the appointment, membership, officers, terms, duties, and compensation of the Bank of North Dakota advisory board of directors.

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

SECTION 1. AMENDMENT.) Section 6-09.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-09.1-02. ~~ADDITIONAL--AUTHORITY--GRANTED--TO--THE--GOVERNOR--OF--NORTH--DAKOTA--RELATING--TO--THE~~ BANK OF NORTH DAKOTA ~~ADVISORY BOARD OF DIRECTORS.)~~ The governor of North Dakota shall appoint an advisory board of directors to the Bank of North Dakota consisting of five ~~seven~~ persons ~~knowledgeable in banking and finance and in motivating the expansion of industry within and without the state of North Dakota to the Bank of North Dakota. The governor shall appoint a chairman, vice chairman, and secretary of such board and shall define their duties. Terms shall be for periods of from one to four years,~~ at least two of whom shall be officers of banks, the majority of the stock of which is owned by North Dakota residents, and at least one of which shall be an officer of a state or federally chartered financial institution. The governor shall appoint a chairman, vice chairman, and secretary from the advisory board of directors. The term of the directors shall be four years. ~~The five-member advisory board of directors existing prior to July 1, 1979, shall continue to serve until expiration of their terms or until their successors have been appointed. The industrial commission shall define the duties and fix the compensation for of the advisory board on a daily or monthly basis of directors.~~

Approved March 13, 1979

BUILDING AND LOAN ASSOCIATIONS

CHAPTER 145

SENATE BILL NO. 2179
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

SAVINGS AND LOAN CAPITAL REQUIREMENT

AN ACT to amend and reenact section 7-01-04 of the North Dakota Century Code, relating to capital of savings and loan associations.

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

SECTION 1. AMENDMENT.) Section 7-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-01-04. "AMOUNT OF CAPITAL" DEFINED - PAID IN - MAINTAINED.) The amount of capital designated in the articles of incorporation shall be deemed to refer to the par value of the authorized capital shares, and the organization may be completed and business commenced when not less than fifty thousand dollars have been paid in, in cash, and the provisions of this chapter have been complied with. The state banking board may require such additional capital as it may determine necessary to properly serve the area and to protect the public interest. A sum of not less than ten thousand dollars must be maintained and kept on hand by said association at all times.

Approved March 8, 1979

CHAPTER 146

SENATE BILL NO. 2178
 (Committee on Industry, Business and Labor)
 (At the request of the
 Department of Banking and Financial Institutions)

SAVINGS AND LOAN ACCOUNT INSURANCE

AN ACT to create and enact a new section to chapter 7-02 of the North Dakota Century Code, relating to savings and loan association account insurance; to amend and reenact section 7-01-07 of the North Dakota Century Code, relating to insurance requirement and certificates of authority of state savings and loan associations; and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 7-01-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-01-07. CERTIFICATE OF STATE BANKING BOARD REQUIRED - EXAMINATION BY BOARD - REVIEW BY COURT - FEDERAL SAVINGS AND LOAN INSURANCE REQUIRED.) Whenever the articles of incorporation of a proposed association are in due form and regularly executed and the bylaws have been approved as required by this chapter, the state banking board shall ascertain the responsibility, character, and general fitness of the incorporators, and whether or not there is a reasonable need for the existence of such an association, and whether or not the public convenience and advantage will be promoted thereby. ~~Prior to the investigation by such board, the applicants shall pay to the board such sum as the board may designate not exceeding five hundred dollars to defray the cost of investigation and other costs of the board thereto.~~ If the banking board shall not be satisfied with the result of its investigation, within sixty days after said articles of incorporation and bylaws have been presented to it, it shall endorse upon each copy of the articles of incorporation the word "refused", with the date of such endorsement and the reason for such refusal, and shall return forthwith one copy of such articles of incorporation to the proposed incorporators from whom the same was received, and such refusal shall be conclusive unless the incorporators, within thirty days after the issuance of such notice of refusal, shall apply to the district court of Burleigh County, North Dakota, for a writ of mandamus to compel the filing of such articles of incorporation and granting of a

certificate to do business. A savings and loan association shall, after July 1, 1979, secure federal savings and loan insurance corporation insurance of accounts before it is authorized to commence business. Evidence of securing such insurance must be furnished to the commissioner before the certificate of authority may be delivered to the savings and loan association.

SECTION 2.) A new section to chapter 7-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

OPERATION WITHOUT FEDERAL SAVINGS AND LOAN ACCOUNT INSURANCE PROHIBITED - LIABILITY - PENALTY.) No state savings and loan association shall, after December 31, 1979, engage in the savings and loan business without securing and continuing in force federal savings and loan insurance corporation insurance of accounts. Any officer or director of any state savings and loan association who violates this section is guilty of a class A misdemeanor and shall be personally liable to any person aggrieved for any damages caused by the violation.

Approved March 12, 1979

CHAPTER 147

SENATE BILL NO. 2415
(Melland)

INSTALLMENT LOAN CHARGES

AN ACT to amend and reenact sections 7-02-04 and 13-04-01 of the North Dakota Century Code, relating to charges on installment savings and loan association and bank loans.

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

SECTION 1. AMENDMENT.) Section 7-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-02-04. INTEREST, DUES, ASSESSMENTS LIMITED - USURY.) ~~Interest Except as provided by this section, interest collected by such associations in--no-event-shall~~ may not exceed twelve percent per annum on the amount of the loan. An association may charge interest not to exceed one and one-fourth percent simple interest per month upon the unpaid balance of a loan not secured by real estate. Interest not exceeding one percent per month also may be charged on delinquent payments or installments from the time such delinquent payments or installments are due. No association shall charge or collect from any shareholder, member, or borrower any fines, premiums, or penalties of any kind whatsoever except as herein provided for delinquent payments or installments. Such dues, interest, or advancements collected from members or others, within the limits of this section, shall not be deemed usury although in excess of the legal rate of interest.

SECTION 2. AMENDMENT.) Section 13-04-01 of the 1977 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 twenty-five thousand dollars repayable in installments, may make a charge for such loan computed at a rate not exceeding ~~twelve~~ one and one-fourth percent simple interest per ~~annum~~ month upon the unpaid balance of the loan from the date

thereof until ~~the~~ paid. The stated maturity date of the final installment ~~thereof,--which~~ shall not exceed fifteen 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 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 28, 1979

CHAPTER 148

HOUSE BILL NO. 1426
(Kloubec, Rued)

SAVINGS AND LOAN AUTHORITY

AN ACT to amend and reenact section 7-02-14 of the North Dakota Century Code, relating to extending powers granted federally chartered savings and loan associations to state-chartered savings and loan associations.

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

SECTION 1. AMENDMENT.) Section 7-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7-02-14. POWERS GRANTED FEDERALLY CHARTERED SAVINGS AND LOAN ASSOCIATIONS EXTENDED TO STATE-CHARTERED ASSOCIATIONS.) Any provision of law to the contrary notwithstanding, any state-chartered savings and loan association having insurance of accounts with the federal savings and loan insurance corporation may, in addition to any loan ~~or~~ investment, or account now permitted, make any loan ~~or~~ investment, or account which such association could make or offer were it incorporated and operating as a federal savings and loan association with its domicile in this state. To the extent that the additional loans ~~or~~ investments, or accounts, hereby authorized, are an enlargement of powers already granted by law, then such additional loans and investments, and accounts shall be made on the same terms and conditions and subject to the same limitations as are now permitted or as may hereafter be permitted in case of federally chartered savings and loan associations under presently existing, or later adopted regulations of the Federal Home Loan Bank Board and the rules and regulations for the federal savings and loan system, or otherwise.

Approved March 8, 1979

CARRIAGE

CHAPTER 149

SENATE BILL NO. 2333
(Solberg)

COMMON CARRIER ACTION LIMITATION

AN ACT to create and enact a new section to chapter 8-08 of the North Dakota Century Code, relating to a limitation on actions by common carriers.

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

SECTION 1.) A new section to chapter 8-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

LIMITATION ON ACTIONS BY COMMON CARRIERS.) A common carrier providing transportation subject to the jurisdiction of the public service commission must begin a civil action to recover charges for transportation provided by the carrier within three years after the claim accrues.

Approved March 12, 1979

CONTRACTS AND OBLIGATIONS

CHAPTER 150

HOUSE BILL NO. 1510
(Lipsiea)

REAL ESTATE TITLE CLOUD EXTINCTION

AN ACT to create and enact two new sections to chapter 9-12 of the North Dakota Century Code, relating to discharging liens, encumbrances, and clouds affecting or related to the title to real property, where the only obligation concerns the payment of a sum certain to a specific, unlocated creditor.

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

SECTION 1.) A new section to chapter 9-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEPOSIT IN SPECIAL FUND TO EXTINGUISH LIEN, ENCUMBRANCE, OR CLOUD AFFECTING OR RELATING TO THE TITLE TO REAL PROPERTY.) Any lien, encumbrance, or cloud affecting or related to the title to real property, where the only obligation concerns the payment of a sum certain in money to a specified creditor where the creditor, or the creditor's heirs, successors, or assigns cannot be located, may be extinguished as provided by this Act. The debtor shall deposit with the county treasurer the debtor's affidavit to the effect that the debtor has made a careful, diligent, and good faith search for the creditor and the creditor cannot be found. The debtor shall also deposit with the county treasurer the full amount of the debt, including all interest accumulated to the date of the deposit. The affidavit together with notice of the deposit, specifying the amount of the deposit, specifying that the purpose of the deposit is to discharge the lien, encumbrance, or cloud, and specifically describing the real property, shall be published at the expense of the debtor once a week for three successive weeks in the official county newspaper in all counties in which the real property is situated.

SECTION 2.) A new section to chapter 9-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

CLAIM OF MONEY BY CREDITOR - EXTINGUISHMENT OF LIEN.) The creditor is entitled to claim the amount of money from the county treasurer within nine months of the date of deposit upon a showing

to the county treasurer of a satisfaction of the lien, encumbrance, or cloud which includes an indication by the register of deeds that the satisfaction has been duly recorded. If the creditor does not claim the money in nine months from the date of first publication of the notice, the money, a copy of the debtor's affidavit, and a copy of the published notice shall be forwarded by the county treasurer to the state land commissioner for deposit to the credit of the state of North Dakota for the use and benefit of the common schools trust fund of the state. At the same time these items are forwarded to the state land commissioner, the county treasurer shall record in the office of the register of deeds a notice to the effect that the lien, encumbrance, or cloud affecting or related to the title to the real property, giving the specific legal description of the property, has been discharged by the procedures set out in this Act. The debtor shall pay the register of deeds' fees for recording the county treasurer's notice.

At any time after the original nine-month period, the creditor, or the creditor's heirs, successors, or assigns, may claim the full amount of the original deposit without any interest or penalty from the state collector of abandoned and unclaimed property in the manner specified in chapter 47-30 for claiming the proceeds of other abandoned and unclaimed property.

Approved March 15, 1979

CORPORATIONS

CHAPTER 151

HOUSE BILL NO. 1251
 (Committee on Industry, Business and Labor)
 (At the request of the Securities Commissioner)

SECURITIES ACT AMENDMENTS

AN ACT to amend and reenact subsection 4 of section 10-04-03 of the North Dakota Century Code, relating to the collection of fees under the Securities Act, to amend and reenact subsection 6 of section 10-04-05 of the North Dakota Century Code, relating to the exemption from registration of certain blue chip securities with proven records, to amend and reenact section 10-04-08 of the North Dakota Century Code, relating to the registration of securities by qualification and to the fees charged for such registration, to amend and reenact subsection 6 of section 10-04-10 of the North Dakota Century Code, relating to the fees charged for registration of dealers, salesmen, and investment advisers under the Securities Act, to amend and reenact section 10-04-14 of the North Dakota Century Code, relating to service of process under the Securities Act, and to amend and reenact section 10-04-18 of the North Dakota Century Code, relating to the penalty for violations of the Securities Act.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 10-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. All fees collected under this chapter shall be turned into in to the general fund of the state treasury.

SECTION 2. AMENDMENT.) Subsection 6 of section 10-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. ~~Securities--fully--listed,--or--regularly--approved--for--full--listing--upon--the--issuance--thereof,--upon--the--New--York--stock--exchange,--the--midwest--stock--exchange,--the--American--stock--exchange,--or--any--other--stock--exchange--approved--by--the--commissioner--as--hereinafter--provided,--and--all--securities--senior--or--equal--in--rank--to--any--securities--so--listed--or~~

approved,---or---represented---by---subscription---rights---or
warrants---which---have---been---so---listed---or---approved,---or
warrants---or---rights---to---purchase---or---subscribe---to---any---of---the
foregoing.---The---commissioner---may---by---written---order---approve
any---stock---exchange---in---addition---to---those---specified---in---this
subsection---and---any---securities---quoted---on---a---national
quotation---service---or---listed---on---a---federal---reserve---board
regulation---"F"---list---if---he---finds---that---it---would---be---in---the
public---interest---for---securities---listed---on---such---exchange---or
quoted---on---such---national---quotation---service---or---listed---on---a
federal---reserve---board---regulation---"F"---list---to---be---exempt
under---this---subsection.---The---commissioner---shall---have---power
at---any---time---by---written---order---to---withdraw---the---approval
heretofore---so---granted. Securities issued by an issuer
which meets all of the following conditions:

- a. If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of such agent in its prospectus.
- b. A class of the issuer's securities is required to be and is registered under section 12 of the Securities Exchange Act of 1934 [Pub. L. 73-290; 48 Stat. 881; 15 U.S.C. 78a et seq.] and has been so registered for the three years immediately preceding the offering date.
- c. Neither the issuer nor a significant subsidiary has had a material default during the lesser of the last seven years or the issuer's existence in the payment of (1) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money, or (2) rentals under leases with terms of three years or more. A "material default" is a failure to pay, the effect of which is to cause indebtedness to become due prior to its stated maturity or to cause termination or reentry under a lease prior to its stated expiration, if the indebtedness or the rental obligation for the unexpired term exceeds five percent of the issuer's (and its consolidated subsidiaries') total assets, or if the arrearage in required dividend payments on preferred stock is not cured within thirty days.
- d. The issuer has had annual consolidated net income (before extraordinary items and the cumulative effect of accounting changes) as follows: (1) at least one million dollars in four of its last five fiscal years including its last fiscal year, and (2) if the offering is of interest-bearing securities, at least one and a half times its annual interest expense, calculating net income before deduction for income taxes and depreciation and giving effect to the

proposed offering and the intended use of the proceeds, for its last fiscal year. "Last fiscal year" means the most recent year for which audited financial statements are available, provided that such statements cover a fiscal period ended not more than fifteen months from the commencement of the offering.

- e. If the offering is of stock or shares (other than preferred stock or shares), and except as otherwise required by law, the securities have voting rights at least equal to the securities of each of the issuer's outstanding classes of stock or shares (other than preferred stock or shares), with respect to (1) the number of votes per share, and (2) the right to vote on the same general corporate decisions.
- f. If the offering is of stock or shares (other than preferred stock or shares), the securities are owned beneficially or of record, on any date within six months prior to the commencement of the offering, by at least one thousand two hundred persons, and on that date there are at least seven hundred fifty thousand of the shares outstanding with an aggregate market value, based on the average bid price, of at least three million seven hundred fifty thousand dollars. In determining the number of persons who are beneficial owners of the stock or shares, the issuer or a broker-dealer may rely in good faith upon written information furnished by record owners.
- g. Provided that, if the securities to be issued are listed, or approved for listing upon notice of issuance, on the New York stock exchange, inc., or the American stock exchange, inc., and the current original listing standards of that exchange are satisfied as of the end of the issuer's most recent fiscal year, the conditions of subdivision c need be met for only five years and the annual net earnings requirement of paragraph 1 of subdivision d shall be two hundred fifty thousand dollars.
- h. And provided further that, if the issuer of the securities is a finance company with liquid assets of at least one hundred five percent of its liabilities (other than deferred income taxes, deferred investment tax credits, capital stock, and surplus) at the end of each of its last five fiscal years, the net income requirement of paragraph 2 of subdivision d, but before deduction for interest expense, shall be one and a quarter times its annual interest expense. "Finance company" means a company engaged primarily in the business of wholesale, retail, installment, mortgage, commercial, industrial, or consumer financing, banking, or factoring. "Liquid assets"

means cash, receivables payable on demand or not more than twelve years following the close of the company's last fiscal year, and readily marketable securities, in each case less applicable reserves and unearned income.

SECTION 3. AMENDMENT.) Section 10-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-08. REGISTRATION BY QUALIFICATION.) Securities required to be registered by qualification under this chapter before they may be sold in this state shall be registered as provided in this section. Application for registration of securities by qualification shall be made by the issuer of the securities or by a registered dealer by filing in the office of the commissioner:

1. An application for registration which shall be made in writing or on forms prescribed by the commissioner and which shall contain the following information and be accompanied by the following documents:
 - a. With respect to the applicant or issuer and any significant subsidiary: its name, address, and form of organization; the state of foreign jurisdiction and date of its organization; the general character and location of its business; a general description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged.
 - b. With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within thirty days of the filing of the application for registration; the amount of the securities covered by the ~~registration~~ statement application for registration to which he has indicated his intention to subscribe; and a description of any material interest in any transaction with the issuer or any subsidiary effected within the past three years or proposed to be effected.
 - c. With respect to persons covered by subdivision 6 b: the remuneration paid during the past twelve months and estimated to be paid during the next twelve months, directly or indirectly, by the issuer to all those persons in the aggregate.
 - d. With respect to any person owning of record, or beneficially if known, ten percent or more of the outstanding shares of any class of equity security of

the issuer: the information specified in subdivision 6 b other than his occupation.

- e. With respect to every promoter if the issuer was organized within the past three years: the information specified in subdivision 6 b, any amount paid to him within that period or intended to be paid to him, and the consideration for any such payment.
- f. With respect to any person on whose behalf any part of the offering is to be made in a non-issuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the application for registration; a description of any material interest in any transaction with the issuer or any subsidiary effected within the past three years or proposed to be effected; and a statement of his reasons for making the offering.
- g. The title, kind, classes, and amount of securities to be offered in this state; the proposed offering price to the public or the method by which it is to be computed; any variation therefrom at which any proportion of the offering is to be made to any person or class of persons other than the underwriters, with a specification of any such person or class; the basis upon which the offering is to be made if otherwise than for cash; the maximum amount of commission or other form of remuneration to be paid in cash or otherwise, directly or indirectly, for or in connection with the sale or offering for sale of such securities; the estimated aggregate underwriting and selling discounts or commissions and finders' fees, including separately cash, securities, contracts, or anything else of value to accrue to the underwriters or finders in connection with the offering, or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges and a statement as to what person or corporation shall be responsible for payment of the same; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter.
- h. The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the

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

- i. A description of each and every stock option or other security option outstanding, or to be created in connection with the offering, including the price at which such options may be exercised together with the amount of any such options held or to be held by every person.
- j. The capitalization and long-term debt of the issuer and any subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities.
- k. The dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the application for registration or was made within the past two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which affects its business or assets.
- l. A detailed statement showing the items of cash, property, services, patents, goodwill, and any other consideration for which any securities of the issuer have been within two years or are to be issued in payment.
- m. A copy of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date to be used in connection with the offering.
- n. A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, as currently in effect; and a copy of any

- indenture or other instrument covering the security to be registered.
- o. A balance sheet of the issuer as of a date within four months prior to the filing of the ~~registration statement~~ application for registration; a profit and loss statement and analysis of surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and any predecessors' existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of any business, the same financial statements which would be required if the business were the registrant.
 - p. Other states in which it is proposed to offer the securities for sale to the public; other states in which the securities are eligible for sale to the public; states which have refused, by order or otherwise, to render the securities eligible for sale to the public or have revoked or suspended the right to sell the securities, or in which an application for ~~qualification~~ registration has been withdrawn; and, if application has been made to register the securities under the Federal Securities Act of 1933, the date upon which the application to register the securities was first filed, and a statement as to whether registration under that Act is effective, and if so, the effective date.
 - q. Such additional information as the commissioner requires by rule or order or may subsequently request.
2. a. Payment of ~~a--filing--fee--of--fifteen--dollars--per application--and--a--registration--fee~~ a registration fee for each security or class of security to be registered as follows:
- (1) One-tenth of one percent of the first seven hundred fifty thousand dollars of the aggregate offering price of each security or class of security to be registered.
 - (2) One-twentieth of one percent ~~on~~ of any amount in excess of seven hundred fifty thousand dollars of the aggregate offering price of each security or class of security to be registered.
 - (3) In no event shall such registration fee be less than ~~fifty~~ seventy-five dollars for each security or class of security to be registered. If the application for registration is denied, such

registration fee less the actual cost to the state of processing and investigating as determined by the commissioner shall be returned to the applicant.

- (4) Provided, further, that any applicant may register additional securities under this subdivision before the expiration of one year from the date of the registration certificate at the same reduced fee, which shall be computed as provided in paragraphs 1 and 2 as a separate fee for each additional amount registered, as if the additional securities had been included in the other registration of that year, registration year and not calendar year.
- (5) For the renewal of the registration of securities for additional periods of one year there shall be paid a renewal fee of seventy-five dollars.

- b. (1) Open-end--management--companies,--mutual--funds, investment--trusts,--unit--investment--trusts, contract--plans,--and--face--amount--certificates will pay a filing fee of fifteen dollars and a registration fee computed as follows:--One-tenth of one percent of the--first--two--hundred--fifty thousand--dollars--of--dollar--value,--at--offering prices,--or--maturity--value---of---face---amount certificates,--plus--one-twentieth-of-one-percent of the next--five--hundred--thousand--dollars--of dollar value,--at--offering--price--or--maturity--value of--face--amount--certificates,--plus--one--fortieth--of one--percent--of--the--remaining--dollar--value--at offering--price--or--maturity--value--of--face--amount certificates. Each open-end management company, unit investment trust, and face amount certificate company, as defined in the Investment Company Act of 1940 [Pub. L. 76-768; 54 Stat. 789; 15 U.S.C. 80a-1 et seq.] may register an indefinite number or amount of securities by including on the facing sheet of its registration statement a declaration that an indefinite number or amount of securities is being registered by such registration statement.
- (2) Provided,--also--that--on--application--to--register more than two hundred fifty thousand dollars,--the commissioner--may--prescribe--a--maximum--amount--of securities--to--be--registered--at--any--time--by--any such--issuer--described--in--paragraph--(1). Provided,--further,--that--any--applicant--wishing--to register--additional--securities--under--this--same paragraph--before--the--expiration--of--one--year--from the--date--of--the--registration--certificate--may--do

~~so at the same reduced fee as if the additional shares had been included in the other registration of that year, registration year and net calendar year. At the time a declaration is filed there shall be paid a registration fee of two hundred fifty dollars.~~

- (3) Provided, further, that those issuers of several classes of such securities may not combine the registration of several classes ~~for the purpose of benefiting from the graduated scale of fees.~~
- (4) Each open-end management company, unit investment trust, and face amount certificate company, as defined in the Investment Company Act of 1940 [Pub. L. 76-768; 54 Stat. 789; 15 U.S.C. 80a-1 et seq.] having an effective registration statement relating to an indefinite number or amount of securities shall, within sixty days after the end of any fiscal year and after the registration is terminated, file a report of the amount of securities sold in this state during the fiscal year and shall pay a filing fee of one hundred dollars. Failure to file the report and fee shall be cause for the issuance of a stop order.
3. If the applicant is not domiciled in this state and is not a corporation organized or authorized to transact business under the laws of this state, a consent to service of process conforming to the requirements of section 10-04-14.
4. The commissioner may by rule or order require as a part of the application for registration under this section that a prospectus containing any designated part of the information specified in subsection 1 be submitted to the commissioner and the same prospectus shall be sent or given to each person to whom a sale or an offer of sale to sell is made. The commissioner may by rule or otherwise permit the omission of any item of information or document from any application for registration. In all cases in which an application is filed to register securities and a registration statement covering the same securities has been filed with the Federal Securities and Exchange Commission, a copy of the registration statement so filed shall be accepted by the commissioner in lieu of the information specified in subdivisions a- through g- of subsection 1, except that it shall be accompanied by a statement of the amount of such securities to be offered in this state. All of the statements, exhibits, or documents of every kind required under this section shall be certified by the applicant or the issuer or any person having knowledge of the facts. An applicant may, with the consent of the commissioner, amend or withdraw an

application and any or all statements, exhibits, or documents filed therewith under this section at any time prior to the registration or prior to any offering and sale of the securities sought to be registered or the entry of an order denying the registration of such securities, but in no event shall the registration fee be returned.

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

Registration under this section shall be effective for a period of one year and ~~may be renewed for additional periods of one year by filing by a date not later than fifteen days prior to the expiration of a registration, a balance sheet and a profit and loss statement of the issuer as of a date not more than ninety days prior to the date of filing, together with the payment of a renewal fee of fifty dollars, and upon providing the commissioner with any additional information which he may request,~~ except that the effectiveness of a registration for an indefinite number or amount of securities under paragraph 1 of subdivision b shall continue until terminated by either the commissioner or the issuer by filing within one hundred twenty days of the end of its fiscal year, an updated prospectus, a balance sheet, and a statement of income of the issuer.

SECTION 4. AMENDMENT.) Subsection 6 of section 10-04-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Fees. The fee, which must accompany the application, for registration and for each annual renewal thereof shall be:
- a. For each dealer employing ~~five~~ fifteen or less fewer salesmen in this state ----- \$ ~~75.00~~ 100.00
 - b. For each dealer employing more than ~~five, but not more than fifteen,~~ salesmen in this state ----- \$ ~~100.00~~ 175.00
 - c. ~~For each dealer employing more than fifteen, but not more than thirty, salesmen in this state ----- \$150.00~~
For each salesman

General examination -----	\$ 10.00
State law examination -----	\$ 5.00
Registration fee -----	\$ 15.00
Renewal fee -----	\$ 10.00

d. For each dealer employing more than thirty salesmen in this state-----	\$200.00
<u>For each investment adviser</u>	
General examination -----	\$ 10.00
State law examination -----	\$ 5.00
Registration fee -----	\$ 50.00
e.---For each salesman	
Uniform examination-----	\$-10.00
State-law-examination-----	\$--5.00
Registration-fee-----	\$-12.50
Renewal-fee-----	\$--7.50
f.---For each investment adviser	
General examination-----	\$-10.00
State-law-examination-----	\$--5.00
Registration-fee-----	\$-50.00

An application to register as a dealer, salesman, or investment adviser may, with the consent of the commissioner, be withdrawn upon written application, but in no event shall any registration fees be returned.

SECTION 5. AMENDMENT.) Section 10-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-14. CONSENT--TO--SERVICE SERVICE OF PROCESS.) Where a consent to service of process is required under this chapter, such consent to service of process shall be in the form prescribed by the commissioner, shall be irrevocable, and shall provide that actions arising out of or founded upon the sale of any securities in violation of this chapter may be commenced against the person executing such consent in any court of competent jurisdiction and proper venue within this state by the service of process or pleadings upon the commissioner. Service of any such process or pleadings in any such action against a person who has filed a consent to service with the commissioner shall, if made on the commissioner, be by duplicate copies, one of which shall be filed in the office of the commissioner and the other immediately forwarded by the commissioner by registered or certified mail to the person against whom such process or pleadings are directed at his latest address on file in the office of the commissioner.

1. Every applicant for registration under this chapter and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common-law sense shall file with the commissioner, in such form as he prescribes, an irrevocable consent appointing the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor, or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity

as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the commissioner, but it is not effective unless the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last address on file with the commissioner, and the plaintiff's affidavit of compliance with this subsection 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. When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by this chapter or any rule or order hereunder, and he has not filed a consent to service of process under subsection 1 and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct shall be considered equivalent to his appointment of the commissioner or his successor in office to be his attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against him or his successor, executor, or administrator which grows out of that conduct and which is brought under this chapter or any rule or order hereunder, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the commissioner, and it is not effective unless the plaintiff, who may be the commissioner in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and the plaintiff's affidavit of compliance with this subsection 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.
3. When process is served under this section, the court, or the commissioner in a proceeding before him, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

SECTION 6. AMENDMENT.) Section 10-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-04-18. PENALTIES.) Any person who willfully violates any provision of this chapter or any rule or order of the commissioner made pursuant to the provisions of this chapter, or who engages in any act, practice, or transaction declared by any provision of this chapter to be unlawful shall be guilty of a class E B felony.

Approved March 8, 1979

CHAPTER 152

HOUSE BILL NO. 1473
(Representatives Kretschmar, Opedahl, Riehl)
(Senators Rait, Reiten)

UNCLAIMED DISTRIBUTIONS OF COOPERATIVES

AN ACT to create and enact a new section to chapter 10-15 of the North Dakota Century Code, relating to unclaimed distributions, redemptions, or payments of domestic cooperatives.

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

SECTION 1.) A new section to chapter 10-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

UNCLAIMED DISTRIBUTIONS, REDEMPTIONS, OR PAYMENTS.)

1. Any distribution of proceeds or redemption of, or payment based upon, any security by a domestic cooperative, excluding all credit unions, which remains unclaimed six years after the date authorized for retirement or payment in cash or other property, may be forfeited by the board. Any amount forfeited shall revert to the domestic cooperative, as contributed capital, if, at least six months prior to the declared date of forfeiture, notice that such payment is available has been mailed to the last known address of the person shown by the records to be entitled thereto, or if the address is unknown, notice is published under section 10-15-23.
2. This section applies to all such payments authorized before or after the effective date of this section.

Approved March 15, 1979

CHAPTER 153

HOUSE BILL NO. 1394
(Boyum)

DEPOSIT OF SECURITIES IN CENTRAL DEPOSITORY

AN ACT to create and enact a new subsection to section 41-08-36, and a new section to chapter 10-18.1 of the North Dakota Century Code, relating to the holding and transferring of securities deposited with clearing corporations.

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

SECTION 1.) A new subsection to section 41-08-36 of the North Dakota Century Code is hereby created and enacted to read as follows:

Under this section a clearing corporation shall, upon written request, furnish to any issuer within a reasonable time a list disclosing the names of all persons who have securities of the issuer in their account with a depository and including a statement of the principal amount or number of units of each such security of the issuer on deposit. The clearing corporation may charge the issuer a fee for such written list provided, however, that the fee shall bear a reasonable relation to the cost of furnishing such list.

SECTION 2.) A new section to chapter 10-18.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEPOSIT OF SECURITIES IN CENTRAL DEPOSITORY.) Notwithstanding any other provision of law, any fiduciary, as defined in section 10-18.1-01, holding securities in its fiduciary capacity, any bank or trust company holding securities as a custodian or managing agent, and any bank or trust company holding securities as custodian for a fiduciary is authorized to deposit or arrange for the deposit of such securities in a clearing corporation, as defined in section 41-08-02. When such securities are so deposited, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other such securities deposited in such

clearing corporation by any person regardless of the ownership of such securities, and certificates of small denomination may be merged into one or more certificates of larger denomination. The records of such fiduciary and the records of such bank or trust company acting as custodian, as managing agent or as custodian for a fiduciary shall at all times show the name of the party for whose account the securities are so deposited. Title to such securities may be transferred by bookkeeping entry on the books of such clearing corporation without physical delivery of certificates representing such securities. A bank or trust company so depositing securities pursuant to this section shall be subject to such rules and regulations as, in the case of state chartered institutions, the state banking board and, in the case of national banking associations, the comptroller of the currency may from time to time issue. A bank or trust company acting as custodian for a fiduciary shall, on demand by the fiduciary, certify in writing to the fiduciary the securities so deposited by such bank or trust company in such clearing corporation for the account of such fiduciary. A fiduciary shall, on demand by any party to a judicial proceeding for the settlement of such fiduciary's account or on demand by the attorney for such party, certify in writing to such party the securities deposited by such fiduciary in such clearing corporation for its account as such fiduciary.

This section shall apply to any fiduciary holding securities in its fiduciary capacity, and to any bank or trust company holding securities as a custodian, managing agent or custodian for a fiduciary, acting on the effective date of this section or who thereafter may act regardless of the date of the agreement, instrument or court order by which it is appointed and regardless of whether or not such fiduciary, custodian, managing agent or custodian for a fiduciary owns capital stock of such clearing corporation.

Approved March 8, 1979

CHAPTER 154

SENATE BILL NO. 2331
(Melland)

NONPROFIT CORPORATION TRUST POWERS

AN ACT to create and enact two new subsections to section 10-24-05 of the North Dakota Century Code, relating to the general powers of a nonprofit corporation, and providing that a nonprofit corporation shall have power to act as a trustee of a trust and be a remainderman beneficiary of a trust for which it acts as a trustee.

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

SECTION 1.) Two new subsections to section 10-24-05 of the North Dakota Century Code are hereby created and enacted to read as follows:

To act as a trustee of a trust.

To be a remainderman beneficiary of a trust for which the corporation acts as a trustee.

Approved March 10, 1979

CHAPTER 155

SENATE BILL NO. 2422
(Nething, Melland)

LOANS TO A STATE DEVELOPMENT
CORPORATION

AN ACT to amend and reenact section 10-30-02 of the North Dakota Century Code, relating to purposes of a state development corporation.

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

SECTION 1. AMENDMENT.) Section 10-30-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-30-02. PURPOSES.) The purpose of the corporation is to assist, encourage, and through the cooperative efforts of the institutions and corporations which from time to time become members thereof, develop and advance the business prosperity and economic welfare of this state; to encourage and assist in the location of new business and industry in this state and to rehabilitate existing business and industry; to stimulate and assist in the expansion of all kinds of business activity which will tend to promote the business development and maintain the economic stability of this state, and provide maximum opportunities for employment; to cooperate and act in conjunction with other organizations, public or private, the objects of which are the promotion and advancement of industrial, commercial, agricultural, and recreational developments in this state; and to furnish money and credit to approved and deserving applicants for the promotion, development, and conduct of all kinds of business activity in this state, thereby establishing a source of credit not otherwise readily available therefor. In furtherance of these purposes, the Bank of North Dakota is authorized to make loans to the corporation.

Approved March 15, 1979

COUNTIES

CHAPTER 156

HOUSE BILL NO. 1167
(Kretschmar)

COUNTY REDISTRICTING REQUIREMENT

AN ACT to amend and reenact sections 11-07-02, 11-07-03, and 11-07-05 of the North Dakota Century Code, relating to when county districts are changed, the method of county redistricting, and the first redistricting under the chapter, and providing for redistricting during a census interim, for contiguous districts following township lines where practicable, for filing by April first in an even-numbered year to be effective for that year's elections, and for redistricting at least each ten years.

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

SECTION 1. AMENDMENT.) Section 11-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-07-02. WHEN DISTRICTS MUST BE CHANGED - ADDITIONAL MEETING - PUBLIC HEARING - NOTICE.) Each redistricting board shall, within three months after official publication of each federal decennial census, meet at the call of the chairman to organize as provided in this chapter and to consider redistricting. A redistricting board may additionally meet during a census interim if a resolution calling for a meeting is passed by the board of county commissioners or a petition calling for a meeting signed by ten percent of the number of county electors voting for governor in the last gubernatorial election is presented to the board of county commissioners. If any one district in the county varies more than ten percent from the average population per commissioner in such county determined by dividing the total population of the county at the last federal decennial census by the number of commissioners' districts in such county, or if county commissioners are elected at large, the redistricting board shall redistrict the county, as provided in this chapter. If redistricting of a county is required, the chairman of the redistricting board shall, within thirty days after the date of the above meeting, call a meeting for the purpose of conducting a public hearing to review alternative plans for such redistricting. Notice of such meeting shall be published or caused

to be published by the chairman in the official county newspaper at least ten days prior to the date of such hearing.

SECTION 2. AMENDMENT.) Section 11-07-03 of 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 contiguous following township lines where practicable, 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 by April first of an even-numbered year to be effective for that year's elections. 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 3. AMENDMENT.) Section 11-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-07-05. FIRST REDISTRICTING UNDER CHAPTER.) The first redistricting of county commissioners' districts under this chapter shall be completed as required in this chapter no later than December 31, 1971, and at least each ten years thereafter. Failure of any redistricting board to complete such redistricting plan and file it with the county auditor, as required by this chapter, shall result in all county commissioners' districts being abolished at such date, and all county commissioners holding office shall be elected at large at the next general election, as provided in this chapter, and shall continue to be elected at large at succeeding elections until a proper redistricting plan is so filed.

Approved March 3, 1979

CHAPTER 157

HOUSE BILL NO. 1318
 (Representative Conmy)
 (Senator Sands)

SALARIES OF COUNTY OFFICERS

AN ACT to amend and reenact subsections 2 and 5 of section 11-10-10 of the North Dakota Century Code, relating to the salaries of county officers.

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

* SECTION 1. AMENDMENT.) Subsections 2 and 5 of section 11-10-10 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The county treasurer, county superintendent of schools, register of deeds, county judge, county auditor, clerk of district court, sheriff, and state's attorney each shall receive the following annual salary, payable monthly, for official services rendered:
 - a. ~~In--counties--having--a--population--not--exceeding--four thousand--the--sum--of--nine--thousand--six--hundred--sixty dollars--~~
 - b. ~~Ten--thousand--six--hundred~~ Eleven thousand nine hundred dollars in counties having a population ~~exceeding--four thousand--but~~ with less than eight thousand.
 - e- b. ~~Ten--thousand--nine--hundred--ninety~~ Twelve thousand two hundred ninety dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, 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.

* NOTE: Subsection 2 of section 11-10-10 was also amended by section 1 of House Bill No. 1669, chapter 158.

- d. c. State's attorneys in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney shall be full time and shall not be an attorney or counsel for any party except the state or county, shall receive a salary of ~~eighteen-thousand-one-hundred-to-twenty-six thousand~~ twenty thousand to twenty-seven thousand nine hundred dollars, to be determined by resolution of the board of county commissioners.
5. Each county commissioner may receive an annual salary or per diem as provided by resolution of the board, which salary or per diem shall not exceed the following limits: In counties having a population of eight thousand or less, ~~three--thousand--six--hundred--thirty~~ four thousand one hundred thirty dollars; in counties having a population of over eight thousand and less than fifteen thousand, ~~four thousand three--hundred--forty--five~~ four thousand eight hundred forty-five dollars; and in counties having a population of over fifteen thousand, ~~five--thousand--two hundred--eighty~~ five thousand seven hundred eighty dollars. For the purpose of fixing the maximums herein provided, population figures shall be those established by the most recent federal census. In addition, there shall be an allowance for meals and lodging expenses 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.

Approved March 3, 1979

CHAPTER 158

HOUSE BILL NO. 1669
(Martinson)

SALARIES OF COUNTY OFFICERS AND SHERIFFS

AN ACT to amend and reenact subsection 2 of section 11-10-10 of the North Dakota Century Code, relating to the salaries of county officers, and to create and enact subsection 6 of section 11-10-10 of the North Dakota Century Code, relating to the salaries of sheriffs.

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 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The county treasurer, county superintendent of schools, register of deeds, county judge, county auditor, clerk of district court, ~~sheriff~~, and state's attorney each shall receive the following annual salary, payable monthly, for official services rendered:

~~a. In counties having a population not exceeding four thousand, the sum of nine thousand six hundred sixty dollars.~~

b. a. Ten Eleven thousand ~~six~~ nine hundred dollars in counties having a population ~~exceeding four thousand~~ but with of less than eight thousand.

b. Ten Twelve thousand ~~nine~~ two hundred ninety dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, 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.

* NOTE: Subsection 2 of section 11-10-10 was also amended by section 1 of House Bill No. 1318, chapter 157.

- d- c. State's attorneys in counties having a population exceeding thirty-five thousand, or in other counties where the board of county commissioners has determined by resolution that the state's attorney shall be full-time and shall not be an attorney or counsel for any party except the state or county, shall receive a salary of ~~eighteen twenty thousand one-hundred~~ to ~~twenty-six~~ twenty-seven thousand nine hundred dollars, to be determined by resolution of the board of county commissioners.

SECTION 2.) Subsection 6 to section 11-10-10 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

6. Sheriffs shall receive the following annual salary, payable monthly, for official services rendered:
- a. Thirteen thousand dollars in counties having a population with less than eight thousand.
 - b. Fourteen thousand dollars in counties having a population exceeding eight thousand plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof over eight thousand. However, 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.

Approved March 26, 1979

CHAPTER 159

SENATE BILL NO. 2414
(Albers)

GROUP BENEFITS FOR COUNTY OFFICERS

AN ACT to amend and reenact subsection 4 of section 11-10-10 of the North Dakota Century Code, relating to the salaries of county officers.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 11-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. 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 thirty 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. The salary of a county official shall not be reduced during his or her term of office. Any county official performing duties on less than a full-time basis may be paid a reduced salary set by the board of county commissioners. In the event the county has for its employees, a group insurance program ~~for its employees~~ for hospital benefits, medical benefits, or life insurance, or a group retirement program, financed in part or entirely by the county, such benefits may be in addition to the salaries payable to county officials.

Approved March 8, 1979

CHAPTER 160

HOUSE BILL NO. 1345
(Gunsch)MILEAGE REIMBURSEMENT FOR
COUNTY OFFICIALS

AN ACT to amend and reenact section 11-10-15 of the North Dakota Century Code, relating to mileage reimbursement for county officials.

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

SECTION 1. AMENDMENT.) Section 11-10-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-10-15. MILEAGE OF OFFICIALS.) Unless otherwise provided by the laws of this state, every county official, whether elective or appointive, and every deputy of a county official, entitled by law to travel or mileage expense, shall be allowed or paid ~~only the following amounts~~ the same amounts allowed state officers and employees under section 54-06-09 for each mile actually and necessarily traveled in the performance of official duties:

~~1. Fifteen cents per mile when such travel is by motor vehicle.~~

~~2. When such travel is by rail or other common carrier, the amount actually and necessarily expended therefor.~~

Approved March 3, 1979

CHAPTER 161

HOUSE BILL NO. 1476
(Gackle)

COUNTY DIRECTORS OF TAX EQUALIZATION

AN ACT to amend and reenact subsection 2 of section 11-10.1-05 of the North Dakota Century Code, providing that the county director of tax equalization succeed city assessors only in cities with populations of under five thousand that choose not to have their own assessor.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 11-10.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. On January 1, 1981, the county director of tax equalization shall succeed to all the powers and duties of assessors of townships, cities with a population of under five thousand, and unorganized districts within such county, except that any city with a population of under five thousand or township may, at its option by resolution of its governing body, employ an assessor who shall retain such powers, duties, and responsibilities of his office. The resolution of a city or township governing body to employ an assessor shall continue in force until rescinded by the governing body. Notwithstanding any other provision of law to the contrary, the state supervisor of assessments shall confer with representatives of the county commissioners, city governing bodies, state township officers association, and personnel at North Dakota state university to establish minimum requirements for ~~such~~ all city and township assessors. Such standards shall reflect their limited jurisdiction and need not be equal to those minimum requirements set for county directors of tax equalization. Any courses of instruction included in those minimum requirements shall be conducted by the county director of tax equalization who may cooperate with other county directors of tax equalization in holding joint classes. The county director of tax equalization may call upon the state supervisor of

assessments for such materials and assistance as may be required. No person shall serve as a city or township assessor for longer than twelve months before being certified by the state supervisor of assessments as having met such minimum requirements. The expenses and salaries of city and township assessors shall be paid by the city or township exercising this option.

Approved March 13, 1979

CHAPTER 162

SENATE BILL NO. 2396
(Albers)

GROUP BENEFIT PROGRAMS

AN ACT to create and enact a new subsection to section 11-11-14 of the North Dakota Century Code, relating to powers of boards of county commissioners.

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

SECTION 1.) A new subsection to section 11-11-14 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To expend county funds to finance in part or entirely for county employees a group insurance program for hospital benefits, medical benefits or life insurance, and a group retirement program through either the state retirement program or a private company.

Approved March 8, 1979

CHAPTER 163

HOUSE BILL NO. 1474
(Martinson)

ARCHITECT COMPENSATION LIMIT REPEALED

AN ACT to repeal section 11-11-32 of the North Dakota Century Code, relating to the employment of architects by the board of county commissioners.

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

SECTION 1. REPEAL.) Section 11-11-32 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

CHAPTER 164

HOUSE BILL NO. 1489
(Representatives Maixner, Thompson)
(Senator Roen)

COUNTY TELEVISION BOOSTER STATION

AN ACT to provide for television booster stations to be created by petition and election in the counties, providing a two-mill tax levy for the establishment of a booster station, and providing for exemption for townships not served by the station.

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

SECTION 1. CREATION OF BOOSTER STATION BY ELECTION.) When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the question of establishing a television booster station, ultra high frequency, hereinafter referred to as UHF booster station, is presented to the board of county commissioners, the board of county commissioners shall submit the question to the electors of the county at the next countywide election. Upon approval by sixty percent of the votes cast, the board of county commissioners shall establish a UHF booster station, within the limits of the county, at a site to be named and established by the board of county commissioners.

SECTION 2. MILL LEVY AUTHORIZED.) The board of county commissioners of any county in the state in which a UHF booster station has been voted on and approved by the people as provided for in section 1 of this Act, may levy, not to exceed an amount necessary for such purpose, which amount shall not exceed two mills, upon the taxable valuation of the property in the county. This levy shall not be restricted by the county tax levy limitation prescribed by law.

SECTION 3. EXEMPTIONS - TOWNSHIPS NOT SERVED.) When a petition signed by not less than twenty percent of the qualified electors of a township, not served by the UHF booster station, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, is presented to the board of county commissioners requesting an exemption from the provisions of

section 2 of this Act, the board of county commissioners shall submit the question to the board of township supervisors who shall submit the question to the electors of the township at the next township election. Upon certification of the board of township supervisors to the board of county commissioners of approval by a majority of the votes cast, the board of county commissioners shall exempt the township from the tax levy as provided in section 2 of this Act.

Approved April 3, 1979

CHAPTER 165

SENATE BILL NO. 2286
(Holmberg)

SHERIFF'S FEES

AN ACT to amend and reenact section 11-15-07 of the North Dakota Century Code, relating to the fees charged and collected by the sheriff on behalf of the county.

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

SECTION 1. AMENDMENT.) Section 11-15-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-15-07. COUNTY FEES.) The sheriff shall charge and collect the following fees on behalf of the county:

1. For serving a capias with commitment of bail and return, five dollars.
2. For serving a summons, warrant of attachment, order of replevin, injunctional order, citation, and other mesne process and making a return thereon, a total of five seven dollars and fifty cents for each person served at different locations.
3. For making a copy of a summons or order of attachment, two dollars.
4. For making a copy of an injunctional order, two dollars.
5. For serving a subpoena on a witness, each person, five seven dollars and fifty cents.
6. For taking and filing a bond in claim and delivery or any other undertaking to be furnished and approved by the sheriff, five seven dollars and fifty cents.
7. For making a copy of any process, bond, or paper, other than as is herein provided, two dollars per page.

8. For levying a writ of execution and making a return thereof, ~~ten~~ fifteen dollars.
9. For levying a writ of possession with the aid of the county, ten dollars.
10. For levying a writ of possession without the aid of the county, ten dollars.
11. For serving a notice of motion or other notice or order of the court, ~~five~~ seven dollars and fifty cents.
12. For executing a writ of habeas corpus and making a return thereon, five dollars.
13. For serving a writ of restitution and making a return thereon, five dollars.
14. For calling an inquest to appraise any goods and chattels which he may be required to have appraised, five dollars, and each appraiser shall receive twenty dollars to be taxed as costs.
15. For advertising a sale in a newspaper, in addition to the publisher's fees, five dollars.
16. For advertising in writing for the sale of personal property, five dollars.
17. For executing a writ or order of partition, five dollars.
18. For making a deed to land sold on execution or pursuant to an order of sale, five dollars.
19. For issuing a certificate of redemption when property has been redeemed from a sale under execution or upon the foreclosure of a mortgage, five dollars.
20. For selling real or personal property under foreclosure of any lien or mortgage by advertisement, ~~ten~~ fifteen dollars.
21. For boarding prisoners, a sum to be determined by the county commissioners, by resolution in advance, which sum shall be per meal for meals actually served, and not to exceed one dollar and fifty cents for breakfast, two dollars for dinner, and three dollars for supper.
22. For issuing permit or license to carry pistol or revolver, four dollars; and for renewal of such permit or license, one dollar.

Approved April 7, 1979

CHAPTER 166

HOUSE BILL NO. 1361
(Martinson)

MILEAGE REIMBURSEMENT FOR SHERIFFS

AN ACT to amend and reenact subsection 1 of section 11-15-12 of the North Dakota Century Code, relating to mileage for sheriffs.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 11-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The sum of ~~fifteen~~ twenty cents minimum per mile when travel is by motor vehicle.

Approved March 3, 1979

CHAPTER 167

HOUSE BILL NO. 1529
(G. Larson, Retzer, Unhjem)

STATE'S ATTORNEY INQUIRY AUTHORITY

AN ACT to amend and reenact section 11-16-15 of the North Dakota Century Code, relating to state's attorney inquiry into violations or criminal acts causing deaths and allowing such inquiry into all felonies.

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

SECTION 1. AMENDMENT.) Section 11-16-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-16-15. CRIMINAL ACT CAUSING DEATH - FELONIES - INQUIRY - STATE'S ATTORNEY MAY SUBPOENA WITNESSES.) If a state's attorney shall be notified by any officer or other persons person, or be cognizant himself of any violation or criminal act causing a death, or in any manner connected therewith, or have reason to believe a felony has been committed, he may, prior to a crime being charged, inquire into the facts of such violation or criminal act, and, with the consent and approval of the district judge of the county, for such purpose he shall may issue his a subpoena for any person who he has reason to believe has any information or knowledge of such violation, to appear before him at a time and place designated in such subpoena, then and there to testify concerning any such violation. The subpoena shall be directed to the sheriff or any constable of the county and shall be served and returned to the state's attorney in the same manner as subpoenas are served and returned in criminal cases. Each witness shall be sworn by the state's attorney to testify under oath, and to make true answer to all questions which may be propounded to him by such state's attorney touching any such violation or criminal act. The testimony of every witness shall be reduced to writing, and shall become a part of the coroner's files in ~~such~~ the case of a death and of the state's attorney's files in all other cases. For all purposes in this section the state's attorney may:

1. Administer oaths or affirmations to all witnesses.

2. Apply to the district court for the punishment of any witness for contempt for or on account of any disobedience of a subpoena, a refusal to be sworn, or to answer as a witness, or a refusal to sign his testimony.
3. Compel the attendance of witnesses by attachment in the manner and with the effect provided in title 27. Any witness compelled to testify under the provisions of this section shall be entitled to counsel and all other constitutional rights.

Approved March 15, 1979

CHAPTER 168

HOUSE BILL NO. 1548
(Marsden, Houmann)

GRANTOR AND GRANTEE INDEXES

AN ACT to amend and reenact section 11-18-08 of the North Dakota Century Code, relating to the contents of the separate grantor and grantee indexes to be kept by the county register of deeds.

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

SECTION 1. AMENDMENT.) Section 11-18-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-08. SEPARATE GRANTOR AND GRANTEE INDEXES TO BE KEPT FOR TRANSFERS AND FOR LIENS - CONTENTS.) The register of deeds shall keep separate grantor and grantee indexes of the deeds, contracts, and other instruments not merely liens, and separate grantor and grantee indexes of the mortgages and other instruments which are liens affecting or relating to the title to real property. Such indexes shall show:

1. The names of the grantors and of the grantees.
2. The dates of the several instruments filed for record.
3. The dates upon which the several instruments are filed.
4. ~~The descriptions of~~ An abbreviated description of the real property affected by such instruments.
5. The number of the book and page where the instrument is recorded or the document number of the instrument.

Approved March 10, 1979

CHAPTER 169

HOUSE BILL NO. 1617
(Vander Vorst, Leibhan)

BURIED TRANSMISSION FACILITY NOTICE

AN ACT to amend and reenact sections 11-18-16, 11-18-17, and 11-18-20 of the North Dakota Century Code, relating to buried transmission facilities; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 11-18-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-16. BURIED TRANSMISSION FACILITIES - FILING NOTICE THEREOF.) Any person, firm, association, or corporation, including all political subdivisions, owning or having control of any pipes, wires, cables, or other facilities for the transmission of gas, oil, electricity, water, communications, or other products or services, which are buried beneath the surface of the ground, including areas within the limits of any political subdivision, shall give written notice thereof to the office of the register of deeds in the county where the facilities are located. This notice shall state the name, address, and telephone number of the owner or person having control of the facilities, and shall contain a description of the location of these facilities by quarter-section, section number, township number, township name if there is one, range number, and city name. Railroads and the North Dakota state highway department are not required to file this notice for their facilities buried on their rights of way. The notice provided for in this section shall not be required to appear in any abstract of title prepared by a registered abstracter.

SECTION 2. AMENDMENT.) Section 11-18-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-17. ESTABLISHMENT OF A COUNTY CARD FILE SYSTEM.) The register of deeds of each county where the facilities described in section 11-18-16 are buried shall establish and maintain a uniform card file system containing the information furnished by the owner or person having control of these facilities. This file shall

contain listings of buried facilities located by quarter-section, section, range, township, and, where applicable, by city. A copy of such file card or files shall be given or mailed to any person upon request and the payment of one dollar for each such card copy furnished by the register of deeds.

SECTION 3. AMENDMENT.) Section 11-18-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-18-20. CARD TO BE USED IN SUBMITTING INFORMATION TO COUNTY REGISTERS OF DEEDS.) The written notice of the location of buried transmission facilities required in section 11-18-16 to be given to the county register of deeds' office in the county wherein the facilities are located shall be submitted on a white, eight-inch by five-inch card suitable for use in a file maintained for the same by the county register of deeds. The card shall contain labeled spaces for: the name, address, and telephone number of the person, firm, association, or corporation owning or controlling the buried facility; the date the card is submitted; a description of the type of buried facility; the township number, township name if any, quarter-section location, section number, range number, and city name; a grid showing the thirty-six sections within that particular township, each section having a separate quarter square within the grid; and the phrase, "This information was submitted on this card by the owners or controllers of the buried facility in question. The county register of deeds assumes no responsibility for the accuracy of the information contained on this card". The location of the facilities will be indicated on these cards by the owners or controllers of the facilities by placing an "X" through the appropriate ~~section---ex---sections~~ quarter-section on the grid mentioned above. These cards shall be furnished by the owners and controllers of the buried facilities. Questions concerning the uniformity of these cards shall be decided by the North Dakota secretary of state.

SECTION 4. EFFECTIVE DATE.) The provisions of this Act shall become effective on July 1, 1979, and shall be prospective only.

Approved March 19, 1979

CHAPTER 170

SENATE BILL NO. 2322
 (Senators Reiten, Erdman)
 (Representatives Marsden, Timm)

RECREATION SERVICE DISTRICT IMPROVEMENTS

AN ACT to create and enact a new section to chapter 11-28.2 of the North Dakota Century Code, relating to the power of recreation service districts to make improvements and finance the cost thereof through levying special assessments and taxes, imposing service charges and issuing warrants; and to amend and reenact section 11-28.2-04 of the North Dakota Century Code, relating to powers of recreation service districts and levying of special assessments.

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

SECTION 1.) A new section to chapter 11-28.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

POWER OF RECREATION SERVICE DISTRICTS TO MAKE IMPROVEMENTS - CREATING DISTRICT - DETERMINING NECESSITY - CONTRACTING FOR IMPROVEMENT - LEVYING SPECIAL ASSESSMENTS AND TAXES AND IMPOSING SERVICE CHARGES - ISSUANCE OF WARRANTS.) Each recreation service district established under the provisions of this chapter shall have the authority to make those improvements specified in subdivisions a and b of subsection 8 of section 21-03-06. In making any such improvement, in addition to any other powers granted in chapter 21-03, a recreation service district shall, subject to the provisions of this section, be deemed to be a "municipality", as the term is used in chapters 40-22 to 40-27, inclusive, for the purpose of creating an improvement district, determining the necessity of making an improvement, contracting for an improvement, levying special assessments and general taxes and imposing service charges to pay the cost of an improvement, issuing temporary, definitive, and refunding warrants to finance an improvement, and levying general taxes to pay any deficiency in moneys available to pay the principal and interest on any warrants so issued. The above language refers to all projects and services costing more than five thousand dollars. Provided, however, with respect to section 40-22-15 if the resolution declaring improvements necessary is required to be published, it shall also be sent by certified mail to

the owners of all property within the improvement district not more than ten days after the first publication of the resolution.

SECTION 2.) Section 11-28.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.2-04. POWERS OF RECREATION SERVICE DISTRICTS - LEVYING OF SPECIAL ASSESSMENTS.) Each recreation service district established under the provisions of this chapter shall have the authority to provide police protection, sewer and water, garbage removal services, and public road construction and maintenance, in addition to that provided by the local governing body or other agency to summer homes, cottages, and other residences and establishments as may exist within its boundaries, and to provide for the improvement and control of the environmental quality of the recreation service district, and to levy special assessments as may be necessary to provide such services. All projects and services to be provided by a recreation service district other than pursuant to section 1 of this Act shall first be approved by a majority of the qualified voters of the district affected by such special assessment and present and voting at an annual or special meeting called as provided in this chapter. The levying of special assessments for sewer and water, garbage removal services, public road construction and maintenance, and improvement of environmental quality shall be levied against those parcels of property benefited in the manner provided by law for the levying of special assessments for municipalities and the costs of police protection may be levied in such manner. Any recreation service district may contract with other political subdivisions for joint or cooperative action as provided in chapter 54-40. The board of recreation service district commissioners shall be responsible for the administration and accounting of such obligations and accounts as shall be undertaken in accordance with the provisions of this chapter. The board of recreation service district commissioners shall serve as the special assessment commission and shall make or cause to be made a complete list of the annual benefits and assessments on each parcel of property within the district. The board shall also hear appeals from aggrieved property owners concerning assessments made, and shall have the authority to increase or decrease any assessment as may be just and necessary. No special assessment shall exceed the benefits as determined by the board to the parcel of property assessed. The board shall have the authority to cooperate with the state or federal government or any agency or department thereof in furnishing assurances and meeting local cooperation requirements, within the scope of the power of said board, in connection with any project involving the construction, improvement, operation, maintenance, conservation, or use of the area, including waters, within the recreation service district.

Approved March 12, 1979

CHAPTER 171

HOUSE BILL NO. 1375
(Wessman, Black)

AMBULANCE SERVICE MILL LEVIES

AN ACT to amend and reenact sections 11-28.3-03, 11-28.3-04, 11-28.3-09, 57-15-50, 57-15-51, and 57-15-51.1 of the North Dakota Century Code, relating to increasing the city, county, township, and rural ambulance service district mill levies allowed for ambulance services and providing for a dedicated ambulance sinking fund for replacement of equipment and ambulances.

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

SECTION 1. AMENDMENT.) Section 11-28.3-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.3-03. NOTICE OF ELECTION.) In addition to the usual requirements of notices of election, the notice for an election at which the question provided for in this chapter will be voted upon shall include a statement describing the boundaries of the proposed rural ambulance service districts, expressed, wherever possible, in terms of the government survey, a statement ~~that the setting forth a~~ specified mill levy for the proposed district ~~will not exceed one mill~~, such mill levy not to exceed five mills and a statement that only the property contained within the boundaries of the proposed district will be taxed. The notice of election shall also state the voting areas in which the question provided by this chapter will be on the ballot.

SECTION 2. AMENDMENT.) Section 11-28.3-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.3-04. FORM OF BALLOT - VOTE REQUIRED TO APPROVE.) The ballot on the question of forming a rural ambulance service district shall be in substantially the following form:

Shall (name of taxing district or districts) levy a tax of not to exceed ~~one-mill~~ ----- mills for the purpose of forming a rural ambulance district?

Yes _____
No _____

If sixty percent of all the votes cast on the question of levying a tax and forming a rural ambulance service district are in favor of such a tax levy, then the formation of the district shall be approved.

SECTION 3. AMENDMENT.) Section 11-28.3-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-28.3-09. AMBULANCE SERVICE POLICY TO BE DETERMINED.) The board of directors shall establish a general ambulance service policy for the district and shall annually estimate the probable expense for carrying out that policy. The estimate shall be certified by the president and secretary to the proper county auditor or county auditors, on or before June thirtieth of each year. The auditor or auditors shall levy a tax not to exceed ~~one mill~~ five mills upon the taxable property within the district for the maintenance of the ambulance service district for the fiscal year as provided by law. The tax shall be:

1. Collected as other taxes are collected in the county.
2. Turned over to the secretary-treasurer of the rural ambulance service district, who shall be bonded in the amount of at least five thousand dollars.
3. Deposited by the secretary-treasurer in a state or national bank in a district account.
4. Paid out upon warrants drawn upon the district account by authority of the board of directors of the district, bearing the signature of the secretary-treasurer and the countersignature of the president.

In no case shall the amount of the tax levy exceed the amount of funds required to defray the expenses of the district for a period of one year as embraced in the annual estimate of expense including the amount of principal and interest upon the indebtedness of the district for the ensuing year. The district may include in its operating budget no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated ambulance sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent ambulance sinking fund may be in addition to the actual annual operating budget, but the total of the annual operating budget and the annual ten percent ambulance sinking fund shall not exceed the approved mill levy.

SECTION 4. AMENDMENT.) Section 57-15-50 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-50. LEVY AUTHORIZED FOR COUNTY AMBULANCE SERVICE.) Upon petition of ten percent of the number of qualified electors of the county voting in the last election for governor or upon its own motion, the board of county commissioners of each county shall levy annually a tax of not to exceed ~~one-half-mill~~ five mills on the net taxable assessed valuation of the county, for the purpose of subsidizing county ambulance services, provided that such tax shall be approved by a majority of the voters of the county at a regular or special countywide election. The mill levy provided by this section shall not be subject to the mill levy limitations for general and special county purposes contained in section 57-15-06. The county may budget, in addition to its annual operating budget for subsidizing ambulance service, no more than ten percent of its annual operating budget as a depreciation expense to be set aside in a dedicated ambulance sinking fund deposited with the treasurer for the replacement of equipment and ambulances. The ten percent ambulance sinking fund shall be in addition to the annual operating budget for subsidization, but the total of the annual operating budget and the annual ten percent ambulance sinking fund shall not exceed the approved mill levy.

SECTION 5. AMENDMENT.) Section 57-15-51 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-51. LEVY AUTHORIZED FOR CITY AMBULANCE SERVICE.) Upon petition of ten percent of the number of qualified electors of the city voting in the last election for governor or upon its own motion, the governing body of each city in this state shall levy annually a tax of not to exceed ~~one-mill~~ five mills upon its net taxable assessed valuation, for the purpose of subsidizing city ambulance services, provided that such tax shall be approved by a majority of the voters of the city at a regular or special city election. Whenever a tax for county ambulance services is levied by a county, any city levying a tax for, or subsidizing city ambulance services, shall upon written application to the county board of such county be exempted from such county tax levy. The city may set aside, as a depreciation expense, up to ten percent of its annual ambulance service operating or subsidization budget in a dedicated ambulance sinking fund, deposited with the treasurer for replacement of equipment and ambulances. The ten percent ambulance sinking fund may be in addition to the actual annual ambulance budget but the total of the annual ambulance budget and the annual ten percent ambulance fund shall not exceed the approved mill levy.

SECTION 6. AMENDMENT.) Section 57-15-51.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-51.1. LEVY AUTHORIZED FOR TOWNSHIP AMBULANCE SERVICE.) Pursuant to a vote of sixty percent of the qualified electors voting

at the annual township meeting, or at a special election called for that purpose upon petition of fifty percent of the number of qualified electors of the township voting in the last election for governor, the board of township supervisors shall levy annually a tax approved by the electorate of not to exceed ~~one-mill~~ five mills on the net taxable assessed valuation of the township for the purpose of subsidizing township ambulance service. Such levy shall be in addition to those authorized under sections 57-15-50 and 57-15-51.

Approved March 3, 1979

CORRECTIONS, PAROLE AND PROBATION

CHAPTER 172

HOUSE BILL NO. 1044
(Legislative Council)
(Interim Committee on Corrections and Penology)

JAILS

AN ACT to create and enact a new chapter to the North Dakota Century Code, relating to establishing jails, jail contracts, and regional corrections centers; definitions; grades of jail facilities; who may be confined in jail; confinement of state and federal inmates; housing of inmates; detained witnesses and pretrial detainees; commitment papers; jail registers; safety and sanitation; jail administration; organization and management; supervision of inmates; inmate rights; meal payments; inmate personal property; searches; punishment of inmates; prohibited acts; removal of inmates in emergencies; inmate work programs; annoyance of inmates; inmate educational and counseling programs; jail standards and inspections; jail variances; and corrective action and enforcement; to amend and reenact section 19-03.1-23 of the North Dakota Century Code, relating to penalties for unlawful manufacture, delivery, or possession of controlled substances; and to repeal chapter 12-44, and sections 12-61-05, 58-03-04, and 58-03-05 of the North Dakota Century Code, relating to county jails and workhouses; the law enforcement council recommending jail rules; a township's power to establish a jail; newspaper notice of a township jail; and to provide an effective date.

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

SECTION 1. ESTABLISHING JAILS - JAIL CONTRACTS - REGIONAL CORRECTIONS CENTERS.) For the confinement of lawfully committed persons, the governing body of a county or city shall do or shall participate in the doing of, one of the following:

1. Establishing and maintaining a jail at county or city expense.
2. Contracting for jail services and use of jail facilities with another county or city maintaining a jail, with a regional corrections center, or with the state or federal government.

3. Establishing and maintaining, pursuant to chapter 54-40 and this Act, a regional corrections center in conjunction with other counties and cities.

SECTION 2. DEFINITIONS.) As used in this chapter:

1. "City jail" means a confinement facility established and maintained by a city.
2. "County jail" means a confinement facility established and maintained by a county.
3. "Inmate" means any person, whether sentenced or unsentenced, who is confined in a jail, regional corrections center, or juvenile detention center.
4. "Jail" means a county or city jail or a regional corrections center.
5. "Jail administrator" means the sheriff, chief of police, administrator, superintendent, director, or other individual serving as the chief executive officer of a jail, regional corrections center, or juvenile detention center.
6. "Jail staff" means custodial personnel with titles such as jailer, deputy, counselor, correctional officer, or any other title, whose duties include the ongoing supervision of the inmates in a jail, regional corrections center, or juvenile detention center.
7. "Juvenile detention center" means a publicly or privately established and maintained facility for the confinement of juvenile inmates.
8. "Regional corrections center" means a facility established and maintained by more than one county or city, or a combination of counties and cities, for the confinement of their inmates, or a county or city facility contracting to confine the inmates of other counties and cities.

SECTION 3. GRADES OF JAIL FACILITIES.) The attorney general shall, following inspection pursuant to section 24 of this Act, grade jails as to length of allowable inmate confinement based upon construction, size, and usage, as follows:

1. "Grade one" means a jail for confining inmates not more than one year.
2. "Grade two" means a jail for confining inmates not more than thirty days.
3. "Grade three" means a jail for confining inmates not more than ninety hours.

SECTION 4. WHO MAY BE CONFINED IN JAIL.) The following persons may be confined in a jail:

1. Persons charged with offenses or ordered by a court to be detained for trial.
2. Persons committed by a court to confinement in order to secure their attendance as witnesses at the trial of any criminal cause.
3. Persons sentenced to imprisonment upon conviction of an offense, and any other person committed as authorized by law.

SECTION 5. CONFINEMENT OF STATE AND FEDERAL INMATES.)

1. Grade one jails may contract for the confinement of persons sentenced to imprisonment in the state penitentiary if sufficient room is not available at the penitentiary.
2. All jails, to which any person is sent or committed by legal process issued by or under the authority of the United States, shall receive such inmate into custody for safe detention until discharged under federal law.
3. The United States shall be charged, for the confinement of its inmates, the amount actually required and expended by the jail maintaining the federal inmates.
4. A jail administrator shall employ at least one jail staff member for the control of federal inmates when the number of federal inmates in custody is six or less. One additional jail staff member may be employed for each additional six federal inmates or fractional number thereof.
5. Whenever required to do so by any United States officer, a jail administrator or jail staff member shall make out under oath a list of federal inmates in custody, with the date of commitment, by whom committed, and for what offenses. Such list shall be transmitted to the United States district court judge of the district in which the jail is located.
6. Any grade one or grade two jail may be used for the safekeeping of a fugitive from justice in accordance with any Act of Congress. Such jail shall be entitled to reasonable compensation from the officer or jurisdiction regaining custody of the fugitive.

SECTION 6. HOUSING OF INMATES.) In grade one and grade two jails, and where practicable, in grade three jails, the following groups of inmates shall be housed separately from each other:

1. Female inmates from male inmates.
2. Juveniles from adults.
3. Persons detained for hearing or trial from inmates under sentence of imprisonment.
4. Persons detained for hearing or trial or under sentence of imprisonment from detained witnesses and other persons detained under civil commitment.
5. Mentally disturbed inmates and other inmates with special needs as determined by the jail administrator from the remainder of the jail population.
6. Special management inmates whose behavior presents a serious threat to the safety and security of the jail, the inmate, the staff, or the general inmate population from the remainder of the jail population.

SECTION 7. DETAINED WITNESSES AND PRETRIAL DETAINEES.) Detained witnesses and persons held in custody awaiting arraignment or trial shall not be restricted in their activities to any extent greater than required to assure their appearance at the arraignment or trial for which they are held, nor shall they be confined in any room or cell area where convicted offenders are actually imprisoned. Witnesses and pretrial detainees shall not be required to do labor other than keeping their living areas clean nor shall they be required to participate in jail programs.

SECTION 8. COMMITMENT PAPERS - COPIES - ENDORSEMENT.) When an inmate is confined by virtue of any process directed to the jail administrator and the process requires a return to the court from which it was issued, the jail administrator shall keep a copy of the process with the return made thereon. The copy, certified by the jail administrator, shall be prima facie evidence of his right to retain the inmate in custody. All such instruments or copies by which an inmate is committed or released shall be endorsed and filed by the jail administrator. The file and its contents shall be delivered to the jail administrator's successor.

SECTION 9. JAIL REGISTER - CONTENTS.) Each jail administrator shall be responsible for a jail register in which shall be entered such inmate information on such forms as the attorney general shall prescribe by rule.

SECTION 10. JAIL REPORT.) Each jail administrator shall make and file a quarterly report from the jail register with the attorney general. The attorney general shall consolidate the jail reports for public release.

SECTION 11. SAFETY AND SANITATION.)

1. Each jail shall comply with state and local fire, sanitation, safety, and health codes.
2. The governing body of a jail, to ensure adequate fire protection, shall install fire fighting equipment at appropriate locations throughout the jail.
3. Each jail shall have a smoke detection system approved by the state fire marshal and tested on a regular basis.
4. Designated exits shall permit prompt evacuation of inmates and jail staff in an emergency.

SECTION 12. ADMINISTRATION - ORGANIZATION - MANAGEMENT.) The governing body of each jail shall:

1. Formulate an operations manual, available to all jail staff, which delineates the written policies and procedures for operating and maintaining the jail.
2. Review and update all policies and procedures in the operations manual at least annually.
3. Specify a single jail administrator in the operations manual to whom all jail staff are responsible. The operations manual shall include the jail administrator's duties, responsibilities, and authority for the management of the jail staff, inmates, programs, and physical plant.
4. Ensure that all full-time jail staff who work in direct and continuing contact with inmates receive jail management training as determined and funded by the law enforcement council or such other training as approved by the law enforcement council.

SECTION 13. SUPERVISION OF INMATES.)

1. Inmates shall be supervised on a twenty-four-hour basis by trained jail staff.
2. Jail staff shall be located in such proximity to inmate living areas to permit the staff to hear and respond promptly to calls for help.
3. Each jail shall provide for the personal observation of inmates on an irregular but frequent schedule.
4. Each jail shall maintain sufficient staff to perform all functions relating to the security, control, custody, and supervision of inmates.
5. A matron shall be available at all times during which a female inmate is confined.

6. Inmates shall be prohibited from supervising, controlling, or exerting any authority over other inmates.
7. The jail administrator shall maintain a daily written record of information concerning inmates as prescribed by rule.

SECTION 14. INMATE RIGHTS.) The governing body of each jail shall:

1. Ensure and facilitate the right of inmates to have confidential access to attorneys and their authorized representatives.
2. Ensure that inmates are not subjected to discrimination based on race, national origin, color, creed, sex, economic status, or political belief.
3. Ensure equal access by male and female inmates to programs and services.
4. Ensure access to mail, telephone use, and visitors.
5. Ensure that inmates are properly fed, clothed, and housed.
6. Ensure that inmates have adequate medical care.
7. Ensure that inmates may reasonably exercise their religious beliefs.

SECTION 15. MEAL PAYMENTS.) A jail administrator or jail staff member receiving lump sum monthly payments for providing inmate meals shall submit an itemized account of the meal expenses to the governing body of the jail. Any amount of the monthly payment in excess of the itemized account shall be returned to the general operating fund or be given as salary to the person providing the meals, as determined by the governing body of the jail.

SECTION 16. INMATE PERSONAL PROPERTY.) A written, itemized inventory of all personal property taken from an inmate at the time of admission shall be made by jail staff. Such property, including money and other valuables, shall be secured and the inmate given a receipt for all property to be held until the inmate's release unless the inmate requests a different disposition in writing. Upon release, the items of inmate personal property shall be compared with the inventory list, and the inmate shall sign a receipt for the property's return. If the inmate is released for transfer to another jail or correctional facility, the correctional officer transporting the inmate shall sign the receipt. The releasing jail shall maintain a copy of the property receipt for its files.

SECTION 17. SEARCHES.) Searches of inmates should:

1. Be conducted so as to avoid undue or unnecessary force, embarrassment, or indignity to the individual.
2. Be conducted no more frequently than reasonably necessary to control contraband in the institution or to recover missing or stolen property.

SECTION 18. PUNISHMENT OF INMATE.) A jail administrator or jail staff member having charge of an inmate under this Act may use only such means as are necessary to control inmate behavior. If an inmate confined in any jail is disorderly or willfully destroys jail property, the jail administrator may cause the inmate to be secured or kept in solitary confinement for not more than three days for any one offense.

SECTION 19. PROHIBITED ACTS.) A jail administrator or a member of the jail staff shall be guilty of a class A misdemeanor if he or she knowingly:

1. Places or keeps male and female inmates together in the same cell unless they are husband and wife.
2. Gives, sells, or delivers to any inmate, for any cause whatever, any alcoholic beverage unless prescribed by a physician. Any other person, other than a physician or person under the direction of a physician, who gives, sells, or delivers an alcoholic beverage to an inmate shall be guilty of a class A misdemeanor.
3. Uses corporal punishment against an inmate.
4. Uses physical force except as necessary for self-defense or control of inmates, protection of another person from imminent physical attack, or the prevention of riot or escape.

SECTION 20. REMOVAL OF INMATE IN EMERGENCY NOT AN ESCAPE.) If a jail or any adjoining building shall be on fire or another emergency occurs, and the inmates may be exposed to danger, the jail staff shall remove the inmates to a place of safety, and there confine them as long as necessary to avoid the danger. The removal and confinement shall not be deemed an escape of such inmates.

SECTION 21. INMATE WORK PROGRAMS.) The governing body of a grade one jail shall maintain a written inmate work assignment plan that provides for inmate employment, subject to the number of work opportunities available and the maintenance of jail security. The inmate work plan shall provide for inmate employment in jail maintenance and operation, in public works projects, and in various community projects.

SECTION 22. ANNOYANCE OF INMATE PROHIBITED - PENALTY.) The jail administrator or jail staff member in charge of an inmate shall use necessary and proper means to protect an inmate from insults and

annoyance by others and to prevent others from communicating with the inmate while the inmate is at labor or is going to and returning from labor. Any person persisting in insulting and annoying or communicating with an inmate, after being first commanded by the jail administrator or jail staff member to desist, shall be guilty of an infraction.

SECTION 23. INMATE EDUCATIONAL AND COUNSELING PROGRAMS.) The governing body of each grade one and grade two jail shall formulate a plan whereby the resources of the community are utilized to provide inmates with available educational, vocational, counseling and work release opportunities. Each jail administrator shall, if possible, provide opportunities for access to available religious, mental health, alcoholism and addiction counseling by inmates desirous of such counseling.

SECTION 24. JAIL STANDARDS - INSPECTIONS.) The attorney general shall:

1. Prescribe rules and regulations pursuant to chapter 28-32 establishing minimum standards for the construction, operation, and maintenance of public or private juvenile detention centers, county and city jails, and regional corrections centers.
2. Prescribe rules for the care and treatment of inmates.
3. Cause rules and regulations to be made available to inmates or be posted in at least one conspicuous place in each jail, juvenile detention center, or regional corrections center and in each cell or cellblock where they may be read by inmates.
4. Appoint a jail inspector qualified by special experience, education, or training to inspect each jail, juvenile detention center, and regional corrections center at least once each year to determine if the rules and regulations have been complied with. Inspection shall include, but not be limited to, health and safety, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined, and personnel training.

SECTION 25. INSPECTION REPORT - NOTICE OF NONCOMPLIANCE - HEARING.)

1. A written report of each inspection pursuant to section 24 shall be made by the jail inspector within thirty days following each inspection.
2. Copies of the report shall be sent by the jail inspector to the governing body responsible for the jail, juvenile detention center, or regional corrections center and shall also be submitted to the attorney general for review.

3. The inspection report shall specify those respects in which a jail, juvenile detention center, or regional corrections center does or does not comply with the required minimum standards and rules. The inspection report of noncompliance shall specify the time limits within which such standards or rules are to be met, with consideration being given to the magnitude or seriousness of the deficiencies and their potential effects on the health and safety of inmates, the cost of correction, and other information deemed relevant by the attorney general.
4. Where the nature and extent of deficiencies are such that an immediate order of full or partial closure is deemed necessary by the attorney general to preserve the health and safety of inmates, the period of time for correction may be dispensed with and an order of immediate full or partial closure may be issued by the attorney general.
5. Within thirty days after receipt of a notice or order of immediate closure, the governing body of a jail, juvenile detention center, or regional corrections center may request a review of the determination by the attorney general pursuant to chapter 28-32. The review shall be heard not more than forty-five days following the request, unless the period is extended by the attorney general.

SECTION 26. JAIL VARIANCES.)

1. All jails, juvenile detention centers, and regional corrections centers shall comply with the requirements of the rules and regulations promulgated by the attorney general unless a variance has been granted by the attorney general. Any request for a variance must be in writing and must cite the rule in question, the reasons for requesting the variance, the period of time for the variance, and an explanation of how the policy of the rule will be served without strict compliance with the rule.
2. The attorney general may grant a variance if it is determined that:
 - a. Compliance with the rule would cause extreme hardship as a result of circumstances which are unique to the jail, juvenile detention center, or regional corrections center.
 - b. The jail, juvenile detention center, or regional corrections center can and will substantially comply with the policy of the rule during the time of the variance from the rule.
3. The attorney general shall give written reasons for granting or denying a variance request.

4. In previously existing jails, juvenile detention centers, or regional corrections centers where specific rules cannot be complied with because of alleged difficulty or undue hardship, exception to specific physical plant rules shall be made if the intent of the rule is met and security, supervision of prisoners, established programs, or the safe, healthful, or efficient operation of the jail, juvenile detention center, or regional corrections center is not seriously affected.

SECTION 27. CORRECTIVE ACTION - ENFORCEMENT.)

1. Upon receipt of an inspection report stating noncompliance, the governing body of a jail, juvenile detention center, or regional corrections center shall promptly meet with the attorney general's inspection personnel to consider the inspection report. The governing body shall then initiate appropriate corrective action within ninety days following receipt of the inspection report, or may voluntarily close the jail, juvenile detention center, or regional corrections center or the objectionable portion.
2. If the governing body of a jail, juvenile detention center, or regional corrections center fails to initiate corrective action within ninety days after receipt of the inspection report and notice of noncompliance, or fails to close the jail, juvenile detention center, or regional corrections center or objectionable portion, the attorney general is authorized to petition the district court of the judicial district in which the jail, juvenile detention center, or regional corrections center is located to order the initiation of corrective action or the closure of the jail, juvenile detention center, or regional corrections center. The petition to the district court shall include the inspection report regarding the jail, juvenile detention center, or regional corrections center. The governing body shall have twenty days to respond to the petition and shall serve a copy of the response on the attorney general by certified mail.
3. A hearing shall be held on the petition of the attorney general before the district court. An order shall be rendered by the district court which dismisses the petition, directs that corrective action be initiated in some form by the governing body, or directs the closure of the jail, juvenile detention center, or regional corrections center.

* SECTION 28. AMENDMENT.) Section 19-03.1-23 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-23. PROHIBITED ACTS A - PENALTIES.)

* NOTE: Section 19-03.1-23 was also amended by section 29 of House Bill No. 1073, chapter 187, and by section 4 of Senate Bill No. 2052, chapter 287.

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, provided that any person whose conduct is in violation of sections ~~12-44-25, ---12-44-28,~~ 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. a A controlled substance classified in schedules I or II which is a narcotic drug, is guilty of a class A felony;
 - b. ~~any~~ Any other controlled substance classified in schedule I, II, or III, is guilty of a class B felony;
 - c. a A substance classified in schedule IV, is guilty of a class C felony;
 - d. a A substance classified in schedule V, is guilty of a class A misdemeanor.
2. Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance, provided that any person whose conduct is in violation of sections ~~12-44-25,~~ ~~12-44-28,~~ 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. a A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a class A felony;
 - b. ~~any~~ Any other counterfeit substance classified in schedules I, II, or III, is guilty of a class B felony;
 - c. a A counterfeit substance classified in schedule IV, is guilty of a class C felony;
 - d. a A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
3. It is unlawful for any person 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 chapter, provided that any person whose conduct is in violation of sections ~~12-44-25, ---12-44-28,~~ 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection is guilty of a class C felony; except that any person who

violates this subsection regarding possession of marijuana, shall be guilty of a class A misdemeanor.

SECTION 29. REPEAL.) Chapter 12-44 and sections 12-61-05 and 58-03-04 of the North Dakota Century Code, and section 58-03-05 of the 1977 Supplement to the North Dakota Century Code are hereby repealed.

SECTION 30. EFFECTIVE DATE.) The provisions of this Act shall become effective July 1, 1980.

Approved April 7, 1979

CHAPTER 173

SENATE BILL NO. 2051
 (Legislative Council)
 (Interim Committee on Corrections and Penology)

INDUSTRIAL SCHOOL AND PENITENTIARY CHANGES

AN ACT to amend and reenact sections 12-46-04, 12-47-05, 12-47-06, 12-47-15, 12-47-34, 12-48-03, 12-48-14, and 12-51-09 of the North Dakota Century Code, relating to the appointment and removal of state industrial school officers, the penitentiary officers, the appointment and term of penitentiary officers, the absence of the penitentiary warden and deputy wardens, escapes from the penitentiary, the manner of employing penitentiary inmates, compensation of penitentiary inmates, and the transfer of inmates between the state farm and the penitentiary; and to repeal chapter 12-49 of the North Dakota Century Code, relating to the penitentiary twine and cordage plant.

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

SECTION 1. AMENDMENT.) Section 12-46-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-04. APPOINTMENT AND REMOVAL OF OFFICERS - TERM OF OFFICE.) The director of institutions shall appoint the superintendent, and he shall hold his office for a term of ~~four~~ two years and until his successor is appointed and qualified, unless he is sooner removed by the director of institutions. He may be removed by the director of institutions for misconduct, neglect of duty, incompetency, or other proper cause showing his inability or refusal properly to perform the duties of his office, but such removal shall be had only after an opportunity is given to him to be heard before a board consisting of the governor, attorney general, and ~~director of institutions~~ state treasurer upon preferred written charges. Such removal when made, however, shall be final. All other officers and employees shall be appointed by the superintendent, subject to the approval of the director of institutions, and shall hold office at the pleasure of the superintendent. The superintendent shall show in the record of any officer or employee who is discharged by him the reason therefor.

SECTION 2. AMENDMENT.) Section 12-47-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-05. OFFICERS OF PENITENTIARY.) The officers of the penitentiary shall be: one warden, who shall be its general superintendent; at least one deputy warden, ~~who shall be chief turnkey, one bookkeeper, one, or in the discretion of the director of institutions and warden, two chaplains,~~ and such other officers, guards, overseers, agents, and employees as may be necessary. ~~The warden and deputy warden shall reside at the penitentiary.~~

SECTION 3. AMENDMENT.) Section 12-47-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-06. APPOINTMENT OF OFFICERS - TERM OF OFFICE.) The director of institutions shall appoint the warden, and he shall hold his office for a term of two years and until his successor is appointed and qualified, unless he is sooner removed by the director of institutions. He may be removed by the director of institutions for misconduct, neglect of duty, incompetency, or other proper cause showing his inability or refusal properly to perform the duties of his office, but such removal shall be had only after an opportunity is given to him to be heard before a board consisting of the governor, attorney general, and ~~director of institutions~~ state treasurer upon preferred written charges. Such removal when made, however, shall be final. All other officers and employees shall be appointed by the warden, subject to the approval of the director of institutions, and shall hold office at the pleasure of the warden. The warden shall show in the record of any officer or employee who is discharged by him the reason therefor.

SECTION 4. AMENDMENT.) Section 12-47-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-15. ABSENCE OF WARDEN AND DEPUTY WARDENS.) The warden and the deputy wardens shall not be absent from the penitentiary Mandan-Bismarck area at the same time except by permission of the director of institutions. When the warden and the deputy wardens are absent, the warden must designate in writing one of his staff members to act as warden, and must inform the director of institutions, in writing, of his choice prior to each absence.

SECTION 5. AMENDMENT.) Section 12-47-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-34. ESCAPES FROM PENITENTIARY WARDEN'S CUSTODY - WARDEN MAY OFFER REWARD FOR RECAPTURE - PAYMENT OF REWARD.) The warden, with the approval of the director of institutions, may adopt any measures he may deem proper to aid in the detection and capture of persons escaping from the penitentiary custody of the warden. When an inmate escapes, the warden shall use every means at his command for the apprehension of such person, and for that purpose he may offer a reward of not to exceed one hundred dollars and not less than twenty-five dollars for information leading to such

~~apprehension. If the escape was made possible by the negligence of the warden or any officer under him, the reward thus offered shall be paid by the warden, and the director of institutions is empowered to determine the liability of the warden for such reward, and his determination shall be final.~~

SECTION 6. AMENDMENT.) Section 12-48-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-48-03. MANNER OF EMPLOYING INMATES.) The director of institutions and the warden of the penitentiary shall employ all inmates of the penitentiary in maintaining the penitentiary and the grounds thereof, in carrying on the work of the industries established at the penitentiary or at other state institutions, in doing any work necessary to be done in the erection, repair, or improvement of any of the state buildings, including the executive mansion, and the grounds of such buildings, or in the construction and improvement of the public highways of the state. Inmates may also be employed in work projects for county and local governmental agencies and subdivisions. The prisoners shall be employed, insofar as practicable, on the work to which they are best adapted and on the work that will make it possible for them to acquire skill so that they will be able to earn a livelihood when they are paroled or discharged from the institution. Inmates may be employed outside of the yard of the penitentiary in cultivating and improving any ground belonging thereto. The warden shall be held responsible for the escape of any inmate notwithstanding that such employment is outside the penitentiary if the escape is made possible through the negligence of himself or any of his subordinates.

SECTION 7. AMENDMENT.) Section 12-48-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-48-14. COMPENSATION OF INMATES.) Prisoners engaged in carrying on the work of the penitentiary and its industries shall receive compensation in an amount to be determined by the director of institutions, ~~provided that compensation for labor, except in a prison industry, shall not exceed one dollar per day within the~~ limits of legislative appropriations for that purpose. The warden shall assign a reasonable daily task to be performed by each prisoner, and the compensation of the prisoner shall be determined by the amount of work he performs on such task. All prisoners faithfully performing the daily task assigned shall receive the maximum compensation determined by the director of institutions, and whenever it becomes necessary in carrying on this work for a prisoner to labor in excess of ten hours per day, he shall receive such additional compensation as is allowed by the director of institutions. ~~The compensation of all~~ All prisoners working at the penitentiary industries may receive pay based upon actual production of salable items as determined by the director of institutions, to be paid out of such funds as may be appropriated by the legislative assembly.

SECTION 8. AMENDMENT.) Section 12-51-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-51-09. DIRECTOR OF INSTITUTIONS MAY TRANSFER PERSONS FROM STATE FARM TO PENITENTIARY OR FROM PENITENTIARY TO STATE FARM.) When the director of institutions, either at the time of commitment or at any time thereafter, shall determine that for purposes of safety of other inmates or of the general public or for the purpose of discipline or medical care it is necessary or proper that any person committed to the state farm should be transferred to the state penitentiary, such transfer may be made for such period as the director may deem proper. Where a person who has been committed to the state farm conducts himself in such manner as to interfere with the operation of the farm, or with the welfare or safety of others, and where in the judgment of the director of institutions the best interests of such person or the best interests and welfare of other persons committed to the farm so require, the director may direct that such person be removed from the farm and placed in the penitentiary. The director also may direct that persons who have been sentenced to the penitentiary be transferred to the farm, when such action seems desirable and for the best interests of the person so transferred and in no manner detrimental to the welfare of other persons who have been committed to said farm. The director may cause persons committed to the said farm to be assigned for work incident to the operations of the penitentiary or of any other institutions institution or facility under the control of the said director.

SECTION 9. REPEAL.) Chapter 12-49 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

CHAPTER 174

HOUSE BILL NO. 1145
 (Committee on State and Federal Government)
 (At the request of the Director of Institutions)

INDUSTRIAL SCHOOL STUDENTS

AN ACT to amend and reenact sections 12-46-15, 12-52-01, 27-21-01, 27-21-02, 27-21-05, 27-21-07, and 27-21-09 of the North Dakota Century Code, relating to granting full authority for treatment and transfer of students to administrators of the state industrial school; and to provide for public and private aftercare services for students of the state industrial school; change the terminology from public welfare to social service board, and board of administration to director of institutions; and grant the state youth authority the right to contract for services.

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

SECTION 1. AMENDMENT.) Section 12-46-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-46-15. CONTENTS OF ORDER OF COMMITMENT.) Every order of commitment to the North Dakota industrial school grants full authority for treatment and transfer of any student to the administrators of the industrial school as provided by law, however, every order of commitment shall specify the date, as near as may be ascertained by the juvenile court, at which the accused will attain majority. The date so ascertained and specified shall be conclusive for all purposes connected with the North Dakota industrial school. The committing judge shall cause--to--be--transmitted--to--the superintendent, with each person committed--to--the--North--Dakota industrial--school,--a--statement--of--the--nature--of--the--complaint--or charges,--the--person's--social--history,--and--all--records--of investigation--and--evaluation--concerning--such--person.---These statements--and--records--shall--be--sent--to--the--North--Dakota--industrial school make available to the North Dakota industrial school all pertinent data, reports, evaluations, and documents in their possession with respect to the child at the time of commitment or immediately thereafter.

SECTION 2. AMENDMENT.) Section 12-52-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-52-01. DIRECTOR OF INSTITUTIONS TO ADMINISTER AFTERCARE PROGRAM.) The director of institutions may provide an aftercare program and may contract with public and private agencies to provide aftercare services for persons committed to the state industrial school and may establish facilities in, and rules and regulations under, which such persons may receive aftercare.

SECTION 3. AMENDMENT.) Section 27-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-21-01. CREATION OF STATE YOUTH AUTHORITY - DIRECTOR.) A state youth authority is hereby created and established with such powers and duties as are prescribed by this chapter. The state youth authority shall be created within the ~~publie--welfare~~ social service board, and its chief administrative officer shall be the executive director of the ~~publie--welfare~~ social service board, or his designee.

SECTION 4. AMENDMENT.) Section 27-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-21-02. STATE YOUTH AUTHORITY - POWERS AND DUTIES.) The state youth authority shall be the administrative agency which shall take custody of delinquent and unruly children committed to its care by the juvenile courts. Upon committing a child to the custody of the state youth authority, the committing judge, the juvenile supervisor, law enforcement officers, and other public officials shall make available to the state youth authority all pertinent data in their possession with respect to the child. Upon taking custody of a child, the state youth authority shall process the child through such diagnostic testing and evaluation programs as may be necessary to determine his disposition in his best interest and in the best interest of the state. In doing so, the state youth authority may utilize the psychological, psychiatric, vocational, medical, and other diagnostic and testing services that are available, examine all the pertinent circumstances, and review the reasons for his commitment. Upon completion of the diagnostic testing and evaluation program, the state youth authority shall make disposition of the child as follows:

1. Place him in the custody of his parent, guardian, or in a foster home or suitable private institution licensed by the state for the care of children;
2. Place him in the custody of the state industrial school or in a vocational, training, or similar institution for children or young adults within this state; or
3. Place him in the custody of a vocational, training, or similar institution for children or young adults in another state in the event that adequate facilities for his treatment and rehabilitation are not available within this state and the committing judge concurs in the placement.

Subject to the authority of the committing court and the Uniform Juvenile Court Act, the state youth authority shall retain jurisdiction of the child until he reaches the age of eighteen years, and may change placement of the child at any time it appears to be in his best interest and in the best interest of the state, except when the child is placed in the custody, temporary or otherwise, of the state industrial school, in which case, any change of placement or custody is subject to the recommendation of the superintendent of the industrial school and the approval of the director of institutions.

SECTION 5. AMENDMENT.) Section 27-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-21-05. STATE YOUTH AUTHORITY TO REPORT TO COMMITTING JUDGE.) Within ten days after the completion of diagnostic testing and evaluation of a child, the director shall report the results thereof to the committing judge and the disposition made, if any, other than a temporary placement pursuant to section 27-21-03. The director shall review each placement every three months to determine whether a change in placement or program is necessary for the treatment or rehabilitation of the child, and shall report his findings and dispositions to the advisory board and the ~~public~~ welfare social service board.

SECTION 6. AMENDMENT.) Section 27-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-21-07. REPORT BY CUSTODIAN TO STATE YOUTH AUTHORITY.) Any person, agency, department, or vocational, training, or other institution, either within or without this state, that has received custody of a child under this chapter, other than temporary custody, shall:

1. Submit to the director, in such form as he may reasonably prescribe, a quarterly report of the progress of the child; and
2. Submit to the director, as required by him and in such form as he may reasonably prescribe, any interim report of the progress of the juvenile he deems necessary in the interest of the child.

Quarterly and interim reports shall be made available to the court, the advisory board, and the ~~public-welfare~~ social service board.

SECTION 7. AMENDMENT.) Section 27-21-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-21-09. COOPERATION WITH OTHER AGENCIES AND DEPARTMENTS OF THE STATE - RIGHT TO INSPECT FACILITIES OF STATE INSTITUTIONS - RIGHT TO EXAMINE CHILDREN.) The state youth authority shall cooperate with and receive the cooperation of the board of pardons, the ~~public-welfare~~ social service board, the ~~board-of-administration~~

director of institutions, the state parole board, the state department of health, and such other agencies and departments of the state as may be necessary to carry out the objectives of this chapter. The state youth authority may inspect at all reasonable times the facilities of those institutions within the state it is authorized to utilize under this chapter, and may examine any child it has placed in the custody of such institution, and may contract with public and private agencies to provide services for them or to retain from them required services to meet the purpose and objective of this chapter.

Approved March 10, 1979

CHAPTER 175

HOUSE BILL NO. 1045
 (Legislative Council)
 (Interim Committee on Corrections and Penology)

PENITENTIARY INMATE COMMUNICATION

AN ACT to amend and reenact section 12-47-22 of the North Dakota Century Code, relating to the confinement of and communication with penitentiary inmates and removing the prohibition against all communication between male and female inmates; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 12-47-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-22. DISCIPLINE OF INMATES - CONFINEMENT IN CELLS - COMMUNICATION.) Inmates of the penitentiary shall be confined in separate cells at night whenever there are sufficient cells. ~~All communication between male and female inmates shall be prevented, and--no~~ No communication shall be allowed between inmates of the penitentiary and persons without the penitentiary except under the supervision prescribed by the rules and regulations of the penitentiary. No person, without the consent of the warden, shall bring into or carry out of the penitentiary any writing or information to or from an inmate.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved February 8, 1979

CHAPTER 176

HOUSE BILL NO. 1248
(Committee on Judiciary)
(At the request of the Pardon Board)

PARDON BOARD EXECUTIVE SESSIONS

AN ACT to amend and reenact section 12-55-03 of the North Dakota Century Code, relating to executive meetings of the pardon board.

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

SECTION 1. AMENDMENT.) Section 12-55-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-55-03. BOARD MEETINGS - WHEN AND WHERE HELD - EXECUTIVE SESSIONS - INFORMATION TO BE RELEASED.) The board of pardons shall hold at least three regular meetings in each calendar year, and may hold such other special meetings at such times as it shall determine necessary for the proper performance of its official duties. The regular meetings shall be held on the fourth Monday of March, the second Monday of August, and the first Monday of December of each year at the penitentiary. All special and emergency meetings of the board shall be held in the executive chamber at the state capitol, or in such other place as may be ordered by the board.

The board may meet in executive session only for those portions of its meetings dealing with information specifically privileged by state or federal law. Notice shall be given to the press and the public of all of the board's meetings and the portions thereof that shall be open and closed. The board's secretary shall, within twenty-four hours of the conclusion of each board meeting, or sooner if possible, release information on the actions taken during the closed portions of the meeting. The information shall cover all applications and other matters, and shall include, but need not be limited to, the name of the applicant, the applicant's crime, the applicant's sentence and the date it was imposed, the date of the board's action, and the reasons for the board's actions.

Approved March 7, 1979

CRIMINAL CODE

CHAPTER 177

SENATE BILL NO. 2054
(Legislative Council)
(Interim Committee on Criminal Justice System)

MURDER A CLASS AA FELONY

AN ACT to amend and reenact sections 12.1-16-01 and 12.1-32-01 of the North Dakota Century Code, relating to murder and the classification of criminal offenses, and making murder a class AA felony with a maximum penalty of life imprisonment.

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

SECTION 1. AMENDMENT.) Section 12.1-16-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-16-01. MURDER.) A person is guilty of murder, a class A AA felony, if he:

1. Intentionally or knowingly causes the death of another human being;
2. Causes the death of another human being under circumstances manifesting extreme indifference to the value of human life; or
3. Acting either alone or with one or more other persons, commits or attempts to commit treason, robbery, burglary, kidnapping, felonious restraint, arson, gross sexual imposition, or escape and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of any person; except that in any prosecution under this subsection in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:
 - a. Did not commit the homicidal act or in any way solicit, command, induce, procure, counsel, or aid the commission thereof; and

- b. Was not armed with a firearm, destructive device, dangerous weapon, or other weapon which under the circumstances indicated a readiness to inflict serious bodily injury; and
- c. Reasonably believed that no other participant was armed with such a weapon; and
- d. Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury.

Subsections 1 and 2 shall be inapplicable in the circumstances covered by subsection 2 of section 12.1-16-02.

SECTION 2. AMENDMENT.) Section 12.1-32-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-32-01. CLASSIFICATION OF OFFENSES - PENALTIES.) Offenses are divided into ~~six~~ seven classes, which are denominated and subject to maximum penalties, as follows:

1. Class AA felony, for which a maximum penalty of life imprisonment may be imposed. Notwithstanding the provisions of section 12-59-05, a person found guilty of a class AA felony shall not be eligible to have his sentence considered by the parole board for thirty years, less sentence reduction earned for good conduct, after his admission to the penitentiary.
- 1- 2. Class A felony, for which a maximum penalty of twenty years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
- 2- 3. Class B felony, for which a maximum penalty of ten years' imprisonment, a fine of ten thousand dollars, or both, may be imposed.
- 3- 4. Class C felony, for which a maximum penalty of five years' imprisonment, a fine of five thousand dollars, or both, may be imposed.
- 4- 5. Class A misdemeanor, for which a maximum penalty of one year's imprisonment, a fine of one thousand dollars, or both, may be imposed.
- 5- 6. Class B misdemeanor, for which a maximum penalty of thirty days' imprisonment, a fine of five hundred dollars, or both, may be imposed.
- 6- 7. Infraction, for which a maximum fine of five hundred dollars may be imposed. Any person convicted of an infraction who has, within one year prior to commission of

the infraction of which he was convicted, been previously convicted of an offense classified as an infraction may be sentenced as though convicted of a class B misdemeanor. If the prosecution contends that the infraction is punishable as a class B misdemeanor, the complaint shall specify that the offense is a misdemeanor.

This section shall not be construed to forbid sentencing under section 12.1-32-09, relating to extended sentences.

Approved April 7, 1979

CHAPTER 178

HOUSE BILL NO. 1053
(Legislative Council)
(Interim Committee on Criminal Justice System)

SIMPLE ASSAULT PENALTIES

AN ACT to amend and reenact section 12.1-17-01 of the North Dakota Century Code, relating to simple assault and increasing the punishment.

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

SECTION 1. AMENDMENT.) Section 12.1-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-17-01. SIMPLE ASSAULT.)

1. A person is guilty of an offense if he:
 - a. Willfully causes bodily injury to another human being;
or
 - b. Negligently causes bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.
2. Simple assault is a class B misdemeanor except when the victim is a peace officer or correctional institution employee acting in an official capacity, and the actor knows that to be a fact, in which case the offense is a class C felony.

Approved March 8, 1979

CHAPTER 179

HOUSE BILL NO. 1450
(Wald, Lee, Olson)

INDECENT EXPOSURE AND SOLICITATION OF MINORS

AN ACT to create and enact a new section to chapter 12.1-20 of the North Dakota Century Code, relating to indecent exposure; and to amend and reenact section 12.1-20-05 of the North Dakota Century Code, relating to the corruption or solicitation of minors.

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

SECTION 1.) A new section to chapter 12.1-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

INDECENT EXPOSURE.) A person shall be guilty of a class B misdemeanor for:

1. Knowingly exposing one's penis, vulva, or anus in a public place with the intent to annoy or harass another person.
2. Masturbating in a public place.

SECTION 2. AMENDMENT.) Section 12.1-20-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-20-05. CORRUPTION OR SOLICITATION OF MINORS.)

1. An adult who engages in a sexual act with another person or who causes another person to engage in a sexual act, is guilty of a class A misdemeanor if the other person is a minor, fifteen years of age or older.
2. An adult who solicits a person under the age of fifteen years to engage in a sexual act or sexual contact is guilty of a class A misdemeanor.

Approved March 19, 1979

CHAPTER 180

HOUSE BILL NO. 1446
(Stenehjem, Swiontek)

ARSON

AN ACT to amend and reenact section 12.1-21-01 of the North Dakota Century Code, relating to the crime of arson.

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

SECTION 1. AMENDMENT.) Section 12.1-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-21-01. ARSON.) A person is guilty of arson, a class B felony, if he starts or maintains a fire or causes an explosion with intent to destroy an entire or any part of a building or inhabited structure of another or a vital public facility, or if he starts or maintains a fire or causes an explosion with intent to destroy or damage his own real or personal property for the purpose of collecting insurance for the loss.

Approved March 15, 1979

CHAPTER 181

SENATE BILL NO. 2302
(Lashkowitz)

DUPLICATION OF CERTAIN KEYS PROHIBITED

AN ACT to prohibit duplication of keys marked with "Do Not Duplicate", "Do Not Copy", or words of similar intent; and providing a penalty.

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

SECTION 1. DUPLICATION OF KEYS.) Except as provided in section 2, no person shall duplicate or make a key from another key marked with the words "Do Not Duplicate", "Do Not Copy", or words of similar intent.

SECTION 2. DEFENSES.) It shall be an affirmative defense to prosecution under section 1 that:

1. The person made or duplicated the key for his employer, solely for use within the employer's place of business.
2. The person for whom the key was made or duplicated owns the lock which the key fits.

SECTION 3. PENALTY.) Any person who violates any provision of this Act is guilty of a class B misdemeanor.

Approved March 18, 1979

CHAPTER 182

SENATE BILL NO. 2433
(Wright)

CARRYING LOADED FIREARM IN VEHICLE

AN ACT to create and enact a new section to chapter 12.1-26 of the North Dakota Century Code, relating to the carrying of loaded firearms in motor vehicles and providing a penalty.

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

SECTION 1.) A new section to chapter 12.1-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

CARRYING LOADED FIREARM IN VEHICLE - PENALTY.) No person, other than a law enforcement officer as defined in section 12.1-01-04, shall be permitted to keep or carry a rifle or shotgun with cartridge in the chamber in the passenger compartment of any motor vehicle within any city in this state. Any person violating the provisions of this section shall be guilty of a class B misdemeanor.

Approved March 23, 1979

CHAPTER 183

HOUSE BILL NO. 1092
(Lardy)

X-RATED PICTURES IN OUTDOOR THEATERS

AN ACT to create and enact a new section to chapter 12.1-27.1 of the North Dakota Century Code, relating to exhibiting obscene motion pictures at outdoor theaters; and to amend and reenact section 12.1-27.1-02 of the North Dakota Century Code, relating to promoting obscenity to minors.

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

SECTION 1.) A new section to chapter 12.1-27.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

EXHIBITION OF OBSCENE MOTION PICTURE IN UNSCREENED OUTDOOR THEATERS - PENALTY.) Any person who, knowing of its character, exhibits any motion picture rated X by the Motion Picture Association of America in any outdoor theater where the screen is visible beyond the limits of theater audience area, so that the motion picture may be seen and its content or character distinguished by normal unaided vision by a minor viewing it from beyond the limits of the theater audience area, is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT.) Section 12.1-27.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-27.1-02. PROMOTING OBSCENITY TO MINORS - DEFINITIONS.)
As used in this section and in section 12.1-27.1-03:

1. "Promote" means to produce, direct, manufacture, issue, sell, lend, mail, publish, distribute, exhibit, or advertise.
2. "Harmful to minors" means that quality of any description or representation, in whatever form of sexual conduct or sexual excitement, when such description or representation:

- a. Considered as a whole, appeals to the prurient sexual interest of minors;
 - b. Is patently offensive to prevailing standards in the adult community in North Dakota as a whole with respect to what is suitable material for minors; and
 - c. Considered as a whole, lacks serious literary, artistic, political, or scientific value for minors.
3. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Approved March 18, 1979

CHAPTER 184

SENATE BILL NO. 2100
(Lodoen)

LOCAL CONTROL OF ENTERTAINMENT IN BARS

AN ACT to amend and reenact section 12.1-27.1-12 of the North Dakota Century Code, relating to local control of entertainment in liquor establishments.

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

SECTION 1. AMENDMENT.) Section 12.1-27.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12.1-27.1-12. STATE PREEMPTION OF LOCAL LAWS REGULATING OBSCENITY.) This chapter shall be applicable and uniform throughout the state, and no political subdivision shall enact new, or enforce existing, ordinances or resolutions regulating or prohibiting the dissemination of obscene materials, or controlling obscene performances, except ordinances authorized by section 5-02-09.

Approved January 29, 1979

CHAPTER 185

SENATE BILL NO. 2316
(Miller Heinrich, Christensen)

DRUG PARAPHERNALIA

AN ACT to create and enact a new section to title 12.1 of the North Dakota Century Code, relating to the manufacture, sale, or delivery of marijuana, hashish, and cocaine paraphernalia; to the definition of paraphernalia and other terms; and providing a penalty.

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

SECTION 1.) A new section to title 12.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

MANUFACTURE, SALE, OR DELIVERY OF PARAPHERNALIA - DEFINITIONS
- PENALTY.)

1. Any person who knowingly manufactures, sells, or delivers paraphernalia to another or who possesses with intent to manufacture, sell, or deliver paraphernalia to another shall be guilty of a class A misdemeanor.
2. As used in this section:
 - a. "Deliver" means the actual, constructive, or attempted transfer from one person to another of paraphernalia whether or not there is an agency relationship.
 - b. "Intent" means when a person engages in the conduct, it is that person's purpose to do so.
 - c. "Knowingly" means when a person engages in the conduct, the person knows or has a firm belief, unaccompanied by substantial doubt, that the person is doing so, whether or not it is the person's purpose to do so.
 - d. "Manufacture" means the production, preparation, construction, or processing of paraphernalia, and includes any packaging or repackaging of the

- paraphernalia, or the labeling or relabeling of it or its container.
- e. "Paraphernalia" means any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering, or preparing marijuana, hashish, hashish oil, or cocaine. "Paraphernalia" excludes cigarette papers and tobacco pipes but includes, and is not limited to:
- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic marijuana or hashish pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - (2) Water pipes designed for use or intended for use with marijuana, hashish, hashish oil, or cocaine.
 - (3) Carburetion tubes and devices.
 - (4) Smoking and carburetion masks.
 - (5) Roach clips.
 - (6) Separation gins designed for use or intended for use in cleaning marijuana.
 - (7) Cocaine spoons and vials.
 - (8) Chamber pipes.
 - (9) Carburetor pipes.
 - (10) Electric pipes.
 - (11) Air-driven pipes.
 - (12) Chilams.
 - (13) Bongs.
 - (14) Ice pipes or chillers.
3. In determining whether an instrument, device, article, or contrivance is paraphernalia used, designed for use, or intended for use in ingesting, smoking, administering, or preparing marijuana, hashish, hashish oil, or cocaine, a court shall consider the following:
- a. Whether a person or business establishment charged with violating this Act is a licensed distributor or dealer of tobacco products under chapter 57-36.

- b. Expert testimony as to the principal use of the instruments, devices, articles, or contrivances claimed to be paraphernalia.
- c. Circumstantial evidence concerning the total business of a person or business establishment and the type of instruments, devices, articles, contrivances or items involved in the business.
- d. National and local advertising concerning the use of the instruments, devices, articles, or contrivances claimed to be paraphernalia.

Approved March 27, 1979

CHAPTER 186

HOUSE BILL NO. 1630
(Conmy, Winkjer)

RIGHTS OF CONVICTED FELONS

AN ACT to amend and reenact subsection 1 of section 12.1-33-01 and subsections 1 and 2 of section 12.1-33-03 of the North Dakota Century Code, relating to the right of a person who has been convicted of a felony to vote and hold public office, except during the term of actual incarceration.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 12.1-33-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A person sentenced for a felony to a term of imprisonment, from the time of his sentence until his final discharge during the term of actual incarceration under such sentence, may not:
 - a. Vote in an election, ~~but if he is paroled after commitment to imprisonment, he may vote during the period of the parole~~; or
 - b. Become a candidate for or hold public office.

SECTION 2. AMENDMENT.) Subsections 1 and 2 of section 12.1-33-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. If the sentence were in this state, ~~the order, certificate, or other instrument of discharge, given to a person sentenced for a felony upon his discharge after completion of service of his sentence or after service under probation or parole~~, the sentence shall state that the defendant's rights to vote and to hold any future public office are thereby restored not lost except during the term of any actual incarceration and that he suffers no other disability by virtue of his conviction and sentence except as otherwise provided in such sentence or

~~by law. The parole board, or its designated agent, shall issue the certificate of discharge upon completion of the sentence. A copy of the order or other instrument of discharge shall be filed with the clerk of the court of conviction.~~

2. If the sentence were in another state or in a federal court and, the convicted person has similarly been discharged by the appropriate authorities, the parole board of this state, upon application and proof of the discharge in such form as the parole board may require, shall issue a certificate stating that such rights have been restored to him under the laws of this state shall lose the rights to vote and to hold public office only during the term of actual incarceration. Any person who has been sentenced in another state or in a federal court to a term of imprisonment and who is present in this state shall be presumed to have had such rights restored.

Approved March 13, 1979

DEBTOR AND CREDITOR RELATIONSHIP

CHAPTER 187

HOUSE BILL NO. 1073

(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

TECHNICAL CORRECTIONS ACT

AN ACT to amend and reenact subsection 2 of section 13-03-18, sections 15-19-06, 15-28-10, 15-40.1-03, 15-52-19, 15-52-20, 15-52-21, 15-52-27, subsections 1 and 3 of section 15-61-02, sections 15-61-04, 16-04-07, 16-11-12, 16-15-05, 16-15-07, 16-15-09, 16-16-17.1, 16-18-17, 16-20-07, subsection 5 of section 16-20-08, sections 18-03-05, 18-05-04, 18-05-13, 18-10-09, 18-11-09, 18-11-22, 19-01-12, subsections 14 through 23 of section 19-02.1-02, subsections 4 through 10 of section 19-02.1-05, sections 19-03.1-23, 19-07-02, 21-03-23, 21-04-09, 21-05-05, 21-10-10, subsection 4 of section 23-07-01.1, sections 23-15.1-07, 24-01-13, 24-01-41.1, 24-02-11, 24-06-02, 24-06-07, 25-01.1-20, subsections 1 and 3 of section 25-04-07, subsections 10 through 14 of section 26-01-02, sections 26-01-10, 26-08-13, 26-10-02, 26-10-14, 26-10-16, 26-26-14, 26-27-14, 26-27.1-18, 26-27.2-18, 26-33-04, 27-11-26, subsection 6 of section 27-14-02, sections 29-01-06.1, 29-03-20, 29-05-31, and 29-12-13, subsection 9 of section 29-15-21, sections 29-21-15, 29-21-17, 29-21-25, 29-22-20, 29-26-16, 34-01-12, 35-20-13, 36-05-10, 37-12-14, 37-20-03, 38-10-08, subsection 1 of section 39-01-01, sections 39-01-13 and 39-04-06, introductory paragraph of subsection 2 of section 39-04-18, section 39-06.1-09, paragraph 16 of subdivision a of subsection 3 of section 39-06.1-10, and sections 39-07-11, 39-08-13, 39-23-08, 40-33-24, 43-03-02, 43-12-27, 43-12-31, 43-15-01, 43-15-14, 44-04-14, 44-08-12, 44-08-13, 47-11-01, 47-18-14, 47-19-18, 49-03-01.3, 49-09-09, 49-09-11, 52-02-09, 54-23A-04, 54-27-08, 54-48-06, 54-49.1-02, 65-05-09, 65-06-01, 65-06-02, 65-06-03, 65-06-04, and 65-06-05 of the North Dakota Century Code, relating to incorrect or obsolete references in statutes providing for insurance premium on a small loan, duties of school district election officials, budget of the division of independent study, constitution of county equalization funds, loans made from the medical center fund, procedures of the director of surplus property, application for name placement on the primary election ballot, posting of material in polling places, election contest procedures, voting eligibility of former residents, absent voter ballot procedure, charitable

contributions and payments by candidates, campaign contributions by corporations, appropriation desired by the state firemen's association, apportionment of insurance taxes received by cities, examinations of firemen's relief associations, deposit of funds of rural fire protection districts, seizure of products unlawful under the food and drug laws, prohibited practices under the Food, Drug, and Cosmetic Act, prohibited acts under the Uniform Controlled Substances Act, egg rules of the state laboratories department, municipal bond register, pledge of security in place of depository bond, county or township voucher form, operating cost estimates of the state investment board, reporting of physical or mental disorders, penalty for violating the model rocketry law, enforcement of highway laws, highway relocation assistance payments, highway department records, purchase of township road machinery, custody of funds of patients of state institutions, mentally deficient defendants, duties of the commissioner of insurance, insurance company examinations, insurance company property, evaluation of policies of cooperative or assessment life associations, penalty and prosecution for discrimination or misrepresentation with respect to insurance matters, licensing of sales representatives of contracts of hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations, and nonprofit vision service corporations, issuance and revocation of insurance vending machine licenses, bar admission without examination, suspension or revocation of certification of admission to bar, rights of defendant charged with multiple counts, jurisdiction of prize fighting violation, uniform traffic complaint and summons, summons issuance, change of judge, mistake in charging proper offense, trial on charge after mistake, discharge of accused, sealed verdict, hearing of evidence, payment of wages due surviving spouse or heirs, house mover's lien statement, livestock inspection, state guard commissions, administration of veterans' children scholarships, order for sale of mineral rights of an estate, definition of authorized emergency vehicles, record of process served on nonresident motor vehicle users, reciprocal highway use agreements, definition of moving violation, noncriminal traffic offense, magistrate's record of traffic offense convictions, accident report forms, budgets of the vehicle equipment safety commission, funds of jointly operated municipal utilities, persons exempt from architect licensure, duties of the state board of nursing, collection and cancellation of nursing scholarship loans, the definition of "device" under the pharmacist registration law, sale of drugs, poisons, medicines, and chemicals, examination of county officers' records, definitions and the use of facsimile signatures by authorized public officials, mode of transferring personal property, disposition of homestead sale proceeds, taking of acknowledgments by deputies, certificate of public convenience and necessity application, sale of railroad property under trust deed or upon mortgage foreclosure, compensation for

another railroad's property, unemployment compensation administration fund, state radio broadcasting dispatches, state treasury warrants, publication of emergency interim successors for legislators, natural resources council membership, and workmen's compensation for disaster emergency personnel; and to repeal chapter 15-62, section 27-07-03, chapter 39-15, subsection 5 of section 46-02-04, and sections 47-10-21, 47-10-22, and 49-03-01.2 of the North Dakota Century Code, relating to the state scholarship board, limited county court jurisdiction over unorganized territory, guest statute, printing of the publicity pamphlet, reservation of coal deposits, and limitation on issuance on orders and certificates of public convenience and of necessity to electric public utilities.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 13-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Notwithstanding any other provision of this chapter, any gain or advantage in the form of commission or otherwise, to the licensee or to any employee, affiliate, or associate of the licensee from such insurance or its sale shall not be deemed to be an additional or further charge in connection with the contract of loan. The insurance premium for such insurance may be collected from the borrower or included in the contract of loan at the time the loan is made, ~~but no interest or charges shall be made or received upon the insurance premium when included in the contract of the loan.~~ No licensee shall collect from the borrower at the time the loan is made any sum in excess of the premium then due, and no premium covering an insurance period of more than one year shall be collected.

SECTION 2. AMENDMENT.) Section 15-19-06 of 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 office of the budget~~, 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-board office of the budget. 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.

SECTION 3. AMENDMENT.) Section 15-28-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-10. DUTIES OF ELECTION OFFICIALS - OTHER STATUTES APPLICABLE.) The provisions of sections 16-12-04, 16-12-05, 16-12-11, ~~16-12-15~~, 16-13-01, 16-13-04, 16-20-01, 16-20-06, 16-20-07, 16-20-08, ~~16-20-14~~, 16-20-15, 16-20-17, 16-20-19, ~~16-20-20~~, ~~16-20-21~~, 16-20-22, 16-20-23, and 16-20-24 shall apply to elections held under the provisions of sections 15-28-06 and 15-28-09. After the votes are canvassed, and within twenty-four hours after the polls are closed, the judges shall make their returns to the clerk of the school board. All expenses of elections held by a school district, except the notice of the annual election, shall be paid by the district.

* SECTION 4. AMENDMENT.) Section 15-40.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

* NOTE: Section 15-40.1-03 was also amended by section 2 of House Bill No. 1056, chapter 220.

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.

SECTION 5. AMENDMENT.) Section 15-52-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-19. LOAN PAYMENTS.) Loans authorized by ~~sections section 15-52-10 and sections 15-52-15~~ 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 6. AMENDMENT.) Section 15-52-20 of 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 section 15-52-10 and sections 15-52-15~~ 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~~ city 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~~ the city 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 7. 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 section 15-52-10 and sections 15-52-15 through 15-52-28~~ and rules and regulations promulgated thereunder. For the purposes of ~~sections section 15-52-10 and sections 15-52-15 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 8. AMENDMENT.) Section 15-52-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-52-27. PURPOSES OF LOAN FUND.) The purposes of ~~sections section 15-52-10 and sections 15-52-15 through 15-52-28*~~ are hereby declared to be to develop and maintain the North Dakota state medical center by making it possible for all qualified students attending such center to complete their education in medicine or in the case of dental students who are residents of the state of North Dakota to complete their education in dentistry.

SECTION 9. AMENDMENT.) Subsections 1 and 3 of section 15-61-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The director of surplus property is hereby authorized and empowered to:
 - a. ~~to--acquire~~ Acquire from the United States of America under and in conformance with the provisions of section 203(j) of the Federal Property and Administrative Services Act of 1949,* as amended, hereinafter referred to as the "Federal Act", such property, including equipment, materials, books, or other supplies under the control of any department or agency of the United States of America as may be usable and necessary for purposes of education, public health, or ~~civil-defense~~ disaster emergency, including research for any such purpose, and for such other purposes as may now or hereafter be authorized by federal law.
 - b. ~~to-warehouse~~ Warehouse such property, ~~and.~~
 - c. ~~to--distribute~~ Distribute such property within the state to tax-supported medical institutions, hospitals, clinics, health centers, school systems, schools, colleges, and universities within the state, to other nonprofit medical institutions, hospitals, clinics, health centers, schools, colleges and universities which have been held exempt from taxation under section 501(c)(3) of the United States Internal Revenue Code of 1954,* to ~~civil--defense~~ disaster emergency organizations of the state, or political

subdivisions and instrumentalities thereof, which are established pursuant to state law, and to such other types of institutions or activities as may now be or hereafter become eligible under federal law to acquire such property.

3. For the purpose of executing his authority under this chapter, the director of surplus property is authorized and empowered to adopt, amend, or rescind such rules and regulations and prescribe such requirements as may be deemed necessary; and take such other action as is deemed necessary and suitable, in the administration of this chapter, to assure maximum utilization by and benefit to health, educational, and ~~civil-defense~~ disaster emergency institutions and organizations within the state from property distributed under this chapter.

SECTION 10. 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~~ disaster emergency 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).

SECTION 11. AMENDMENT.) Section 16-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-07. APPLICATION BY OTHER PERSONS TO PLACE NAME ON BALLOT - PETITION - AFFIDAVIT.) An application to have a name placed on the primary election ballot for nomination for any office designated in this chapter may be made by five qualified electors by presenting the petition required in section 16-04-02 or section 16-04-04 to the proper official, ~~paying the filing fee required,~~ and subscribing and filing an affidavit in substantially the following form:

State of North Dakota,)
County of -----) ss.

A-----, B-----, C-----, D-----, and E-----, being duly sworn, each for himself, deposes and says that he is a qualified voter in the state of North Dakota, that he hereby makes application to have the name of ----- printed on the primary election ballot of the ----- party for the office of -----, to be voted for at the primary election to be held on the ----- day of -----, 19----; that said ----- is, to the best of his knowledge, information, and belief, a ----- and a qualified voter and eligible to hold the office of ----- under the constitution.

Subscribed and sworn to before me this ----- day of -----, 19----

Notary Public, North Dakota.

However, an affidavit relating to a candidate on the no-party ballot shall not contain any reference to party affiliation. When such application is received by the proper officer, and is accompanied by the filing fee required for that office, if any, by section 16-04-05, he the officer shall place the name on the primary election ballot as a party or no-party candidate, as the case may be. The petition and affidavit provided for in this section shall not be filed without the written consent of the person to be nominated endorsed thereon.

SECTION 12. AMENDMENT.) Section 16-11-12 of the 1977 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 and a copy of sections 16-01-00 and of sections 12-11-26 and 12-11-28 sections 16-01-17 and 16-12-16. 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 13. AMENDMENT.) Section 16-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-15-05. PROCEDURE IN TAKING TESTIMONY, DEPOSITIONS, HEARING ACTIONS - COSTS - AMENDMENTS TO PLEADINGS--ORDERS--AND--FINAL JUDGMENT.) All testimony and depositions taken in election contests brought under the provisions of this chapter may be taken in the same manner as in civil actions, and depositions may be taken in more than one place at the same time on leave of the court. Except as otherwise provided in this chapter, all matters relating to election contests shall be heard and tried as civil actions are tried. The costs shall be taxed as in other civil actions. ~~The court may order amendments to the notice and answer, and to all other proceedings, as provided in title 20, Judicial Procedure, Civil, and in the North Dakota Rules of Civil Procedure and may have power to make all orders and enter final judgment as in a civil action.~~

SECTION 14. AMENDMENT.) Section 16-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-15-07. WHEN ELECTION CONTESTS REFERRED TO REFEREE.) Any contest brought under the provisions of this chapter may be referred by the court to a master as provided in ~~title 20, Judicial Procedure, Civil, and in~~ the North Dakota Rules of Civil Procedure. If the parties to such contest do not consent to a reference, the court, in its discretion, may order the same.

SECTION 15. AMENDMENT.) Section 16-15-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-15-09. APPEAL - MANNER FOR TAKING - UNDERTAKING.) An appeal from a final judgment or decision in an election contest provided for in this chapter may be taken without making a motion for a new trial in the district court in the manner provided in ~~title 20, Judicial Procedure, Civil, and in~~ the North Dakota Rules of Civil Procedure, except that the undertaking on appeal shall be in a sum to be fixed by the judge of the district court but shall not be less than five hundred dollars. Such undertaking shall be approved by such judge, or by the clerk of the district court of the proper county under the direction of the judge.

SECTION 16. AMENDMENT.) Section 16-16-17.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-16-17.1. ELIGIBILITY OF FORMER RESIDENTS TO VOTE.) Each citizen of the United States who was a qualified elector in this state immediately prior to establishing residence in another state and who has not qualified for voting purposes due to the residency requirement of that state, may vote in North Dakota for president and vice president only, by applying for a separate ballot at least one day before the election in accordance with sections 16-16-18, 16-16-21, 16-16-22, 16-16-23, 16-16-24, ~~16-16-25*~~ and 16-16-26 of ~~this--chapter~~, provided the statements relative to new residents contained therein shall, for this purpose, be changed by the county auditor and inspector of elections to comply with ~~the-provisions-of~~ this section.

SECTION 17. AMENDMENT.) Section 16-18-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-18-17. OPENING BALLOT - VOTING OR REJECTING - DEPOSITING IN BALLOT BOX - PRESERVING.) At any time between the opening and closing of the polls on election day, the inspector of elections or judges of election of such precinct first shall open the outer envelope and compare the signature to such application for an absent voter's ballot with the signature to the statement provided for in section ~~16-19-09*~~ 16-18-09. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at such election, they shall open the absent voter's envelope in such manner as not to destroy the statement thereon. They shall take out the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, and after endorsing the same as other ballots are endorsed, they shall deposit the ballot in the proper ballot box and show by the records of such election that such elector has voted. If such statement is found to be insufficient, or that the said signatures do not correspond, or that such applicant is not then a duly qualified elector of such precinct, such vote shall not be allowed, but without opening the absent voter's envelope, the inspector of elections or judge of such election shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be.

The subsequent death of an absentee voter after having voted by absentee ballot shall not constitute grounds for rejecting such ballot.

The absent voter's envelope when such absent vote is voted, and the absent voter's envelope with its contents unopened, when such absent vote is rejected, shall be deposited in the ballot box and shall be retained and preserved in the same manner as official ballots voted at such election are retained and preserved.

SECTION 18. AMENDMENT.) Section 16-20-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-20-07. CHARITABLE CONTRIBUTIONS AND PAYMENTS BY CANDIDATES PROHIBITED - EXCEPTIONS.) No person shall demand, solicit, ask, or invite any payment or contribution for any religious, charitable, or other such cause from any person who seeks to be, or has been, nominated to any office, and no such candidate shall make any such payment or contribution, nor promise or agree to make the same, if it shall be demanded or asked during the time he is a candidate for nomination or election. No payment or contribution for any purpose shall be made a condition precedent to the placing of a name on any caucus or convention ballot or nomination paper or petition, or the performance of any duty imposed by law on a political committee. The provisions of this section shall not prohibit any candidate from making:

1. ~~Any---candidate---for---office---from---making---contributions~~ Contributions for a religious or charitable purpose to any organization or purpose to which he ordinarily or customarily has contributed before~~7.~~
2. Contributions to any church organization or association of which he actually is a member~~7-07.~~
3. Contributions to the central committees of the political party with which he is affiliated, but any such contribution shall be deemed a part of the expenditures limited in section ~~16-20-03*~~ 16-20-04.

SECTION 19. AMENDMENT.) Subsection 5 of section 16-20-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. For the influencing of legislation of any kind, except in accordance with chapter ~~54-05*~~ 54-05.1.

SECTION 20. AMENDMENT.) Section 18-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-03-05. STATEMENT OF DESIRED APPROPRIATION SUBMITTED TO OFFICE OF THE BUDGET.) Not later than July first of each year next preceding a regular session of the legislative assembly, the director of the budget shall send to the secretary of the North Dakota firemen's association a suitable blank form to be filled out by such secretary with an itemized statement of the amount of money he considers necessary to promote the efficiency and growth of the different fire departments of the association, and to conduct the regional fire schools to be held during the succeeding biennium under the direction of the association. The secretary shall return the blanks properly filled out as provided in section ~~54-15-05*~~ 54-44.1-04.

SECTION 21. AMENDMENT.) Section 18-05-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-05-04. APPORTIONING INSURANCE TAX RECEIVED BY MUNICIPALITY CITY.) The amount received under section ~~18-04-06*~~ 18-04-05 by the ~~municipal~~ city auditor in a ~~municipality~~ city having a paid fire department and a duly organized and incorporated firemen's relief association except as hereinafter provided shall be apportioned as follows: one-half thereof shall be placed in a fund to be disbursed by the governing body in maintaining the fire department, and one-half thereof shall be paid to the treasurer of the firemen's relief association. Instead of making such apportionment the governing body in its discretion may pay all or any portion of the one-half of the amount so received which would otherwise be disbursed in maintaining the fire department to the treasurer of the firemen's relief association if its financial condition shall make such disposition necessary or advisable.

* SECTION 22. AMENDMENT.) Section 18-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-05-13. STATE AUDITOR TO EXAMINE BOOKS OF RELIEF ASSOCIATION - REPORT OF UNAUTHORIZED SPENDING TO GOVERNOR - DUTY OF GOVERNOR.) The state auditor, annually, shall examine the books and accounts of the secretary and treasurer of each firemen's relief association receiving funds under the provisions of this chapter. If he finds that the money, or any part of it, has been or is being expended for unauthorized purposes, he shall report the facts to the governor. Thereupon, the governor shall direct the department of accounts and purchases not to prepare any warrants for the benefits of the fire department or relief association of the municipality in which such association is organized until it shall be made to appear to the state auditor who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand. Each firemen's relief association shall pay into the state treasury fees for such annual examinations ~~at the same rate as fixed~~ provided by section ~~6-01-21, 2*~~ 54-10-14 for the examination of the books and accounts of ~~city auditors and city treasurers~~ political subdivisions.

** SECTION 23. AMENDMENT.) Section 18-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-09. FUNDS COLLECTED TO BE DEPOSITED.) The following shall be deposited in a state or national bank to the credit of the district fund and shall be drawn out only by warrant:

1. All funds collected on behalf of the district through the levy of taxes, .
2. All donations, contributions, bequests, or annuities, ~~and~~ received by or on behalf of the district.
3. All borrowed money received by or on behalf of the district ~~shall be deposited in a state or national bank to~~

* NOTE: Section 18-05-13 was also amended by section 4 of House Bill No. 1243, chapter 102.

** NOTE: Section 18-10-09 was also amended by section 5 of House Bill No. 1243, chapter 102.

~~the--credit--of--the--district--fund--and--shall--be--drawn--out--only--by--warrant.~~

Such claim voucher shall be authorized by the board of directors and shall bear the signature of the treasurer and the countersignature of the president of such district. The secretary-treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district. ~~Once--each--year--at~~ At the same time the state ~~examiner*~~ auditor examines other county records he shall examine the records of the secretary-treasurer of the rural fire protection district, and the cost of such examination shall be paid by such district. The secretary-treasurer of the rural fire protection district shall bring his records to the office of the county auditor for such examination.

SECTION 24. AMENDMENT.) Section 18-11-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-09. APPORTIONING INSURANCE TAX RECEIVED BY ~~MUNICIPALITY~~ CITY.) The amount received under section ~~18-04-06~~ 18-04-05 by the ~~municipal--treasurer~~ city auditor in a ~~municipality~~ city having a paid fire department and a duly organized and incorporated firemen's relief association shall, except as hereafter provided, be apportioned as follows: one-half thereof shall be placed in a fund to be disbursed by the governing body of the ~~municipality~~ city in maintaining the fire department, and one-half thereof shall be paid to the secretary-treasurer of the firemen's relief association. In addition, thereto, the governing body of the ~~municipality~~ city may in its discretion pay all or any portion of the amount normally disbursed in maintaining the fire department to the secretary-treasurer of the firemen's relief association if its financial condition shall make such disposition necessary or advisable.

SECTION 25. AMENDMENT.) Section 18-11-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-22. STATE AUDITOR TO EXAMINE BOOKS OF RELIEF ASSOCIATION - REPORT OF UNAUTHORIZED SPENDING TO GOVERNOR - DUTY OF GOVERNOR.) The state auditor biennially shall examine the books and accounts of the secretary-treasurer of each firemen's relief association receiving funds under the provisions of this chapter. If he finds that the money, or any part of it, has been or is being expended for unauthorized purposes, he shall report the facts to the governor. Thereupon, the governor shall direct the state auditor to refuse to issue any warrants for the benefit of the fire department or relief association of the municipality in which such association is organized until it shall be made to appear to the state auditor, who shall report the fact to the governor, that all moneys wrongfully expended have been replaced. The governor may take such further action as the emergency may demand. Each firemen's relief association shall pay into the state treasury fees for such biennial examinations ~~at--the--same--rate~~ as ~~fixed~~ provided by section ~~6-01-21-2*--of--this--code~~ 54-10-14 for the examination of the books

and accounts of ~~city--auditors--and--city--treasurers~~ political subdivisions.

SECTION 26. AMENDMENT.) Section 19-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-12. SEIZURE OF UNLAWFUL PRODUCTS - SEARCH WARRANT.) A search warrant may be issued by any judge, county justice, or municipal judge* whenever probable cause is shown by affidavit or deposition under oath that any article, product, composition, or thing is being kept or is present upon certain premises which shall be particularly described or is in possession of any person who shall be named in the affidavit or deposition, and that such article, product, composition, or thing, is not in compliance with, or is being used or possessed contrary to, any applicable provision of this title or of any rule, regulation, standard, tolerance, or definition issued pursuant thereto. The search warrant shall be in substantially the form described in ~~section--29-29-06~~ the North Dakota Rules of Criminal Procedure. It shall particularly describe the premises or the person who has possession of such article and shall be signed by the judge ~~or-magistrate~~ with the name of his office, and shall be directed to any peace officer of the county or to the department or any of its agents. The warrant shall command the peace officer or agent of the department to search the persons or places named and to seize all and any products, articles, compositions, or things of the kind described therein which may be held in violation of any applicable provision of this title, and to bring such products, articles, compositions, or things before the judge ~~or-magistrate~~.

SECTION 27. AMENDMENT.) Subsections 14 through 23 of section 19-02.1-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

14. Dispensing or causing to be dispensed a different drug or brand of drug in place of the drug or brand of drug ordered or prescribed without the express permission in each case of the person ordering or prescribing.

~~15-to-20---Repealed-by-S-L-19717-ch--2357--§-49-~~

~~21---The-refusal-to-permit-entry-or-inspection-as-authorized-by-subsection-5-of-section-19-02.1-23*-~~

~~22-~~ 15. The manufacture of drugs, or the supplying of drugs at wholesale or retail, unless a license to do so has first been obtained from the state board of pharmacy after application to the state board of pharmacy and the payment of a licensing fee of not to exceed three dollars.

~~23-~~ 16. The filling or refilling of any prescription in violation of subsection 1 of section 19-02.1-15.

SECTION 28. AMENDMENT.) Subsections 4 through 10 of section 19-02.1-05 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. Whenever the state laboratories director or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the state laboratories director or his authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.

~~5-and-6---Repealed-by-S-L-19717,-ch-2357--§-49-~~

7- 5. Any person, firm, or corporation having an interest in the alleged article, equipment, or other thing proceeded against, or any person, firm, or corporation against whom a civil or criminal liability would exist if said merchandise is in violation of section 19-02.1-02 may, within twenty days following the seizure, appear and file answer to the complaint. The answer shall allege the interest or liability of the party filing it. In all other respects, the issue shall be made up as in other civil actions.

8- 6. Any article, equipment, conveyance, or other thing condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid to the treasurer of the state; but such article, equipment, or other thing shall not be sold under such decree contrary to provisions of this chapter.

9- 7. 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~~ all of the following:

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~~ chapter 19-03.1, 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 thing 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.

~~10-~~ 8. When a decree of condemnation is entered against the article, equipment, conveyance, or other thing, court costs and fees and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

* SECTION 29. AMENDMENT.) Section 19-03.1-23 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-23. PROHIBITED ACTS A - PENALTIES.)

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, provided that any person whose conduct is in violation of sections ~~12-44-25~~ 12-44-25.1, ~~12-44-28~~, ~~12-46-24~~, ~~12-47-21~~, or ~~12-51-11~~ shall not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. a A controlled substance classified in schedules I or II which is a narcotic drug, is guilty of a class A felony;
 - b. any other controlled substance classified in schedule I, II, or III, is guilty of a class B felony;
 - c. a A substance classified in schedule IV, is guilty of a class C felony;
 - d. a A substance classified in schedule V, is guilty of a class A misdemeanor.
2. Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance, provided that any person whose conduct is in violation of sections ~~12-44-25~~ 12-44-25.1, ~~12-44-28~~, ~~12-46-24~~, ~~12-47-21~~, or ~~12-51-11~~ shall not be prosecuted under this subsection. Any person who violates this subsection with respect to:

* NOTE: Section 19-03.1-23 was also amended by section 28 of House Bill No. 1044, chapter 172, and by section 4 of Senate Bill No. 2052, chapter 287.

- a. a A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a class A felony;
 - b. any Any other counterfeit substance classified in schedules I, II, or III, is guilty of a class B felony;
 - c. a A counterfeit substance classified in schedule IV, is guilty of a class C felony;
 - d. a A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
3. It is unlawful for any person 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 chapter, provided that any person whose conduct is in violation of sections ~~12-44-25~~ 12-44-25.1, 12-44-28, 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection is guilty of a class C felony; except that any person who violates this subsection regarding possession of marijuana, shall be guilty of a class A misdemeanor.

SECTION 30. 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~~ of the commissioner of agriculture, 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 31. AMENDMENT.) Section 21-03-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-03-23. BOND REGISTER.) The county auditor shall keep a bond register in which shall be entered, as to each issue of bonds issued by a taxing district in the county required by the provisions of section 21-03-22 to be delivered to the county auditor after execution, a record of the date of issuance, the aggregate amount authorized, the aggregate amount issued, the number of bonds and the denomination of each, the date of maturity of each bond, the rate of interest, the amount of the levy on taxable property for each year certified by the taxing board, the amount levied on any other object of taxation by the municipality, the amount pledged or allocated from other sources of revenue of the municipality, and the amount of

any annual or periodic payments or distributions appropriated or allocated by the legislative assembly. Such bond register also shall contain similar information regarding each issue of certificates of indebtedness of each taxing district in the county. The state ~~commissioner-of-banking-and-financial-institutions~~ auditor shall prescribe for the use of the county auditors a uniform form of bond register.

SECTION 32. AMENDMENT.) Section 21-04-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-04-09. PLEDGE OF SECURITY IN PLACE OF DEPOSITORY BOND.) The board of any public corporation may accept from any banking corporation, as security for repayment of deposits, a pledge of securities in lieu of a personal or surety bond. When securities are so pledged to the board of any public corporation, such board shall require security in the amount of one hundred ten dollars for every one hundred dollars of public deposits. Securities which shall be eligible for such pledge shall be bills, notes, or bonds issued by the United States government, its agencies or instrumentalities, all bonds and notes guaranteed by the United States government, federal land bank bonds, bonds, notes, warrants, certificates of indebtedness and all other forms of securities issued by the state of North Dakota, its boards, agencies, or instrumentalities, or by any county, city, township, school district, park district, or other political subdivision of the state of North Dakota, whether payable from special revenues or supported by the full faith and credit of the issuing body, and bonds issued by any other state of the United States. Such securities may be delivered to and held for safekeeping by any bank or trust company, other than the depository, which the depository and the public corporation may agree upon, which bank or trust company prior thereto has been approved as a custodian for such purpose by the state ~~commissioner--of--banking-and-financial-institutions~~ auditor. Whenever any such securities are so deposited for safekeeping with any custodian, such custodian shall issue a receipt therefor jointly to the depository and the public corporation.

Any bank pledging such securities, at any time it deems it advisable or desirable, and without the consent of the board of the public corporation, may substitute other eligible securities for all or any part of the securities so pledged. The securities so substituted shall, at the time of such substitution, have a market value at least equal to the market value of the securities released and delivered to the depository.

In the event of such substitution the holder or custodian of the pledged securities shall, on the same day, forward by registered or certified mail to the public corporation and the depository bank a receipt specifically describing and identifying both the securities so substituted and those released and returned to the depository bank.

SECTION 33. AMENDMENT.) Section 21-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-05-05. VOUCHER FORM.) All blank forms for bills, claims, accounts, or demands against a county or township shall have printed thereon the provisions of section ~~21-05-04~~ 12.1-11-02.*

SECTION 34. AMENDMENT.) Section 21-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-10. COST OF OPERATION OF BOARD.) The biennial costs of operation of the board and its agents in carrying out the provisions of this chapter, shall be estimated by the board and prorated among the various funds enumerated under section 21-10-06 in proportion to the services rendered for such funds. Such estimates shall be submitted to the ~~state--budget--board~~ office of the budget and appropriations for the operations of the investment board shall be made from the respective funds in accordance with such proration estimates. The proportion allocated for services rendered to funds under the control of the board of university and school lands shall be paid from its legislative appropriation.

SECTION 35. AMENDMENT.) Subsection 4 of section 23-07-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The physician-patient privilege provided for by ~~subsection 3-of-section-31-01-06*~~ rules 501 and 503 of the North Dakota Rules of Evidence may not be asserted to exclude evidence regarding the mental or physical incapacity of a person to safely operate a motor vehicle in the reports as required under the provisions of this section.

SECTION 36. AMENDMENT.) Section 23-15.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-15.1-07. PENALTY.) Any person who ~~shall-violate~~ violates any ~~provisions~~ provision of this chapter ~~shall-be~~ is guilty of a ~~class-C-misdemeanor~~ an infraction.

SECTION 37. AMENDMENT.) Section 24-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-13. ENFORCEMENT OF HIGHWAY LAWS - VEHICLE SIZE AND WEIGHT CONTROLLED.) The commissioner and each officer and inspector of the state highway department, designated by him, shall enforce the provisions of chapter 49-18, and shall have general police powers with respect to enforcement of all laws pertaining to the use of motor vehicles and trailers, other than passenger cars and motorcycles, upon the highways, roads and streets of this state and may:

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

SECTION 38. AMENDMENT.) Section 24-01-41.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-01-41.1. RELOCATION OF PROPERTY OTHER THAN UTILITIES.) The legislative assembly assents that highway relocation assistance payments, as ~~defined in chapter 5 of title 23 of the Federal Aid Highway Act of 1968*~~ provided in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [Pub. L. 91-646; 84 Stat. 1894; 42 U.S.C. 4601 et seq.], and such changes or amendments thereof which Congress may hereafter enact, are to be considered a necessary cost in the construction or reconstruction of public highways which are eligible for federal aid funds. The commissioner is authorized and empowered to expend highway funds for the cost of the state's participation in highway relocation assistance payments. Relocation assistance payments as ~~defined in chapter 5 of title 23 of the Federal Aid Highway Act of 1968*~~ provided in the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and such changes or amendments thereof which Congress may hereafter enact, shall not be construed as creating any element of damages recognized in eminent domain.

SECTION 39. AMENDMENT.) Section 24-02-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-02-11. RECORDS OF DEPARTMENT OPEN TO PUBLIC - CERTIFIED COPIES.) The commissioner shall be custodian of, and shall preserve, the files and records of the department. The files and records of the department shall be open to public inspection under reasonable regulations. Copies of said files and records, when certified by the commissioner as being true copies, shall be received in evidence in any court in the state with the same force and effect as the originals.

The books of account of the department shall be kept accurately and completely as shall be prescribed or approved by the

state ~~examiner~~ auditor, which shall show among other things the following facts:

1. The cost of maintaining the department, including the salaries and expenses of the individual members thereof.
2. The amounts of money expended for the construction or maintenance of the state highways, when and where, and upon what job or portion of the road expended, so that the cost per mile [1.61 kilometers] of such construction or maintenance can be ascertained with ease.
3. The amount of road equipment and materials purchased and when and where and from whom purchased. Such book also shall show the price paid for each item. The original invoice or a photographic copy thereof shall form a part of the permanent files and records in said department.

SECTION 40. AMENDMENT.) Section 24-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-06-02. TOWNSHIP MAY PURCHASE ROAD MACHINERY - CREDIT TERMS.) The board of supervisors of any township, ~~subject to the provisions of section 24-06-03*,~~ may contract for and purchase, upon credit or otherwise, any road machinery, implements, or equipment for the use of such township.

SECTION 41. AMENDMENT.) Section 24-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-06-07. ROAD MACHINERY - SALE, PURCHASE, LEASE.) In townships owning road machinery, the board of township supervisors may make such disposition of the same as in its discretion is best for the interests of the township, or it may purchase or lease such machinery as may be necessary. ~~No purchase, sale, or lease of machinery, involving a sum in excess of four hundred dollars, shall be undertaken unless such sale, purchase, or lease shall be authorized by the voters as prescribed in section 24-06-03.*~~

SECTION 42. AMENDMENT.) Section 25-01.1-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01.1-20. CARE AND CUSTODY OF FUNDS BELONGING TO PATIENTS OF STATE INSTITUTIONS.) The superintendent of any state institution under the management and control of the supervising department, when the care and custody of any funds belonging to patients thereof are by law devolved upon him, shall keep accurate accounts of such funds in books provided for that purpose, and shall pay out such funds under such rules and regulations as may be prescribed by law or by the supervising department, taking proper vouchers therefor in all cases from the patient or responsible representative of such patient. Each superintendent shall give a bond in such sum as may be required by law, or as may be prescribed by the supervising

department, to be subject to the approval of the ~~commissiener--of banking--and--financial--institutions~~ state auditor, conditioned for the faithful performance of his duties and a due accounting for the funds entrusted to his care.

SECTION 43. AMENDMENT.) Subsections 1 and 3 of section 25-04-07 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. When in any cause, other than a proceeding before the juvenile court, it appears that a defendant may be mentally deficient to such an extent that he is unable to confer effectively with counsel or to participate adequately in his own defense, this issue shall be adjudicated in accordance with the procedures provided for in chapter ~~29-20~~ 12.1-04.* When any person has been adjudicated unfit to stand trial by reason of mental deficiency, the court shall initiate a process for the determination of mental incompetency, or for a joint determination of incompetency and defective delinquency as provided hereinafter. If incompetency is established, the court shall appoint an appropriate guardian of the person.
3. The court may thereupon conduct a hearing on the joint question of incompetency and defective delinquency, with due notice to all interested parties in the manner provided for in chapter ~~30-10~~ 30.1-28.* The court may hear the matter or may order a jury trial. A jury trial shall be had if demanded by the defendant or someone on his behalf.

SECTION 44. AMENDMENT.) Subsections 10 through 14 of section 26-01-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

10. ~~Repealed by S.L. 1967, ch. 162, § 6.~~
- ~~11--To manage, control, and supervise the state hail insurance department.~~
- ~~12-~~ To manage, control, and supervise the state bonding fund.
- ~~13-~~ 11. To manage, control, and supervise the state fire and tornado fund and the insurance of public buildings therein.
- ~~14-~~ 12. To see that all the laws of this state respecting benevolent societies are executed faithfully, and to furnish to such societies blank forms for required reports.

SECTION 45. AMENDMENT.) Section 26-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-10. ~~COMMISSIONER-OF-BANKING-AND-FINANCIAL-INSTITUTIONS~~ STATE AUDITOR TO MAKE EXAMINATION WHEN COMMISSIONER OF INSURANCE IS DISQUALIFIED.) If the commissioner of insurance is a director, officer, agent, attorney, or stockholder of, or is interested directly in, any insurance company except as an insured, the examination of such company shall be made by the ~~commissioner--of banking--and--financial-institutions~~ state auditor or by some person appointed by ~~him~~ the state auditor. No officer or agent of any insurance company doing business in this state shall be appointed to examine the affairs of such company.

SECTION 46. AMENDMENT.) Section 26-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-08-13. REAL PROPERTY ACQUIRED BY DOMESTIC INSURANCE COMPANY - SALE - WHEN REQUIRED.) All property acquired by a domestic insurance company in any manner specified in subsections ~~27-3-and-4~~ 1, 2, and 3 of section 26-08-12* which is not necessary for the accommodation of the company or for the convenient transaction of its business shall be sold and disposed of within two years after the company shall have acquired title to the same, and as to any property so acquired which was necessary for the accommodation of the company or for the convenient transaction of its business, within two years after the same shall have ceased to be necessary for the accommodation of its business. No company shall hold any of such property for a period longer than is specified in this section unless it shall procure a certificate from the commissioner of insurance stating that the company's interests will suffer materially by the forced sale of the property. If such certificate is obtained, the time for the sale may be extended to such time as the commissioner shall direct therein. A company may select real estate acquired under the provisions of subsections 1, 2, and ~~37-and~~ 4 of section 26-08-12* other than real estate used primarily for farming and agriculture, and hold the same as an investment for income, not exceeding the total amount permitted by law for such purpose, and such property so selected shall not be subject to the limitations of this section.

SECTION 47. AMENDMENT.) Section 26-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-10-02. COOPERATIVE AND ASSESSMENT LIFE ASSOCIATIONS - VALUATION OF POLICIES.) Cooperative or assessment life associations shall be admitted to transact business in this state upon compliance with the provisions of this title relating to the licensing and admission of life insurance companies without being required to value their policies in conformity with the provisions of ~~section 26-10-01*~~ chapter 26-10.1. All such associations shall value their policies in the same manner as year renewable term policies are valued, according to the standard of valuation of life insurance policies prescribed by the provisions of this title.

SECTION 48. AMENDMENT.) Section 26-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-10-14. PENALTY FOR VIOLATING PROVISIONS RELATING TO MISREPRESENTATION AND DISCRIMINATION.) Any officer, agent, solicitor, or representative of any insurance or surety company, reciprocal, benevolent society, or any fraternal benefit society, or any other insurance organization, or association, or any other person, who shall violate any of the provisions of sections 26-10-09, 26-10-10, 26-10-11, ~~26-10-12*~~ or 26-10-13.1 shall be guilty of a class A misdemeanor. The ~~insurance~~ commissioner of insurance may, after a hearing upon fifteen days' notice, revoke the license to transact business in this state of any insurance organization violating the provisions of sections 26-10-09 or 26-10-10.

SECTION 49. AMENDMENT.) Section 26-10-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-10-16. STATE'S ATTORNEY TO PROSECUTE FOR DISCRIMINATION OR MISREPRESENTATION.) Upon evidence satisfactory to the commissioner of insurance that any of the provisions of sections 26-10-09 ~~to~~ ~~26-10-13*~~, 26-10-10, 26-10-11, or 26-10-13.1 have been violated by an agent, solicitor, or representative of any life insurance company, or by any other person, he shall certify to the state's attorney of the county in which the violation occurred all evidence thereof in his possession, and such state's attorney shall prosecute the case.

SECTION 50. AMENDMENT.) Section 26-26-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-26-14. LICENSING OF SALES REPRESENTATIVES.) The sales representatives of any corporation subject to the provisions of this chapter, who may also act as sales representatives in the sale of nonprofit medical service contracts as defined in chapter 26-27, shall be subject to the laws pertaining to insurance agents as defined in chapter ~~26-17*~~ 26-17.1. 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 51. AMENDMENT.) Section 26-27-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-14. 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*~~ 26-17.1. 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 52. AMENDMENT.) Section 26-27.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.1-18. 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*~~ 26-17.1. 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 53. AMENDMENT.) Section 26-27.2-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.2-18. 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*~~ 26-17.1. 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 54. AMENDMENT.) Section 26-33-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-33-04. REFUSAL TO ISSUE LICENSE AND REVOCATION OF LICENSE - NOTICE AND OPPORTUNITY TO BE HEARD.) The license for each device shall be subject to expiration, suspension, or revocation coincidentally with that of the agent or the insuring company. The commissioner also may suspend, revoke, or refuse to renew the license as to any device concerning which he finds any conditions upon which the device was licensed or referred to in section 26-33-02 have been violated, or no longer exist, or that the device is being used or operated by the agent in violation of the laws of this state; provided, that before suspending, revoking, or refusing to renew a license for a device, the commissioner shall conduct a hearing in the manner prescribed in ~~section-26-17-04*~~ chapter 28-32 and shall make his determination upon the basis of the standards, conditions, and requirements of this section. An order of the commissioner may be reviewed by an aggrieved person as provided in ~~section-26-17-05*~~ chapter 28-32.

SECTION 55. AMENDMENT.) Section 27-11-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-11-26. PROCEDURE AND PROOF REQUIRED FOR ADMISSION WITHOUT EXAMINATION.) An application for admission to the bar of this state made pursuant to the provisions of section 27-11-25 shall be made upon a written motion directed to the supreme court. Such motion shall be made by a member of the bar of this state and shall be filed with the clerk of such court. With such motion shall be filed the applicant's certificate of admission to practice in the foreign state and his affidavit disclosing the place or places in such foreign state where he has practiced, in the aggregate, for a period of more than ~~three~~ five years. He also shall give the name and post-office address of one or more of the district or circuit judges

who, during said time, have presided in the court or courts before which he has practiced. Where possible, he shall present the certificate of such judge or judges showing the above facts in support of his application. The affidavit of the applicant also shall disclose whether any proceedings in disbarment or suspension of his license to practice are pending against him or were pending against him at the time of his removal from the foreign jurisdiction and whether he still is an attorney at law in good standing in such foreign state. The applicant also must furnish the affidavits of at least two practicing attorneys of the foreign state who were fellow practitioners with the applicant stating that the applicant is of good moral character and a proper person to be licensed to practice law. Such application shall be referred to the state bar board which shall investigate the same and its sufficiency, including the moral qualifications of the applicant. Upon the report of the state bar board approving such application, a motion for admission upon such application may be made at any regular or special term of the supreme court.

SECTION 56. AMENDMENT.) Subsection 6 of section 27-14-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Been convicted of any offense mentioned in ~~section 12-17-10, section 27-13-08, section 27-13-09, section 27-13-11, or section 27-13-12;~~ ~~section 12-17-21,~~ section 27-13-08, section 27-13-09, section 27-13-11, or section 27-13-12; or

SECTION 57. AMENDMENT.) Section 29-01-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-01-06.1. RIGHTS OF DEFENDANT - EXCEPTION.) When the defendant is charged with a crime under a multiple count indictment or information as allowed by ~~section 29-11-10-1~~ the North Dakota Rules of Criminal Procedure, he may be tried on all counts in any one of the counties in which one of the offenses was committed.

SECTION 58. AMENDMENT.) Section 29-03-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-03-20. PRIZE FIGHTING VIOLATIONS - JURISDICTION.) The jurisdiction of a criminal action for the violation of ~~any of the provisions of sections 12-19-20, 12-19-29, and 12-19-30~~ section 53-01-19 is in any county:

1. In which any act is done toward the commission of the offense; or
2. Into, out of, or through which the offender passed to commit the offense; or
3. Where the offender is arrested.

SECTION 59. AMENDMENT.) Section 29-05-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-05-31. UNIFORM TRAFFIC COMPLAINT AND SUMMONS.) There is hereby established a uniform complaint and summons which may be used in cases involving violations of statutes or ordinances relating to the operation or use of motor vehicles. Whenever the complaint and summons established by this section is used, the provisions of ~~section-29-05-04~~ rule 5 of the North Dakota Rules of Criminal Procedure relating to arrests without warrants shall not apply, and the magistrates or state's attorneys shall not be required to make another complaint of the offense charged in the uniform complaint and summons. The uniform complaint and summons established herein shall be in substantially the following form:

State of North Dakota) In _____ Court,
County of _____) ss Before Hon. _____;

The undersigned, being duly sworn, upon his oath deposes and says that, on the _____ day of _____ 19____

First Name Middle Name Last Name Street City State
did unlawfully operate a motor vehicle upon a public highway, namely
_____, _____ N E S W of _____ and did then and there
Location City

commit the following offense: _____
MPH in _____
MPH Zone _____

All in violation of the Sec. _____ of the N.D. Century Code as amended and against the peace and dignity of the state of N.D.

Officer _____ LET A WARRANT ISSUE HEREIN Sworn to and subscribed before me this _____ day of _____ 19____.

Judge State's Attorney

DESCRIPTION OF DEFENDANT AND VEHICLE
Mo. _____ Day _____ Yr. _____ Race _____ Sex _____ Wt. _____ Ht. _____
Birth date _____
Hair _____ Dr. Lic: State _____ No. _____ Motor Vehicle: _____
PSC _____
Make _____ Reg. No. _____ State _____ Year _____ ICC No. _____

CLAIMED CONDITIONS OF THE VIOLATION
SLIPPERY SURFACE-
Rain _____ Snow _____ Ice _____
DARKNESS-
Night _____ Fog _____ Snow _____

OTHER TRAFFIC PRESENT-

_____ Cross _____ Oncoming _____ Pedestrian
_____ Same direction

IN ACCIDENT-

_____ Ped. _____ Vehicle _____ Intersection
_____ Right angle _____ Head on _____ Rear end
_____ Ran off road _____ Other

Area: _____ School _____ Rural _____ Business
_____ Industrial _____ Residential

Highway: _____ 2 Lane _____ 4 Lane _____ 4 Lane Divided
Type

_____ Gravel _____ Dirt

OFFENSE CONTRIBUTED MATERIALLY TO ACCIDENT-

_____ Yes _____ No

THE STATE OF NORTH DAKOTA TO THE ABOVE-NAMED DEFENDANT

You are hereby summoned to appear at the time and place designated below to answer to the charge above indicated to be made against you

Appearance

Before: Municipal Judge-County Justice-County Ct.

					A.M./P.M.
Location	Month	Day	Year	Time	
		Dated this	_____	day of _____	19 _____
				Officer _____	

PROMISE TO APPEAR

I hereby consent and promise to appear at the time and place specified in the above summons, the receipt of a copy of which is hereby acknowledged, and I expressly waive earlier hearing.

Dated this _____ day of _____ 19 _____
Defendant _____

SECTION 60. AMENDMENT.) Section 29-12-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-12-13. INFORMATION FILED OR INDICTMENT RETURNED - SUMMONS.) If an information is filed without a preliminary examination, or an indictment is returned against a corporation, the clerk of the district court must issue a summons in the corporate name of the corporation in the form prescribed in ~~section-29-05-29~~ rule 4 of the North Dakota Rules of Criminal Procedure commanding it to appear and answer the information or indictment. Such summons must be served as a summons in a civil action is served.

SECTION 61. AMENDMENT.) Subsection 9 of section 29-15-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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~~ rule 21 of the North Dakota Rules of Criminal Procedure, 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 62. AMENDMENT.) Section 29-21-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-21-15. MISTAKE IN OFFENSE CHARGED - OTHER PROCEEDINGS.) When it appears, at any time before verdict or judgment, that a mistake has been made in charging the proper offense, the defendant must not be discharged, if there appears good cause to detain him in custody, but the court must commit him, or require him to give bail for his appearance to answer to the offense, and also may require the witnesses to give bail for their appearance. The provisions of ~~section-29-14-11~~ rule 12 of the North Dakota Rules of Criminal Procedure as to the manner and time of prosecution, so far as applicable, shall govern the further proceedings under this section.

SECTION 63. AMENDMENT.) Section 29-21-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-21-17. TRIAL ON ORIGINAL CHARGE AFTER MISTAKE.) If, after a mistake in charging an offense as is provided in section 29-21-15, a new information is not filed nor a new indictment found as is provided in ~~section-29-14-11~~ rule 12 of the North Dakota Rules of Criminal Procedure, the court must proceed again to try the defendant on the original charge.

SECTION 64. AMENDMENT.) Section 29-21-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-21-25. COURT MUST DISCHARGE ACCUSED - EXCEPTION.) If a jury is discharged because the facts as charged do not constitute an offense punishable by law, the court must order that the defendant, if in custody, be discharged therefrom, or, if admitted to bail, that his bail be exonerated, or if he has deposited money instead of bail, that the money deposited be refunded to him, unless in its opinion a new information or indictment can be framed upon which the defendant can be legally convicted, in which case it may direct the state's attorney to file a new information, or, if an information cannot be legally filed sooner, it may direct that the case be submitted to the same or another grand jury, and the provisions of ~~section-29-14-11~~ rule 12 of the North Dakota Rules of Criminal Procedure, so far as applicable, as to the time and manner of the prosecution, shall govern the further proceedings under this section.

SECTION 65. AMENDMENT.) Section 29-22-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-22-20. SEALED VERDICT - PROCEEDINGS UPON.) The court, with the consent of the state's attorney and the defendant, may instruct the jurors that if they should agree upon a verdict during a temporary adjournment of the court, they may sign the same by their foreman, seal it in an envelope, and deliver it to the officer in whose charge they are, after which they may separate until the next convening of the court, at which time they shall reassemble in the jury box. As soon as convenient, the officer shall deliver the sealed verdict to the clerk. When the jurors have reassembled in open court, the envelope shall be opened and the same proceedings shall be had as upon the reception of other verdicts, except that the consent by the defendant to a sealed verdict shall constitute a waiver of his right to poll the jury as provided in ~~section 29-22-19~~ rule 31 of the North Dakota Rules of Criminal Procedure.

SECTION 66. AMENDMENT.) Section 29-26-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-26-16. COURT TO HEAR EVIDENCE - DEGREE OF CRIME.) Upon a plea of guilty of a crime divided into degrees, the court, if such plea is accepted and the defendant does not designate in his plea the degree thereof, before passing sentence, must determine the degree, and the provisions, so far as applicable, of section 29-26-18 and of ~~section 29-26-19~~ rule 32 of the North Dakota Rules of Criminal Procedure shall govern in said determination.

SECTION 67. AMENDMENT.) Section 34-01-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-01-12. EMPLOYER TO PAY SURVIVING SPOUSE OR HEIRS WAGES DUE.) For the purposes of this section, the word "employer" shall include every person, firm, partnership, corporation, the state of North Dakota, and all municipal corporations. If at the time of the death of any person, his employer is indebted to him for work, labor, or services performed, and no executor or administrator of his estate has been appointed, such employer, upon the request of the surviving spouse, or, if there is no surviving spouse, then upon the request of the person's next eligible heir or heirs as determined by section ~~56-01-04~~ 30.1-04-03, forthwith shall pay said indebtedness to the said surviving spouse or heirs. The employer shall require proof of the claimant's or claimants' relationship to the decedent by affidavit and shall require claimant or claimants to acknowledge receipt of such payment in writing. Any payments made by an employer pursuant to the provisions of this section shall operate as a full and complete discharge of the employer's indebtedness to the extent of such payment, and no employer thereafter shall be liable therefor to the decedent's estate or the decedent's executor or administrator thereafter appointed. Any amount so received by a spouse or heirs shall be considered in diminution of the allowance provided for by section 30.1-07-02.

SECTION 68. AMENDMENT.) Section 35-20-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-20-13. LIEN STATEMENT FOR HOUSE MOVER'S LIEN - WHEN REQUIRED - CONTENTS - FILING - ENFORCEMENT - REQUIRING SUIT TO BE COMMENCED.) The lien provided for in section 35-20-12 must be perfected within ninety days after such moving is completed by recording a verified statement showing:

1. The labor performed and the materials furnished;
2. The price agreed upon, or if no price was agreed upon, the reasonable value of the work done and the materials furnished;
3. The name of the person for whom the work was performed; and
4. A description of the building moved and the description of the land upon which the building is located.

Such statement must be recorded in the office of the register of deeds of the county in which such building remains after moving. Unless such statement is recorded as aforesaid, any lien hereunder shall be deemed to be lost and waived. The house mover's lien provided for herein shall be enforced according to the provisions and procedure set out in section ~~35-12-21~~* 35-27-24; and the owner, his agent, or contractor may require suit to be commenced according to the provisions and procedure set out in section ~~35-12-22~~* 35-27-25.

SECTION 69. AMENDMENT.) Section 36-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-10. INSPECTION OF LIVESTOCK - FEES AND REGULATIONS GOVERNING.) When an animal enters a livestock auction market and before it is offered for sale, it shall be inspected for health by a veterinarian licensed in this state and approved by the livestock sanitary board and in the case of cattle for brands by a trained brand inspector, acting under rules promulgated by the North Dakota stockmen's association and the livestock sanitary board. Veterinary inspection shall include all livestock, whether it is to be moved interstate or intrastate. The veterinary inspector shall be recommended by the livestock auction agency and approved by the state livestock sanitary board. Such veterinarian shall be a local veterinarian or a veterinarian of the vicinity, unless there is no such veterinarian available. If the livestock agency fails to recommend such a veterinarian within a reasonable time, the board may in ten days' notice to such agency appoint a veterinarian. The services and duties of the veterinary inspector shall be under the supervision of the state livestock sanitary board and said inspector shall be relieved of his services by the board when he fails to perform such services and duties as required of him by the livestock sanitary board. This section shall not apply to veterinarians who

were approved by the livestock sanitary board prior to the ~~amendment and reenactment of this section~~ July 1, 1969. Fees for such inspection shall be paid to the veterinarian by the auction market company and shall be in an amount agreed upon by the auction market company and the veterinarian.

SECTION 70. AMENDMENT.) Section 37-12-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-12-14. LOCAL ~~CIVIL--DEFENSE~~ DISASTER EMERGENCY DIRECTORS MAY BE COMMISSIONED.) The governor may at any time commission any director of ~~civil-defense disaster emergencies~~ disaster emergencies for a county or city as an officer in the state guard, and the rank of any director so commissioned shall be commensurate with the qualifications and experience of the director. The provisions of section 37-12-01, relating to conditions under which the state guard may be organized and maintained shall in no way prevent a local ~~civil--defense disaster emergency~~ disaster emergency director from being commissioned pursuant to the provisions of this section at any time. Any local ~~civil--defense disaster emergency~~ disaster emergency director so commissioned shall receive no additional remuneration or emolument as a result of his holding a commission in the state guard, and any remuneration or emolument received by him in his capacity as local ~~civil--defense disaster emergency~~ disaster emergency director shall be prescribed and paid by the political subdivision which he is serving. Any ~~civil--defense disaster emergency~~ disaster emergency director commissioned in the state guard shall be authorized to command such state guard as may be directed by the governor.

* SECTION 71. AMENDMENT.) Section 37-20-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-20-03. ADMINISTRATION.) The need for financial assistance for any child of a deceased or incompetent veteran of World War I or II shall be determined and established by the commissioner of veterans' affairs and his determination shall be subject to the approval of the ~~veterans'-aid-commission~~ administrative committee on veterans' affairs. Payment for board, room rent, tuition, books and supplies shall be made on vouchers approved by the commissioner of veterans' affairs subject to such rules and regulations as he may, with the approval of the commissioner of higher education, prescribe.

SECTION 72. AMENDMENT.) Section 38-10-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-10-08. ORDER OF LICENSE TO SELL OIL, GAS, OR MINERAL RIGHTS AND PROCEDURE THEREAFTER.) If it shall appear to the county court, after the hearing provided for in this chapter, that it is necessary, or for the advantage, benefit, and best interests of the estate and of the persons interested therein, to sell the whole or some fractional part of the oil, gas, or minerals in and under, and that may be produced from, land belonging to the estate, the court may enter its order of license authorizing the sale of the whole or

* NOTE: Chapter 37-20 was repealed by section 4 of Senate Bill No. 2390, chapter 215.

any fractional part thereof separately from the surface rights. ~~Such order shall conform to the provisions of sections 30-19-10 and 30-19-11.~~ Thereafter, further proceedings shall be had and conducted in compliance with the provisions of sections ~~30-19-12, 30-19-13, 30-19-14, 30-19-15, 30-19-17, 30-19-18, 30-19-29, and 30-19-30~~ 30.1-13-04, 30.1-18-03, 30.1-18-04, 30.1-18-11, 30.1-18-15, and 30.1-19-08.

* SECTION 73. AMENDMENT.) Subsection 1 of section 39-01-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Authorized emergency vehicles:

a. Class A authorized emergency vehicles shall mean:

- (1) Vehicles of a governmentally owned fire department_†.
- (2) Vehicles when operated by or under the control of a police officer having authority to enforce the provisions of this title or by a salaried employee of any municipal police department within the municipality or by any sheriff or deputy sheriff not to include special deputy sheriffs, or by the warden of the state penitentiary and his authorized agents_†.
- (3) Ambulances_†.
- (4) Vehicles operated by or under the control of the commissioner, and district deputy commissioner, and district deputy game warden of the North Dakota game and fish department_†.
- (5) Vehicles owned or leased by the United States government used for law enforcement purposes_† and_†.
- (6) Vehicles designated for the use of the adjutant general and assistant adjutant general in cases of emergency_†.
- (7) Vehicles operated by or under the control of the director, assistant director, and park superintendents of the North Dakota parks and recreation department.

b. Class B authorized emergency vehicles shall mean wreckers and such other emergency vehicles as are authorized by the local authorities_† and_†.

* NOTE: Subdivision c of subsection 1 of section 39-01-01 was also amended by section 1 of House Bill No. 1153, chapter 401.

- c. Class C vehicles by civil-defense disaster emergency directors while used in the performance of emergency duties.

* SECTION 74. AMENDMENT.) Section 39-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-13. COMMISSIONER TO KEEP RECORD OF PROCESS RECEIVED FOR NONRESIDENT MOTOR VEHICLE USERS.) The highway commissioner shall keep a record of all process served upon him under the provisions of section 39-01-11. Such record shall show the day and hour of service. If any defendant served under section 39-01-11 has made proof of financial responsibility by filing a certificate of insurance coverage, as provided in section ~~39-16-18~~ 39-16.1-09,* the commissioner shall mail a copy of such summons and complaint to the insurance carrier named in such certificate.

SECTION 75. AMENDMENT.) Section 39-04-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-06. WHEN REGISTRATION RESCINDED OR SUSPENDED.) The department shall rescind or suspend the registration of a motor vehicle:

1. When the department shall determine that a vehicle is unsafe or unfit to be operated or is not equipped as required by law; or
2. Whenever the person to whom the registration card or registration number plates therefor have been issued shall make or permit to be made any unlawful use of the same or permit the use thereof by a person or on a motor vehicle not entitled thereto; or
3. Whenever the ~~reciprocity~~ commissioner finds that a vehicle is registered in accordance with a reciprocity agreement, arrangement, or declaration and such vehicle is operated in violation of such agreement; or
4. When the department shall determine that a motor vehicle is not covered by security for payment of basic no-fault benefits and the liabilities covered under motor vehicle liability insurance as required by chapter 26-41.

Any registration suspended for any of the above reasons shall be restored upon compliance with the laws governing motor vehicle registration.

Whenever a check is returned to the department for want of payment the department shall rescind the registration of the motor vehicle covered by such check.

* NOTE: Section 39-01-13 was also amended by section 1 of House Bill No. 1283, chapter 405.

Any registration rescinded for want of payment of a check shall be restored upon payment of the registration fee and the additional sum of ten dollars for the cost of collection of the check.

SECTION 76. AMENDMENT.) The introductory paragraph of subsection 2 of section 39-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 2. The following motor vehicles may be operated upon the highways, roads, and streets of this state without being registered, under such limitations as are herein specified, provided, however, that whenever the ~~reciprocity~~ commissioner ~~commissioner~~ determines that it is to the best interest of the state of North Dakota and determines by reciprocal agreement or otherwise that as great or greater privileges are not granted North Dakota residents while traveling in other states or territories, ~~they~~ the commissioner may cancel or limit the application of any exception to residents or motor vehicles from such other state or territory:

* SECTION 77. AMENDMENT.) Section 39-06.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-09. "MOVING VIOLATION" DEFINED.) For the purposes of section 39-06.1-06 and section 39-06.1-13, a "moving violation" means a violation of section 39-09-02, or an equivalent ordinance; or a violation of section 39-04-22; subsection 1 of section 39-04-37; sections ~~39-05-12~~ 39-04-55; 39-06-01; 39-06-14; 39-06-16; 39-08-09; 39-08-18; ~~39-09-05~~ 39-09-04.1; 39-09-09; 39-10.2-02; 39-10.2-03; 39-10.2-04; 39-10.2-05; 39-10.2-06; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapters 39-10 or 39-21, or equivalent ordinances, except those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 78. AMENDMENT.) Paragraph 16 of subdivision a of subsection 3 of section 39-06.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (16) Failing to yield right of way in violation of sections 39-10-20, 39-10-22 through 39-10-26, 39-10-28, ~~39-10-31~~ 39-10-33.3, or 39-10-44, or equivalent ordinances 2 points

* NOTE: Section 39-06.1-09 was also amended by section 2 of House Bill No. 1449, chapter 419, and by section 2 of House Bill No. 1628, chapter 418.

SECTION 79. AMENDMENT.) Section 39-07-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-07-11. MAGISTRATES TO KEEP RECORD OF CONVICTIONS OF TRAFFIC VIOLATIONS - RECORDS OF CONVICTION TO BE FORWARDED TO LICENSING AUTHORITY.) Every magistrate in this state, as defined in section 29-01-14, shall keep a full record of every case brought before him in which a person is charged with a violation of section ~~12-27-35~~ 12.1-16-03 or of any provision of chapters 39-05 through 39-13, and chapters 39-21 and 39-24, or with a violation of a municipal ordinance which is equivalent to any of the provisions of the foregoing statutes. Within ten days after a determination, in any manner provided by law, that a person charged has committed one of the foregoing offenses or violations, the magistrate shall forward a certification of that fact to the licensing authority.

SECTION 80. AMENDMENT.) Section 39-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-13. ACCIDENT REPORT FORMS.)

1. The commissioner shall prepare and supply to police departments, coroners, sheriffs, garages, and other suitable agencies or individuals, forms for accident reports required hereunder, appropriate with respect to the persons required to make such reports and the purposes to be served. The written reports to be made by investigating officers shall call for sufficiently detailed information to disclose with reference to a traffic accident the cause, conditions then existing, persons and vehicles involved, and contain information sufficient to enable the commissioner to determine whether the requirements for the deposit of security under ~~chapter 39-16~~ section 39-16-05 are applicable.
2. Every accident report required to be made in writing shall be made on the appropriate form approved by the commissioner and shall contain all the information required therein unless not available.
3. Every law enforcement officer who investigates a vehicle accident of which report must be made as required in this chapter, or who otherwise prepares a written report as a result of an investigation either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall forward a written report of such accident to the department within five days after his investigation of the accident.
4. Such written reports required to be forwarded by law enforcement officers and the information contained therein shall not be privileged or held confidential, except,

however, the opinion of the law enforcement or investigating officer, if included in the report, shall be confidential and not open to public inspection.

SECTION 81. AMENDMENT.) Section 39-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-23-08. BUDGETS.) Pursuant to section 1 of article VI of the compact, the vehicle equipment safety commission shall submit its budgets to the ~~state-budget-board~~ office of the budget.

SECTION 82. AMENDMENT.) Section 40-33-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33-24. FUNDS OF JOINTLY OPERATED UTILITIES.) All funds of any jointly operated utility as provided in section 40-33-22 shall not be subject to the provisions of sections 40-33-10 and 40-33-11, but shall be kept separate and apart from all other funds of any participating municipality and shall be disbursed in the manner provided by the governing board thereof. All books and accounts of such jointly operated utility shall be examined periodically by the state ~~examiner~~ auditor, who shall be reimbursed by the utility for the costs of such examination. The state ~~examiner~~ auditor shall render reports upon such examinations to the governing bodies of the participating municipalities.

SECTION 83. AMENDMENT.) Section 43-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-03-02. PERSONS EXEMPT FROM REGULATIONS.) The provisions of this chapter shall not apply to the following:

1. A person making plans and specifications for a building to be constructed by or for himself.
2. A person supervising the erection, enlargement, or alteration of a building being constructed by or for himself.
3. A person preparing for a school board plans and specifications for, or supervising the erection or alteration of, one- or two-room school buildings costing not to exceed five thousand dollars.
4. ~~A--person--preparing--plans--and--specifications--for--the--erection--or--alteration--of--school--buildings--for--the--superintendent--of--public--instruction--in--carrying--out--the--provisions--of--section--15--26--02*.~~
- 5- The employee of an architect acting under his employer's instruction, control, and supervision in preparing plans and specifications for the erection, enlargement, or alteration of buildings.

SECTION 84. AMENDMENT.) Section 43-12-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-27. DUTIES OF THE STATE BOARD.)

1. The state board may grant scholarship loans to students attending a school of nursing in accordance with the laws pertaining to registration of nurses or licensing of practical nurses and to professional graduate nurses meeting requirements for advanced study.
2. The state board shall make rules and regulations and establish standards, requirements and procedure in administering sections ~~43-12-25~~ 43-12-26.1 through 43-12-31 so as to encourage young men and women to enter the nursing profession.

SECTION 85. AMENDMENT.) Section 43-12-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-12-31. COLLECTION AND CANCELLATION.)

1. A rate of six percent per annum will be charged on any portion of the scholarship loan not repaid upon demand of the state board.
2. The note of the student of nursing scholarship loan recipient shall bear interest at the rate of three percent per annum. Before the note provided in sections ~~43-12-25~~ 43-12-26.1 through 43-12-31 has been called for payment, and when the recipient has satisfactorily completed the required basic course in nursing and has satisfactorily completed two full years of nursing in North Dakota the note and accrued interest thereon shall be canceled.
3. The note of the practical nurse student scholarship loan recipient shall bear interest at the rate of three percent per annum. Before the note provided in sections ~~43-12-25~~ 43-12-26.1 through 43-12-31 has been called for payment, and when the recipient has satisfactorily completed the required course in practical nursing and has satisfactorily completed one full year of practical nursing in North Dakota the note and accrued interest thereon shall be canceled.
4. The note of the professional graduate nurse scholarship loan recipient shall bear interest at the rate of three percent per annum. Before the note provided in sections ~~43-12-25~~ 43-12-26.1 through 43-12-31 has been called for payment, and when the recipient has satisfactorily completed the advanced course in nursing and has satisfactorily completed two full years of nursing in North Dakota the note and accrued interest thereon shall be canceled.

5. Upon satisfactory proof of the requirements herein set forth, the board shall notify the state treasurer to cancel the notes. Whenever less than two full years of nursing has been completed the notes may be canceled in the order of execution corresponding with the months of nursing which are completed. In the event of death or total disability of the recipient the notes and accrued interest shall be canceled.
6. After demand for payment of a scholarship loan has been made by the state board and payment is not made by collection or cancellation, the state board may contract with collection agencies located in the state for the collection of amounts due the state for scholarship loans granted.

* SECTION 86. AMENDMENT.) Section 43-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Pharmacy" or "drug store" ~~shall-mean~~ means every store or shop where drugs, medicines, or chemicals are dispensed, displayed for sale, or sold, at retail for medicinal purposes, or where prescriptions are compounded, and which is duly registered by the state board of pharmacy.
2. "Board" ~~shall-mean~~ means the state board of pharmacy.
3. "Pharmacist" means a person to whom the board has issued a certificate of registration to practice the profession of pharmacy whose certificate has not expired, or been suspended.
4. "Prescription" means any order for drugs or medical supplies, where such order is written or signed or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed physician, dentist, veterinarian or other practitioner, licensed by law to prescribe and administer such drugs or medical supplies intended to be filled, compounded or dispensed by a pharmacist.
5. "Drugs" includes all substances and preparations recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, Official National Formulary and New and Non-official Drugs, or any official supplement to any of them.
6. ~~"Device,"--as--applied--to--section--12-43-12*,--means instruments,--apparatus--or--contrivances,--including--their component-parts,--and--accessories,--intended+~~

* NOTE: Subsection 4 of section 43-15-01 was also amended by section 3 of Senate Bill No. 2356, chapter 465.

~~a. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, or~~

~~b. To affect the structure of any function of the body of man or other animal.~~

7. "Medicine" means a drug or combination of drugs, used in treating disease in man or other animals.
8. 7. "Dispense" includes sell, distribute, leave with, give away, dispose of, deliver or supply.
9. 8. "Original package" means the original carton, case, can, box, vial, bottle or other receptacle, put up by the manufacturer or wholesaler or distributor, with label attached, making one complete package of the drug article.

* SECTION 87. AMENDMENT.) Section 43-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-14. DRUGS, POISONS, MEDICINES, CHEMICALS - WHO MAY SELL.) No drug, poison, medicine, or chemical, except patent or proprietary preparations shall be manufactured, compounded, sold, or dispensed in this state for medicinal use by any person other than a registered pharmacist, assistant registered pharmacist, pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in ~~subsection 4* of~~ section 43-15-15, or regularly licensed physician, nor shall any person except a registered pharmacist, assistant registered pharmacist, or a regularly licensed physician, or pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in ~~subsection 4* of~~ section 43-15-15, dispense or compound a prescription of a medical practitioner except as provided in this chapter.

SECTION 88. AMENDMENT.) Section 44-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-04-14. EXAMINATION OF RECORDS OF COUNTY OFFICERS - STATE'S ATTORNEY TO PROSECUTE.) At the end of the term of office of each county officer, or whenever it may seem advisable, the board of county commissioners may secure an examination of the records in his office by the ~~commissioner of banking and financial institutions~~ state auditor or other competent accountants. Any failure or irregularity discovered must be remedied or the state's attorney shall prosecute the officer guilty thereof for neglect as provided in section 44-04-03.

SECTION 89. AMENDMENT.) Section 44-08-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-12. DEFINITIONS.) As used in sections 44-08-12 through ~~44-08-15*~~ 44-08-14:

- * NOTE: Section 43-15-14 was also amended by section 2 of House Bill No. 1557, chapter 467.

1. "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state or by any of its departments, agencies, public bodies, or other instrumentalities or by any of its political subdivisions.
2. "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.
3. "Authorized officer" means any official of this state or any of its departments, agencies, public bodies, or other instrumentalities or any of its political subdivisions whose signature to a public security or instrument of payment is required or permitted.
4. "Facsimile signature" means a reproduction by engraving, imprinting, stamping, or other means of the manual signature of an authorized officer.

SECTION 90. AMENDMENT.) Section 44-08-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-13. FACSIMILE SIGNATURE.) Any authorized officer, after filing with the secretary of state or, in the case of officers of any city, county, school district, or other political subdivision, with the clerk of such subdivision, his manual signature certified by him under oath, may execute or cause to be executed with a facsimile signature in lieu of his manual signature:

1. Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed, but no such manual subscription shall be required as to interest coupons attached to such security.
2. Any instrument of payment.

Upon compliance with sections 44-08-12 through ~~44-08-15*~~ 44-08-14 by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

SECTION 91. 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, and in title 41 ~~and--title--17--Uniform Consumer-Credit-Code*~~.

* SECTION 92. AMENDMENT.) Section 47-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 47-18-14 was also amended by section 3 of House Bill No. 1582, chapter 488, and by section 3 of Senate Bill No. 2336, chapter 489.

47-18-14. PROCEEDS OF SALE EXEMPT - DISPOSITION.) If the sale of a homestead is made as provided in section 47-18-13, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution. When the execution is against a husband whose wife is living, the court may direct that the ~~forty~~ sixty thousand dollars be deposited in court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the protection against legal process and voluntary disposition by the husband as did the original homestead premises whether paid directly to the claimant or to the husband and wife jointly.

SECTION 93. AMENDMENT.) Section 47-19-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-19-18. DEPUTIES MAY TAKE ACKNOWLEDGMENTS.) When any officer mentioned in sections 47-19-14, ~~47-19-15,*--and--47-19-16*~~ 47-19-14.1, and 47-19-14.2 is authorized by law to appoint a deputy, the acknowledgment or proof may be taken by such deputy in the name of his principal as deputy, or by such deputy as deputy.

SECTION 94. AMENDMENT.) Section 49-03-01.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-03-01.3. EXCLUSIONS FROM LIMITATIONS ON ELECTRIC DISTRIBUTION LINES, EXTENSION AND SERVICE AND ON ISSUANCE OF CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.) Sections 49-03-01 through 49-03-01.5 shall not be construed to require any such electric public utility to secure such order or certificate for an extension of its electric distribution lines within the corporate limits of any municipality within which it has lawfully commenced operations; provided, however, that such extension or extensions shall not interfere with existing services provided by a rural electric cooperative or another electric public utility within such municipality; and provided duplication of services is not deemed unreasonable by the commission.

Sections 49-03-01 through 49-03-01.5 shall not be construed to require an electric public utility to discontinue service to customers thereof whose places receiving service are located outside the corporate limits of a municipality upon the effective date of sections 49-03-01 through 49-03-01.5; provided, however, that within ninety days after the effective date of sections 49-03-01 through 49-03-01.5, any electric public utility furnishing service to customers whose places receiving service are located outside the corporate limits of a municipality shall file with the commission a complete map or maps of its electric distribution system showing all places in North Dakota which are located outside the corporate limits of a municipality and which are receiving its service as of the effective date of sections 49-03-01 through 49-03-01.5. After ninety days from the effective date of sections 49-03-01 through 49-03-01.5, unless a customer whose place being served is located outside the corporate limits of a municipality is shown on said map

or maps, it shall be conclusively presumed that such customer was not being served upon the effective date hereof and cannot be served until after compliance with the provisions of ~~sections~~ section 49-03-01.1 and ~~49-03-01-2*~~.

SECTION 95. AMENDMENT.) Section 49-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-09-09. SALE UNDER TRUST DEED OR UPON MORTGAGE FORECLOSURE.) In case of sale of the property of a railroad by virtue of a trust deed or upon foreclosure of any mortgage, the persons acquiring title under such sale, and their associates, successors, and assigns, ~~ex-such-corporation-as-they-shall-organize according-to-section-49-08-02*, with all the powers--conferred--upon corporations--by--this--title,~~ thereafter shall have, exercise, and enjoy all described grants which were purchased at such sale, including all rights, privileges, grants, franchises, immunities, and advantages mentioned in such instruments possessed by the corporation making the same or contracting such debts so far as the same relate or appertain to that portion or line of road granted or mortgaged and purchased at such sale, and no further, as fully and absolutely in all respects as such corporation, its shareholders, officers, and agents might have done if such sale had not taken place.

SECTION 96. AMENDMENT.) Section 49-09-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-09-11. COMPENSATION FOR ANOTHER RAILROAD'S PROPERTY - DETERMINED ACCORDING TO LAW OF EMINENT DOMAIN.) If railroad corporations cannot agree upon an adjustment ~~as provided in section 49-08-13*, sub-section-6,~~ and the amount of compensation to be paid for the purchase of necessary change of location and removal of any track previously laid, the same shall be ascertained and determined and the common, mutual, and separate rights shall be adjusted in the manner provided by law for the ascertainment and determination of damages for the taking of real property. The court may employ a competent engineer to define, locate, and plat the ground and assign to each corporation the part for the tracks and other conveniences for each and may require the removal or purchase of tracks previously laid so as justly to settle the rights of such corporation upon such ground, the damages to be paid being assessed in accordance with the law on eminent domain.

SECTION 97. AMENDMENT.) Section 52-02-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-09. UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND - ADDITIONAL BOND REQUIRED OF TREASURER.) There shall be maintained in the state treasury a special fund to be known as the unemployment compensation administration fund. All money deposited or paid into this fund and the employment service account thereof shall be continuously available to the bureau for expenditure in accordance with the provisions of this law, and shall not lapse at any time or

be transferred to any other fund. The fund shall consist of any money appropriated by this state in accordance with section 52-02-11; all money received from the United States of America, or any agency thereof, and all money received from any other source for the administration of the North Dakota Unemployment Compensation Law; all money received from any agency of the United States or any other state as compensation for services or facilities supplied to such agency; all amounts received pursuant to any surety bond or any insurance policy or from other sources for losses sustained by the unemployment compensation administration fund or by reason of damage to property, equipment, or supplies purchased from money in such fund; and all proceeds realized from the sale or disposition of any such property, equipment, or supplies which may no longer be necessary for the proper administration of this law. Notwithstanding any provision of this section, all money requisitioned and deposited in this fund pursuant to section 52-03-07, subsection 4, shall remain a part of the unemployment compensation fund and shall be used only in accordance with the conditions specified in section 52-03-07. All moneys in this fund shall be deposited and administered, in the same manner and under the same conditions and requirements as is provided by law for other special funds in the state treasury. The fund is subject to audit by the United States treasury department, or its representatives, and no audit by the ~~state board of auditors, or by the office of the state examiner,~~ auditor shall be required. The state treasurer shall give a separate and additional bond conditioned for the faithful performance of his duties in connection with the unemployment compensation administration fund in an amount to be fixed by the bureau and in a form prescribed by law or approved by the attorney general. The premiums for such bond shall be paid from the moneys in the unemployment compensation administration fund.

SECTION 98. AMENDMENT.) Section 54-23A-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23A-04. BROADCASTING DISPATCHES - REPORTS REQUIRED.) It shall be the duty of the director of institutions to broadcast all police dispatches and reports submitted, which in his opinion shall have a reasonable relation to or connection with, the apprehension of criminals, the prevention of crimes, or the maintenance of peace and order in the state, including ~~civil-defense~~ disaster emergency services. It shall also broadcast any other statement or report upon the request of any constitutional officer, or the head of any state department, providing such message relates to state business. Every sheriff, deputy sheriff, police officer, or other person securing a short wave length radio receiving and transmitting set under the provisions hereof, shall make a report to the director at such times and containing such information as the director shall by regulation require.

SECTION 99. AMENDMENT.) Section 54-27-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-08. HOW MONEYS PAID FROM STATE TREASURY - WARRANTS - WHEN NOT NECESSARY.) Except as otherwise provided, moneys shall be paid from the state treasury only upon the warrant or order prepared by the department of accounts and purchases drawn on the state treasurer. The state ~~examiner~~ auditor shall recommend a form for order and warrant-check of the state government which shall conform, so far as consistent with statutory requirements, to approved banking practice in order to facilitate handling of such instruments by banks and other depositories. When such order and warrant-check is signed by the state auditor the state treasurer shall accept such order or warrant with his signature, making such order and warrant-check negotiable. No warrant upon the treasurer shall be delivered or mailed to the payee or his agent or representative until such warrant has been signed by the treasurer and entered on the treasurer's books as a check drawn on a bank depository. Each warrant shall specify upon what fund or from what apportionment it is to be paid. The state treasurer may redeem outstanding bonds or pay interest on bonds when due without the warrant of the department of accounts and purchases, retaining such bond or interest coupon as his voucher for such payment until the next succeeding settlement.

SECTION 100. AMENDMENT.) Section 54-48-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-48-06. RECORDING AND PUBLICATION.) Each designation of an emergency interim successor shall become effective when the legislator or floor leader making the designation files with the secretary of state the successor's name, address, and rank in order of succession. The removal of an emergency interim successor or change in order of succession shall become effective when the legislator or floor leader so acting files this information with the secretary of state. All such data shall be open to public inspection. The secretary of state shall inform the governor, the ~~state--office--of--civil--defense~~ division of disaster emergency services, the chief clerk or secretary of the house concerned and all emergency interim successors, of all such designations, removals, and changes in order of succession. The chief clerk or secretary of each house shall enter all information regarding emergency interim successors for the house in its public journal at the beginning of each legislative session and shall enter all changes in membership or order of succession as soon as possible after their occurrence.

SECTION 101. AMENDMENT.) Section 54-49.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-49.1-02. NATURAL RESOURCES COUNCIL CREATED - MEMBERSHIP - OFFICERS - EXECUTIVE DIRECTOR.) There is hereby established a North Dakota natural resources council. The council shall be composed of the state engineer, the game and fish commissioner, the executive secretary of the state soil conservation committee, the reclamation director of the public service commission, the director of the state

~~park--service,--the--liaison-officer-of-the-state-outdoor-recreation agency parks and recreation department, the state forester, state geologist, the director of the state planning division, and the chief of the environmental health and engineering services division of the state health department.~~

The governor shall appoint a chairman and determine his salary within the limits of legislative appropriations made to the office of the governor. The chairman may appoint whatever employees are necessary to carry out the provisions of this chapter, within the limitations of legislative appropriations made to the office of the governor.

SECTION 102. AMENDMENT.) Section 65-05-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-09. TEMPORARY TOTAL OR PERMANENT TOTAL DISABILITY - WEEKLY AND AGGREGATE COMPENSATION.) If an injury causes temporary total or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to sixty-six and two-thirds percent of the weekly wage of the claimant, computed to the next highest dollar, subject to a minimum of sixty percent and a maximum of one hundred percent of the average weekly wage in this state, computed to the next highest dollar. If an employee is disabled due to an injury, that employee's benefits will be based upon the wage at the time of the commencement of the first disability. However, if an employee suffers disability but is able to return to employment for a period of twelve months or more, that employee's benefits will be based upon the wage in effect at the time of the recurrence of the disability or upon the wage that employee received prior to the injury, whichever is higher; and the benefits shall be those in effect at the time of that recurrence. In case of temporary total or permanent total disability, there shall be paid to such disabled employee an additional sum of five dollars per week for each dependent child under the age of eighteen years living or unborn at the date of the injury, or born during the period of disability, and for each child over eighteen years and incapable of self-support due to physical or mental disability and whose maintenance is the responsibility of the claimant. Dependency awards for the children may be made directly to either parent or guardian at the discretion of the bureau. In no case shall the compensation or combined compensation and dependency award exceed the weekly wage of the claimant after deductions for taxes, except in the case of volunteer firemen and volunteer ~~civil--defense disaster emergency~~ trainees. When a claimant who is permanently and totally disabled and must be maintained in a nursing home or similar facility has no dependent parent, spouse, or children, part or all of his weekly compensation may be used by the bureau to help defray the cost of such care.

SECTION 103. AMENDMENT.) Section 65-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-06-01. "VOLUNTEER FIREMAN" ~~AND~~ "VOLUNTEER CIVIL--DEFENSE DISASTER EMERGENCY TRAINEES" ~~AND~~ "IN TRAINING" DEFINED.) The term "volunteer fireman" ~~shall--mean~~ means any active member of an organized volunteer fire department of this state and any other person performing services as a volunteer fireman for a municipality at the request of the chief or other person in command of the fire department of such municipality or of any other officer of the fire department having authority to demand such service. Firemen who are paid a regular wage or stipend by the municipality as such, or whose entire time is devoted to such services for the municipality, for the purpose of this chapter, shall not be deemed volunteer firemen.

The term "volunteer civil-defense disaster emergency trainee" ~~shall--mean~~ means any person serving without remuneration who is actively engaged in training to qualify as a civil-defense disaster emergency worker in the event of an enemy attack on this country, and who is registered with the civil-defense disaster emergency organization of a municipality, which has been officially recognized by the civil-defense director for-the-state-of-North-Dakota of the state division of disaster emergency services.

The term "in training" shall be limited to and ~~shall--mean~~ means only those periods of time, prior to an enemy attack on this country, during which such volunteer civil--defense disaster emergency trainee is receiving instruction, or is engaged in exercises or operations, in preparation for qualification as a civil defense disaster emergency worker in the event of an enemy attack on this country.

The term "municipality" when used in reference to volunteer civil-defense disaster emergency trainees ~~shall--mean~~ means state or district thereof, cities, counties, municipalities, or any other geographical entity of this state. This definition is not in any way intended to alter any interpretation or ruling in regard to the use of the term "municipality" when used in reference to volunteer firemen.

SECTION 104. AMENDMENT.) Section 65-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-06-02. VOLUNTEER FIREMEN AND VOLUNTEER CIVIL--DEFENSE DISASTER EMERGENCY TRAINEES DECLARED EMPLOYEES - COVERED BY WORKMEN'S COMPENSATION - TERMINATION.) Volunteer firemen and volunteer civil-defense disaster emergency trainees are employees of the municipalities which they serve and are entitled to the same protection and rights under the provisions of this title as are full-time paid employees of such municipalities, except, however, that the protection and rights granted to volunteer civil--defense disaster emergency trainees by this section shall terminate and cease in the event of an enemy attack on this country, except as to rights to benefits that shall have vested prior to the time of such attack.

SECTION 105. AMENDMENT.) Section 65-06-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-06-03. COMPENSATION BENEFITS - HOW DETERMINED.) The basis of compensation and benefits to be paid to volunteer firemen and volunteer ~~civil-defense~~ disaster emergency trainees under the terms of this chapter shall be determined in accordance with the provisions of section 65-05-09; provided, however, that the weekly wage of the claimant shall be determined from a computation of income derived from the claimant's business or employment.

SECTION 106. AMENDMENT.) Section 65-06-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-06-04. ASSESSMENT OF PREMIUMS.) For the purpose of making assessments of premiums to be charged against municipalities for protection of volunteer firemen and volunteer ~~civil-defense~~ disaster emergency trainees, the bureau shall make such survey as may seem advisable to ascertain the probable annual expenditures necessary to be paid out of the fund to carry out the provisions of this chapter, and shall fix the annual charges and assessments which shall be made against municipalities employing volunteer firemen and volunteer ~~civil--defense~~ disaster emergency trainees. Such charge shall be a fixed sum for each one hundred of the population of the municipality involved, the same to be uniform as to all such municipalities but in proportion to the population thereof. In determining the amount of premium charge, the bureau may apply the system of experience rating provided in this title, as applied to other risks. The bureau may also establish a minimum charge or assessment to be applicable to municipalities where the fixed rate or charge multiplied by the number of hundreds of the population thereof would amount to less than the amount of such minimum charge or assessment. The population of a municipality shall be that shown by the latest official North Dakota state or United States government census, whichever may be the later.

SECTION 107. AMENDMENT.) Section 65-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-06-05. REIMBURSEMENT BY STATE FOR LIABILITY IN EXCESS OF PREMIUMS COLLECTED.) Whenever liability on claims against the fund credited to the classification of volunteer ~~civil-defense~~ disaster emergency trainees exceeds the amount of premiums paid into such fund, such excess liabilities shall be a general obligation of the state of North Dakota and be reimbursed to the workmen's compensation bureau for credit to that fund by legislative appropriation.

* SECTION 108. REPEAL.) Chapter 15-62, section 27-07-03, chapter 39-15, subsection 5 of section 46-02-04, and sections 47-10-21, 47-10-22, and 49-03-01.2 of the North Dakota Century Code are hereby repealed.

Approved March 12, 1979

* NOTE: Chapter 15-62 was also repealed by section 1 of House Bill No. 1109, chapter 266.

CHAPTER 188

HOUSE BILL NO. 1379
 (Representatives Richie, Langley, Wald)
 (Senators Krauter, Strand)

CONSUMER FINANCE ACT LOAN MAXIMUM

AN ACT to amend and reenact section 13-03.1-03 and subsection 1 of section 13-03.1-15 of the North Dakota Century Code, relating to the maximum loan ceiling.

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

SECTION 1. AMENDMENT.) Section 13-03.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-03.1-03. SCOPE.) Persons licensed under the provisions of this chapter may engage in the business of lending in amounts of more than one thousand dollars and not more than ~~three~~ seven thousand five hundred dollars and contract for, exact, or receive, directly or indirectly, on or in connection with any such loan, any charges whether for interest, compensation, consideration, or expense, which in the aggregate are greater than that permitted by section 47-14-09. This chapter shall not apply to loans made under chapter 13-03, but persons licensed under that chapter may obtain licenses to make loans under this chapter.

SECTION 2. AMENDMENT.) Subsection 1 of section 13-03.1-15 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every licensee may make loans, including revolving loans, in any principal amount not less than one thousand dollars and not more than ~~three~~ seven thousand five hundred dollars, and may contract for, receive, or collect on such loans, charges not in excess of one and one-half percent per month on the unpaid balance of principal. For the purpose of computing charges for a fraction of a month, whether at the maximum rate or less, every month shall be deemed to have thirty days and a day shall be considered one-thirtieth of a month.

Approved March 15, 1979

CHAPTER 189

SENATE BILL NO. 2206
(Committee on Industry, Business and Labor)
(At the request of the Securities Commissioner)

MONEY BROKER LICENSURE

AN ACT to provide for the licensure and regulation of those persons engaged in the business of finding lenders for persons or businesses desirous of obtaining funds; and to provide a penalty.

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

SECTION 1. ADMINISTRATION.) The department of banking and financial institutions shall use its facilities to administer and enforce this chapter. Any person or persons delegated to administer this chapter shall not have financial interests directly or indirectly in any business which is subject to this chapter. The department of banking and financial institutions shall have the power to promulgate rules and regulations having the force and effect of law, reasonably necessary to carry out the provisions of this chapter, in accordance with chapter 28-32. Any hearing held and any orders issued pursuant to this chapter shall be in accordance with chapter 28-32. In addition to those powers set forth in chapter 28-32, the department of banking and financial institutions shall have additional powers as set forth in this chapter.

SECTION 2. MONEY BROKER LICENSE REQUIRED.) Except as otherwise herein provided, no person other than a money broker licensed and authorized under this chapter shall advertise or solicit either in print, by letter, in person, or otherwise in North Dakota, the right to find lenders or provide loans for persons or businesses desirous of obtaining funds for any purposes. As used in this chapter, the term "money broker" does not include banks, credit unions, savings and loan associations, insurance companies, small loan companies, consumer finance companies, or any other person or business regulated and licensed by the state of North Dakota.

SECTION 3. APPLICATION FOR MONEY BROKER LICENSE.) Every application for a money broker license, or for a renewal thereof, shall be made upon forms designed and furnished by the department of banking and financial institutions and shall contain any information

which the said department shall deem necessary and proper. The department of banking and financial institutions may further require any application to provide additional information which is not requested on the application form.

SECTION 4. FEE AND BOND TO ACCOMPANY APPLICATION FOR MONEY BROKER LICENSE.) The application for license shall be accompanied by the annual license fee for a money broker license, which is fixed at one hundred dollars, and by a surety bond in the sum of ten thousand dollars.

SECTION 5. EXPIRATION AND RENEWAL OF LICENSE.) All licenses required herein shall expire on June thirtieth of each year and may be renewed. Renewals shall be effective the succeeding July first. Applications for renewal must be submitted on or before the preceding thirtieth of June and must be accompanied by the required annual fees. The form and content of renewal applications shall be determined by the department of banking and financial institutions, and a renewal application may be denied upon the same grounds as would justify denial of an initial application. When a licensee has been delinquent in renewing his license, the department of banking and financial institutions may charge an additional fee of five dollars for the renewal of such license.

SECTION 6. POWERS OF THE DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS.) Insofar as consistent with the provisions of law, the department of banking and financial institutions shall have the power to:

1. Determine the qualifications of all applicants based on financial responsibility, character and fitness, and issue license if approved.
2. Establish codes of ethical conduct for licensees.

SECTION 7. MANNER IN WHICH RECORDS TO BE KEPT.) Every money broker licensed under this chapter shall keep a record of all sums collected by them and of all loans completed as a result of their efforts for a period of six years from the date of last entry thereon.

SECTION 8. REVOCATION OF LICENSE - SUSPENSION OF LICENSE - SURRENDER OF LICENSE.)

1. The department of banking and financial institutions may, if they have reason to believe that grounds for revocation of a license exist, send by registered or certified mail to the licensee, a notice of hearing stating the contemplated action and in general the grounds thereof and setting the time and place for a hearing thereon. Such hearing shall be held in accordance with chapter 28-32 as shall be any appeal therefrom.

2. If the department of banking and financial institutions finds that probable cause for revocation of any license exists and that enforcement of the chapter requires immediate suspension of such license pending investigation they may, upon written notice, enter an order suspending such license for a period not exceeding thirty days, pending the holding of a hearing as prescribed in this chapter.
3. Any licensee may surrender his license by delivering it to the department of banking and financial institutions with written notice of its surrender, but such surrender shall not affect his civil or criminal liability for acts committed prior thereto.

SECTION 9. 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 or other document or statement required to be filed under any provision of this chapter, or to omit to state any material statement or fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.
2. For any person, in connection with the procurement or promise of procurement of any lender or loan funds, directly or indirectly, to employ any device, scheme, or artifice to defraud.
3. For any person, in connection with the procurement or promise of procurement of any lender or loan funds, 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.

SECTION 10. ORDERS AND INJUNCTIONS.) Whenever it shall appear to the department of banking and financial institutions either upon complaint or otherwise, that any person has engaged in, is engaging in, or is about to engage in any act or practice or transaction which is prohibited by this chapter, or by any order of the department of banking and financial institutions issued pursuant to any section of this chapter or which is declared to be illegal in this chapter, the department of banking and financial institutions may, in its discretion:

1. Issue any order, including but not limited to cease and desist, stop and suspension orders, which it deems necessary or appropriate in the public interest or for the protection of the public; provided, however, that any person aggrieved by an order issued pursuant to this

subsection may request a hearing before the department of banking and financial institutions if such request is made within ten days after receipt of the order. Such hearing shall be held in accordance with chapter 28-32 as shall be any appeal therefrom.

2. Apply to the district court of any county in this state for an injunction restraining such person and the agents, employees, partners, officers, and directors of such person from continuing such act, practice, or transaction of engaging therein or doing any acts in furtherance thereof, and for such other and further relief as the facts may warrant. In any proceeding for an injunction, the department of banking and financial institutions may apply for and on due showing be entitled to have issued the court's subpoena requiring the appearance forthwith of any defendants and their agents, employees, partners, officers, or directors, and the production of such documents, books, and records as may appear necessary for the hearing upon the petition for an injunction. Upon proof of any of the offenses described in this section, the court may grant such injunction as the facts may warrant. The court may not require the department of banking and financial institutions to post a bond.

SECTION 11. INVESTIGATIONS AND SUBPOENAS.)

1. The department of banking and financial institutions may in its discretion:
 - a. May make such public or private investigation within or outside this state as it deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder.
 - b. May require or permit any person to file a statement in writing, under oath or otherwise as the department of banking and financial institutions determines, as to all the facts and circumstances concerning the matter to be investigated.
 - c. May publish information concerning any violation of this chapter or any rule or order hereunder.
2. For the purpose of any investigation or proceeding under this chapter, the department of banking and financial institutions may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents

or records which the department of banking and financial institutions deems relevant or material to the inquiry.

3. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the district court, upon application by the department of banking and financial institutions, may issue to the person an order requiring such person to appear before the department of banking and financial institutions, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.
4. No person is excused from attending and testifying or from producing any document or record before the department of banking and financial institutions, or in obedience to the subpoena of the department of banking and financial institutions, or in any proceeding instituted by the department of banking and financial institutions, on the ground that the testimony or evidence (documentary or otherwise) required of such person may tend to incriminate such person or subject such person to a penalty forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which such person is compelled, after claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

SECTION 12. REMEDIES NOT EXCLUSIVE.) The remedies provided for in this chapter are in addition to and not exclusive of any other remedies provided by law.

SECTION 13. PENALTY.) Any person violating any of the provisions of this chapter or any rule or order of the department of banking and financial institutions made pursuant to the provisions of this chapter or who engages in any act, practice, or transaction declared by any provision of this chapter to be unlawful shall be guilty of a class C felony.

Approved March 24, 1979

CHAPTER 190

SENATE BILL NO. 2180
(Committee on Industry, Business and Labor)
(At the request of the
Department of Banking and Financial Institutions)

COLLECTION AGENCY LICENSE FEE

AN ACT to amend and reenact section 13-05-04 of the North Dakota Century Code, relating to the annual license fee for collection agencies.

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

SECTION 1. AMENDMENT.) Section 13-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13-05-04. FEE AND BOND TO ACCOMPANY APPLICATION FOR COLLECTION AGENCY LICENSE.) The application shall be accompanied by the annual license fee for a collection agency license, which is fixed at ~~thirty~~ one hundred dollars. If the collection agency directly solicits, collects and handles money owed, the application shall be accompanied by a surety bond in the sum of five thousand dollars.

Approved March 13, 1979

DOMESTIC RELATIONS AND PERSONS

CHAPTER 191

HOUSE BILL NO. 1581
(Wald, DuBord, Lee, Riehl)

ABORTION CONTROL

AN ACT to create and enact two new subsections to section 14-02.1-02 of the North Dakota Century Code, relating to definitions in the Abortion Control Act; to create and enact section 14-02.1-13 of the North Dakota Century Code, providing abortion reporting forms; and to amend and reenact subsection 4 of section 14-02.1-02, section 14-02.1-03, subsection 3 of section 14-02.1-04, section 14-02.1-05, section 14-02.1-07, and section 14-02.1-08 of the North Dakota Century Code, relating to definitions in the Abortion Control Act, consent to abortion, limitation on performance of abortion, preserving the life of a viable fetus, recording and reporting the abortion, and protection of infants born alive.

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

SECTION 1.) Two new subsections to section 14-02.1-02 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

"Abortion facility" means a clinic, ambulatory surgical center, physician's office, or any other place or facility in which abortions are performed, other than a hospital.

"Infant born alive" or "live born child" means a born child which exhibits either heart beat, spontaneous respiratory activity, spontaneous movement of voluntary muscles or pulsation of the umbilical cord if still attached to the child.

SECTION 2. AMENDMENT.) Subsection 4 of section 14-02.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Informed consent" means voluntary consent to abortion by the woman upon whom the abortion is to be performed only after full disclosure to her by the physician who is to

perform the abortion of such as much of the following information as is reasonably chargeable to the knowledge of such the physician in his professional capacity:

- a. The--state--of--development--of--the--fetus,--the--method--of--abortion--to--be--utilized,--and--the--effects--of--such abortion--methed--upon--the--fetus According to the best judgment of her attending physician, she is pregnant.
- b. The--possible--physical--and--psycheological--complications of--abortion The number of weeks elapsed from the probable time of the conception of her unborn child, based upon the information provided by her as to the time of her last menstrual period or based upon a history and physical examination and appropriate laboratory tests.
- c. Available--alternatives--to--abortion,--namely,--childbirth or--adoption,--or--birth. The probable anatomical and physiological characteristics of the unborn child at the time the abortion is to be performed.
- d. The immediate and long-term physical dangers of abortion, psychological trauma resulting from abortion, sterility and increases in the incidence of premature births, tubal pregnancies and stillbirths in subsequent pregnancies, as compared to the dangers in carrying the pregnancy to term.
- e. The particular risks associated with her own pregnancy and the abortion technique to be performed.
- f. Alternatives to abortion such as childbirth and adoption and information concerning public and private agencies that will provide the woman with economic and other assistance and encouragement to carry her child to term including, if the woman so requests, a list of the agencies and the services available from each.
- g. In cases where the fetus may reasonably be expected to have reached viability and thus be capable of surviving outside of her womb, the attending physician shall inform the woman of the extent to which he is legally obligated to preserve the life and health of her viable unborn child during and after the abortion.

In addition, the physician may inform the woman of any other material facts or opinions or provide any explanation of the above information which, in the exercise of his best medical judgment, is reasonably necessary to allow the woman to give her informed consent to the proposed abortion, with full knowledge of its nature and consequences.

~~Such--informed~~ Informed consent shall be evidenced by a written statement, in the form prescribed by the state department of health and approved by the attorney general, signed by the physician and the woman upon whom the abortion is to be performed, in which statement the physician certifies that he has made the full disclosure provided above; and in which statement the woman upon whom the abortion is to be performed acknowledges that the above disclosures have been made to her and that she voluntarily consents to the abortion.

Informed consent shall not be required in the event of a medical emergency when the woman is incapable of giving her consent if a licensed physician certifies the abortion is necessary to prevent her death.

SECTION 3. AMENDMENT.) Section 14-02.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02.1-03. CONSENT TO ABORTION.)

- ~~1. No-abortion-may-be-performed-upon-any-woman-in-the-absence-of-informed-consent.---However,---informed-consent---of---the-pregnant-woman---is-not-required-in-the-event-of-a-medical-emergency-when--the--woman--is--incapable--of--giving--her-consent---if-a-licensed-physician-certifies-the-abortion-is-necessary--to--preserve--her--life.~~ No physician shall perform an abortion unless prior to such performance the physician certified in writing that the woman gave her informed consent fully and without coercion, after the attending physician had informed the woman of the information contained in section 14-02.1-02 not more than thirty days nor less than forty-eight hours prior to her consent to the abortion and shall certify in writing the pregnant woman's marital status and age based upon proof of age offered by her. Prior to the period of pregnancy when the fetus may reasonably be expected to have reached viability, no abortion shall be performed upon an unemancipated minor unless the attending physician certifies in writing that each of the parents of the minor requesting the abortion has been provided by the physician in person with the information provided for in section 14-02.1-02 at least twenty-four hours prior to the minor's consent to the performance of abortion or unless the attending physician certifies in writing that he has caused materials of section 14-02.1-02 to be posted by certified mail to each of the parents of the minor separately to the last known addresses at least forty-eight hours prior to the minor's consent to the performance of abortion. When a parent of the minor has died or rights and interests of such parent have been legally terminated, this subsection shall apply to the sole remaining parent. When both parents have died or

where the rights and interests of both parents have been legally terminated, this subsection shall apply to the guardian or other person standing in loco parentis.

2. Subsequent to the period of pregnancy when the fetus may reasonably be expected to have reached viability, no abortion, other than an abortion necessary to preserve her life, or ~~if~~ because the continuation of her pregnancy will impose on her a substantial risk of grave impairment of her physical or mental health, may be performed upon any woman in the absence of:
 - a. The written consent of her husband unless her husband is voluntarily separated from her; or
 - b. The written consent of a parent, if living, or the custodian or legal guardian of ~~such~~ the woman, if the woman is unmarried and under eighteen years of age.
3. No executive officer, administrative agency, or public employee of the state of North Dakota or any local governmental body has power to issue any order requiring an abortion, nor shall any such officer or entity coerce any woman to have an abortion, nor shall any other person coerce any woman to have an abortion.

SECTION 4. AMENDMENT.) Subsection 3 of section 14-02.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. After the point in pregnancy where the fetus may reasonably be expected to have reached viability, no abortion may be performed except in a hospital, and then only if in the medical judgment of the physician the abortion is necessary to preserve the life of the ~~mother~~ woman or if in the physician's medical judgment the continuation of her pregnancy will impose on her a substantial risk of grave impairment of her physical or mental health.

An abortion under this subsection may only be performed if the above-mentioned medical judgment of the physician who is to perform the abortion is first certified by him in writing, setting forth in detail the facts upon which he relies in making ~~such~~ this judgment and if this judgment has been concurred in by two other licensed physicians who have examined the patient. The foregoing certification and concurrence is not required in the case of an emergency where the abortion is necessary to preserve the life of the patient.

SECTION 5. AMENDMENT.) Section 14-02.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02.1-05. PRESERVING LIFE OF A VIABLE FETUS - PENALTY.) ~~The licensed physician performing an abortion shall take all reasonable steps both during and subsequent to the abortion, in keeping with good medical practice consistent with the procedure being used, to preserve the life and the health of a fetus which has survived the abortion and has been born alive as a premature infant viable by medical standards. Such steps shall include the presence of life supporting equipment as defined by the department of health in the room where the abortion is to be performed. Failure to do so is a class C felony. An abortion of a viable child shall be performed only when there is in attendance a physician other than the physician performing the abortion who shall take control and provide immediate medical care for the viable child born as a result of the abortion. The physician performing it, and subsequent to the abortion, the physician required by this section to be in attendance, shall take all reasonable steps in keeping with good medical practice, consistent with the procedure used, to preserve the life and health of the unborn child. Failure to do so is a class C felony.~~

SECTION 6. AMENDMENT.) Section 14-02.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02.1-07. RECORDS KEPT - REPORTING OF PRACTICE OF ABORTION.)

1. ~~Every hospital in which an abortion is performed shall keep on file, in the form prescribed by the state department of health, a statement dated and certified by the licensed physician who performed the abortion setting forth such information with respect to the abortion as the state department of health by regulation shall require, including, but not limited to, information on prior pregnancies, the medical procedure employed to administer the abortion, the gestational age of the fetus, the vital signs of the fetus after abortion, if any, and, if performed after viability, the medical procedures employed to protect and preserve the life and health of the fetus.~~
2. ~~The licensed physician performing an abortion shall cause the same pathology studies to be made in connection therewith as is done in connection with all other surgical procedures. The hospital shall keep the reports thereof on file.~~
3. ~~In connection with an abortion, the hospital shall keep on file the original of each of the documents required by this chapter relating to informed consent.~~
4. ~~Such hospital shall, within thirty days after the abortion, file with the state department of health a report, upon a form prescribed by the state department of health and certified by the custodian of the records or~~

licensed--physician--in-charge-of-such-medical-facility-or hospital,--setting-forth-all-of-the-information-required-in subsections--1,--2,--and--3--of--this-section,--except-such information-as-would-identify-any-individual-involved-with the-abortion.---The-report-shall-exclude-copies-of-any documents-required-to-be-filed-by-subsection--3--of--this section,--but--shall-certify-that-such-documents-were-duly executed-and-are-on-file.

5.---All--reports--and-documents-required-by-this-chapter-shall be--confidential,--subject--to--such--disclosure--as--is permitted--by--law,--except--that--statistical--data--not identifying-any-individual-involved-in-an-abortion--shall be-made-public-by-the-state-department-of-health-annually, and-the-report-required-by-subsection-4-of-this-section-to be--filed--with--the--state--department-of-health-shall-be available-for-public-inspection,--except--insofar--as--it identifies--any-individual-involved-in-an-abortion.---Names and-identities-of-persons--submitting--to--abortion--shall remain--confidential--among--medical--and--medical-support personnel-directly-involved-in--the--abortion,--and--among persons--working--in--the--facility--where--the-abortion-was performed-whose-duties--include--billing--the--patient--or submitting--claims--to--an--insurance--company,--keeping facility-records,--or-processing-abortion-data-required-by state-law.

6- 1. Records:

a. All abortion facilities and hospitals in which abortions are performed shall keep records, including admission and discharge notes, histories, results of tests and examinations, nurses' work sheets, social service records, and progress notes, and shall further keep a copy of all written certifications provided for in this chapter as well as a copy of the constructive notice forms, consent forms, court orders, abortion reports, and complication reports. Records shall be maintained in the permanent files of the hospital or abortion facility for a period of not less than seven years.

b. The medical records of abortion facilities and hospitals in which abortions are performed and all information contained therein shall remain confidential and shall be used by the department of health only for gathering statistical data and ensuring compliance with the provisions of this chapter.

2. Reporting:

a. An individual abortion report for each abortion performed upon a woman shall be completed by her

- attending physician. The report shall be confidential and shall not contain the name of the woman. This reporting shall include the data called for in the United States standard report of induced termination of pregnancy as recommended by the national center for health statistics.
- b. All abortion reports shall be signed by the attending physician and submitted to the department of health within thirty days from the date of the abortion. All complication reports shall be signed by the physician providing the post-abortion care and submitted to the department of health within thirty days from the date of the post-abortion care.
- c. A copy of the abortion report shall be made a part of the medical record of the patient at the facility or hospital in which the abortion was performed. In cases where post-abortion complications are discovered, diagnosed, or treated by physicians not associated with the facility or hospital where the abortion was performed, the department of health shall forward a copy of the report to that facility or hospital to be made a part of the patient's permanent record.
- d. The department of health shall be responsible for collecting all abortion reports and complication reports and collating and evaluating all data gathered therefrom and shall annually publish a statistical report based on data from abortions performed in the previous calendar year.
- e. The department shall report to the attorney general any apparent violation of this chapter.

SECTION 7. AMENDMENT.) Section 14-02.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-02.1-08. PROTECTION OF FETUS INFANT BORN ALIVE - PENALTY.)

1. A person is guilty of a class C felony if he knowingly, or negligently, causes the death of a viable fetus born alive.
2. Whenever a fetus which is the subject of abortion is born alive and is viable, it becomes an abandoned and deprived child, unless:
 - a. The termination of the pregnancy is necessary to preserve the life of the mother; or

- b. The mother and her spouse, or either of them, have agreed in writing in advance of the abortion, or within seventy-two hours thereafter, to accept the parental rights and responsibilities for the fetus if it survives the abortion procedure.

* SECTION 8.) Section 14-02.1-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

14-02.1-13. FORMS.) The North Dakota state department of health shall make available to physicians, hospitals, and all abortion facilities the forms required by this chapter.

Approved April 8, 1979

* NOTE: This section is codified as North Dakota Century Code Section 14-02.1-07.1.

CHAPTER 192

SENATE BILL NO. 2385
(Sandness, Berube, Lee)

ABORTION ACCESSIBILITY RESTRICTED

AN ACT to establish a state policy statement in the areas of abortion and childbirth, family planning, payment for abortions by health insurance contracts, and limiting abortions in government hospitals in North Dakota; providing a penalty; and declaring an emergency.

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

SECTION 1. A STATE POLICY ON ABORTION AND CHILDBIRTH AND THE MEDICAL ASSISTANCE THEREOF.) Between normal childbirth and abortion, it shall be the policy of the state of North Dakota that normal childbirth is to be given preference, encouragement, and support by law and by state action, it being in the best interests of the well-being and common good of North Dakota citizens.

No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency shall be used to pay for the performance, or for promoting the performance, of an abortion unless the abortion is necessary to prevent the death of the woman.

SECTION 2. USE OF PUBLIC FUNDS FOR FAMILY PLANNING DENYING USE FOR THE PERFORMANCE, REFERRAL, AND ENCOURAGEMENT OF ABORTION.) No funds of this state or any agency, county, municipality, or any other subdivision thereof and no federal funds passing through the state treasury or a state agency shall be used as family planning funds by any person, public or private agency which performs, refers, or encourages abortion.

SECTION 3. PAYMENT FOR ABORTIONS BY HEALTH INSURANCE POLICIES DELIVERED OR ISSUED IN NORTH DAKOTA.) No health insurance contracts, plans, or policies delivered or issued for delivery in this state shall provide coverage for abortions except by an optional rider for which there must be paid an additional premium. Provided, however, that this section shall not apply to the performance of an abortion necessary to prevent the death of the woman.

SECTION 4. LIMITATION OF ABORTION IN GOVERNMENT HOSPITALS OPERATED WITHIN NORTH DAKOTA.) No person shall authorize or perform an abortion in a hospital owned, maintained, or operated within the state by the state or any of its agencies or by any political subdivision of the state, unless the abortion is necessary to prevent the death of the woman.

SECTION 5. PENALTY.) Any person found guilty of violating this Act shall be guilty of a class B misdemeanor.

SECTION 6. SEVERABILITY.) Should any provision, section, clause, or word of this Act be construed by any court of law to be invalid, illegal, unconstitutional, or otherwise unenforcible, such invalidity, illegality, unconstitutionality, or unenforcibility shall not extend to any other provision or provisions of this Act.

It is the express intent of this legislature to enact legislation that is constitutional. A reviewing court, therefore, is requested to set forth clearly the grounds upon which any provisions of this Act is declared invalid so that appropriate remedial legislation may be enacted.

SECTION 7. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 8, 1979

CHAPTER 193

HOUSE BILL NO. 1621
(Representatives Stenehjelm, Mushik, Unhjem)
(Senators Holmberg, Christensen, Redlin)

ADULT ABUSE

AN ACT relating to adult abuse, protection orders, temporary protection orders, assistance of peace officers in service or execution of protection orders, the right to apply for relief, the exclusiveness of the remedy from other remedies, emergency relief; and providing a penalty for violation of a protection order.

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

SECTION 1. "ADULT ABUSE" DEFINED.) For purposes of this Act, "adult abuse" includes physical harm, bodily injury, or assault on the complaining adult, or the imminent threat thereof.

SECTION 2. ADULT ABUSE - PROTECTION ORDER.)

1. An action for a protection order commenced by a verified application alleging the existence of adult abuse may be brought by any spouse or family member in the district court, regardless of whether or not a petition for legal separation, annulment, or divorce has been filed.
2. Upon receipt of the application, the court shall order a hearing to be held not later than fourteen days from the date of the hearing order.
3. Service shall be made upon the respondent not less than five days prior to the hearing. If service cannot be made, the court may set a new date.
4. Upon a showing of actual or imminent adult abuse, the court may enter a protection order after due notice and full hearing. The relief provided by the court may include any or all of the following:
 - a. Restraining any party from threatening, molesting, or injuring any other party.

- b. Excluding either party, for a period not to exceed thirty days, from the marital home, from the residence of the other, or from an adult abuse care facility, where this exclusion is necessary to the physical or mental well-being of the applicant or others.
 - c. Awarding temporary custody or establishing temporary visitation rights with regard to minor children.
 - d. Recommending that either or both parties undergo counseling with an adult abuse program or other agency which provides professional services which the court deems appropriate. The court may request a report from the designated agency within a time period established by the court. The costs of the court-ordered initial counseling assessment and subsequent reports shall be borne by the parties or, if indigent, by the respondent's county of residence.
5. The court may amend its order or agreement at any time upon subsequent petition filed by either party.
 6. No order or agreement under this section shall affect title to any real property in any matter.

SECTION 3. TEMPORARY PROTECTION ORDER - COPY TO LAW ENFORCEMENT AGENCY.)

1. Where an application under section 2 alleges an immediate and present danger of abuse to the applicant, the court may grant an ex parte temporary protection order, pending a full hearing, granting such relief as the court deems proper.
2. An ex parte temporary protection order may include:
 - a. Restraining any party from committing acts of abuse on the other.
 - b. Excluding any party from the dwelling they share, from the residence of the other, or from an adult abuse shelter care facility.
3. An ex parte temporary protection order shall remain in effect, in the court's discretion, for not more than thirty days, unless otherwise terminated by the court.
4. A full hearing as provided by section 2 shall be set for not later than fourteen days from the issuance of the temporary order. The respondent shall be served forthwith with a copy of the ex parte order along with a copy of the application and notice of the date set for the hearing.

5. The clerk of court shall transmit a copy of each temporary protection order, or extension, modification, or termination thereof, by the close of the business day on which the order was granted to the local law enforcement agency with jurisdiction over the residence of the applicant or over the residence at which the actual abuse which is the subject of the temporary protection order has occurred, or is likely to occur, if requested by the applicant and approved by the court. Each appropriate law enforcement agency may make available information as to the existence and current status of any temporary protection order issued pursuant to this section, through an existing verification system, to any law enforcement officer responding to the scene of reported domestic violence.

SECTION 4. ASSISTANCE OF PEACE OFFICER IN SERVICE OR EXECUTION.) When an order is issued upon request of the applicant under sections 2 or 3, the court shall order the sheriff or other appropriate law enforcement officer to accompany the applicant and assist in placing the applicant in possession of the dwelling or residence, or otherwise assist in execution or service of the protection order, which may include assistance in referral to an adult abuse shelter care facility.

SECTION 5. RIGHT TO APPLY FOR RELIEF.) A person's right to apply for relief under sections 2 or 3 shall not be affected by his or her leaving the residence or dwelling to avoid abuse. The court shall not require security or bond from any party unless it deems it necessary in exceptional cases.

SECTION 6. PENALTY FOR VIOLATION OF A PROTECTION ORDER - ARREST WITHOUT WARRANT.) Whenever a protection order is granted pursuant to sections 2 or 3 and the respondent or person to be restrained has been served a copy of the order, a violation of the order shall be a class A misdemeanor and also constitute criminal contempt of court subject to penalties therefor. A peace officer may arrest any person without a warrant if the officer has probable cause to believe the person has committed the offense of violating a protection order, whether or not the violation was committed in the presence of the officer. No peace officer shall be held criminally or civilly liable for making an arrest pursuant to this section if the officer acts in good faith on probable cause and without malice.

SECTION 7. NONEXCLUSIVE REMEDY.) Any proceeding under this Act shall be in addition to any other civil or criminal remedies.

SECTION 8. EMERGENCY RELIEF.) When the court is unavailable an application may be filed before a local magistrate, as defined by subsection 3 of section 29-01-14, who may grant relief in accordance with section 3, upon good cause shown in an ex parte proceeding, if it is deemed necessary to protect the applicant or others from abuse. Immediate and present danger of abuse to the applicant or others shall constitute good cause for purposes of this section.

Any order issued under this section shall expire seventy-two hours after its issuance, unless continued by the district court, or the issuing court in the event of continuing unavailability of the district court. At that time, the applicant may seek a temporary order from the district court. Any order issued under this section and any documentation in support thereof shall be immediately certified to the district court. Such certification to the district court shall have the effect of commencing proceedings under section 2 and invoking the other provisions of this Act.

SECTION 9.) A new subsection 4 of section 29-01-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

4. Grant temporary protection orders under the particular circumstances and for the limited duration set forth in section 8 of this Act.

Approved April 7, 1979

CHAPTER 194

HOUSE BILL NO. 1585
(Representatives Stenehjem, Swiontek)
(Senator Lashkowitz)

AWARDS OF CUSTODY

AN ACT to create and enact three new sections to chapter 14-09 of the North Dakota Century Code, relating to investigations to be conducted before awarding custody, and the test and factors to be used in making an award of custody; and to amend and reenact sections 14-05-22 and 14-09-07 of the North Dakota Century Code, relating to awards of custody issued in connection with a decree of divorce, and the right of a custodial parent to change the residence of the child.

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

SECTION 1. AMENDMENT.) Section 14-05-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-05-22. CUSTODY OF CHILDREN - VISITATION RIGHTS.)

1. In an action for divorce, the court, before or after judgment, may give such direction for the custody, care, and education of the children of the marriage as may seem necessary or proper, and may vacate or modify the same at any time. Any award or change of custody must be made in accordance with the provisions of chapter 14-09.
2. After making an award of custody, the court shall, upon request of the noncustodial parent, grant such rights of visitation as will enable the child and the noncustodial parent to maintain a parent-child relationship that will be beneficial to the child, unless the court finds, after a hearing, that visitation is likely to endanger the child's physical or emotional health.

SECTION 2.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

AWARDING CUSTODY - BEST INTERESTS AND WELFARE OF CHILD.) An order for custody of an unmarried minor child entered pursuant to

this chapter shall award the custody of the child to a person, agency, organization, or institution as will, in the opinion of the judge, promote the best interests and welfare of the child. Between the mother and father, whether natural or adoptive, there is no presumption as to who will better promote the best interests and welfare of the child.

SECTION 3.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

BEST INTERESTS AND WELFARE OF CHILD - COURT CONSIDERATION - FACTORS.) For the purpose of custody, the best interests and welfare of the child shall be determined by the court's consideration and evaluation of all factors affecting the best interests and welfare of the child. These factors include all of the following when applicable:

1. The love, affection, and other emotional ties existing between the parents and child.
2. The capacity and disposition of the parents to give the child love, affection, and guidance and to continue the education of the child.
3. The disposition of the parents to provide the child with food, clothing, medical care, or other remedial care recognized and permitted under the laws of this state in lieu of medical care, and other material needs.
4. The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
5. The permanence, as a family unit, of the existing or proposed custodial home.
6. The moral fitness of the parents.
7. The mental and physical health of the parents.
8. The home, school, and community record of the child.
9. The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding, and experience to express a preference.
10. Any other factors considered by the court to be relevant to a particular child custody dispute.

In any proceeding under this chapter, the court, at any stage of the proceedings after final judgment, may make orders about what security is to be given for the care, custody, and support of the

unmarried minor children of the marriage as from the circumstances of the parties and the nature of the case is equitable.

SECTION 4.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

CUSTODY INVESTIGATIONS AND REPORTS - COSTS.)

1. In contested custody proceedings the court may, upon the request of either party, or, upon its own motion, order an investigation and report concerning custodial arrangements for the child. The court shall designate a person or agency responsible for making the investigation and report, which designees may include the county social service board, public health officer, school officials, and any other public agency or private practitioner it deems qualified to make the investigation.
2. The investigator may consult any person who may have information about the child and any potential custody arrangements, and upon order of the court may refer the child to any professional personnel for diagnosis.
3. The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days before the hearing. The investigator shall make available to any such counsel or party the complete file of data and reports underlying the investigator's report and the names and addresses of all persons whom the investigator has consulted. A party may call the investigator and any person whom he has consulted for cross-examination at the hearing. A party may not waive his right of cross-examination before the hearing.
4. The court may enter an order for the costs of any such investigation against either or both parties, except that if the parties are indigent the expenses shall be borne by the county.

SECTION 5. AMENDMENT.) Section 14-09-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-09-07. RESIDENCE OF CHILD.) A parent entitled to the custody of a child has--a--right--to shall not change his the residence,--subject-to-the-power-of-the-district-court-to-restrain-a removal-which-would-prejudice-the-rights-or-welfare of the child to another state except upon order of the court or with the consent of the noncustodial parent, where the noncustodial parent has been given visitation rights by the decree, however, a court order shall not be required if the noncustodial parent has not exercised such visitation rights for a period of one year.

Approved March 18, 1979

CHAPTER 195

HOUSE BILL NO. 1655
(Herman, Black, Eagles)

HUSBAND'S STATUS AS HEAD OF FAMILY REPEALED

AN ACT to repeal section 14-07-02 of the North Dakota Century Code, relating to the status of the husband as the head of the family.

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

SECTION 1. REPEAL.) Section 14-07-02 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

CHAPTER 196

SENATE BILL NO. 2253
(Committee on Social Welfare and Veterans Affairs)
(At the request of the Social Service Board)

CHILD SUPPORT ENFORCEMENT PROCEDURES

AN ACT to create and enact five new sections to chapter 14-09 of the North Dakota Century Code, relating to wage assignment and orders for withholding and transmitting earnings for child support enforcement purposes; procedures for dissolving, revoking or modifying such assignments or orders; duties and liabilities of employers under such assignments and orders; and the creation of a lien on property to aid in the enforcement of child support obligations.

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

SECTION 1.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHILD SUPPORT - WAGE ASSIGNMENT - PROCEDURES.)

1. Each judgment containing child support provisions and each order for child support issued by a district court of this state shall include an order directing the obligor to assign such salary currently due or to be due in the future from the obligor's employer or successor employers to the clerk of the court where the judgment is granted or the order issued, in such amount as will be sufficient to meet the child support payments imposed by the court. This wage assignment shall take effect upon application of the person receiving payments or any person or public agency designated to receive such payments, when the requirements of this section have been met. The application shall be a sworn statement which states that the obligor has failed to make a child support payment in full within twenty days of the due date of such payment. This section does not authorize a clerk of court who receives child support payments as trustee under section 14-08-07 to make such application.

2. The clerk of court, upon application of an authorized person or agency, shall send a notice by certified mail to the last known address of any obligor who has failed to make the required child support payment within twenty days of its due date. The notice shall be postmarked no later than ten days after the date on which the application was filed and shall inform the obligor that the wage assignment shall go into effect ten days after the date on which the notice was sent. The obligor may, within that ten day period, request a hearing on the issue of whether the wage assignment should take effect, in which case the wage assignment shall be held in abeyance pending the outcome of the hearing. The district court or its referee shall hold a hearing requested under this section within ten working days after the date of the request.
3. If at the hearing the obligor establishes that extraordinary circumstances prevented fulfillment of the child support obligation and that such circumstances are beyond the control of the obligor, the court may direct that the wage assignment be delayed until such time, within twelve months, as another month's payment is missed. If such a delay is granted, the wage assignment shall, upon application, go into effect if, within the following twelve months, the obligor fails to make in full any payment within twenty days of its due date.
4. An assignment made under this section shall be binding upon the employer and successor employers one week after service upon the employer of a true copy of the assignment signed by the obligor-employee and annexed to a copy of the order, by personal service or by registered or certified mail, until further order of the court or as provided in section 4 of this Act. For purposes of this Act, the term employer includes the state and federal governments and the political subdivisions of the state.
5. The employer may not use such assignments as a basis for the discharge of an employee or for any disciplinary action against the employee.
6. The employer must notify the clerk of court entering the wage assignment order, in writing, of the termination of the obligor-employee's employment within thirty days of such termination. Such notice must include the name and address of the obligor-employee's new employer if known.
7. Any wage assignment under this section shall have priority over any attachment, execution, garnishment or wage assignment unless otherwise ordered by the court and shall not be subject to any statutory limitations on such amounts levied against the income of the obligor-employee.

8. An employer may deduct one dollar from the obligor-employee's remaining salary for each payment made pursuant to an assignment under this section to cover the employer's expenses involved in such wage assignments.

SECTION 2.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHILD SUPPORT - ALTERNATIVE PROCEDURE TO WITHHOLD AND TRANSMIT EARNINGS.)

1. In cases where a wage assignment has not been secured, upon application of the child or of any person having a direct interest in the welfare of the child, the court, pursuant to this section and upon a showing that a child support payment has not been made in full within twenty days of its due date, may order the employer of the obligor-employee:
 - a. To withhold from the obligor-employee's earnings presently due and from future earnings as they become due, such amounts as shall satisfy the obligor-employee's previous arrearage in child support payments, the obligor-employee's obligation to pay child support as it accrues in the future, and any attorney's fees that may be awarded in a proceeding under this section;
 - b. To deduct from the balance of the obligor-employee's salary, a fee of one dollar per month to cover the employer's expenses involved in withholding and transmitting the child support payment for that month;
 - c. To remit at least once each calendar month the amount withheld under subdivision a to the clerk of court entering such order;
 - d. To refrain from dismissing, disciplining, or in any way penalizing the obligor-employee on account of the proceeding to collect child support, on account of any order or orders entered by the court in such proceeding, and on account of employer compliance with such order or orders; and
 - e. To notify in writing the clerk of court entering such order of the termination of such obligor-employee's employment and the name and address if known of the obligor-employee's new employer within thirty days after termination of employment.

Such application may be filed as part of any proceeding brought for failure to make child support payments or may

- be made independently of any other support enforcement action.
2. Upon the filing of an application to withhold and transmit earnings, the court shall set a time for a hearing. The hearing shall be held within three weeks of the date the application is filed with the court.
 3. The applicant shall then cause to be served on the employer a copy of the application, a notice of hearing and interrogatories to be completed and returned by the employer to the court no later than three days prior to the hearing. The interrogatories when completed shall show whether the obligor-employee is an employee of the employer, whether the obligor-employee performs work and provides services or makes sales for the employer in this state, the present length of employment of the obligor-employee with the employer, the present pay period for such obligor-employee, the average earnings of the obligor-employee per pay period, and the name and address of the person, office or division of the employer responsible for the preparation of the obligor-employee's earnings payments.
 4. The applicant shall also cause to be served on the obligor-employee a copy of the application and a notice of hearing.
 5. Service under this section shall be personally or by mailing by certified mail, the documents required to be served.
 6. Any order to withhold and transmit earnings under this section shall have priority over any attachment, execution, garnishment or wage assignment unless otherwise ordered by the court and shall not be subject to any statutory limitations on executions issued against the income of the obligor-employee.

SECTION 3.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHILD SUPPORT - DUTIES AND LIABILITIES OF EMPLOYER UNDER WAGE ASSIGNMENT ORDER OR ORDER TO WITHHOLD AND TRANSMIT EARNINGS.)

1. Any employer failing to comply with any requirements in sections 1 and 2 of this Act may be punished by the court for civil contempt. The court shall first afford such employer a reasonable opportunity to purge itself of such contempt.
2. Any employer who shall fail or refuse to deliver earnings pursuant to an order under section 1 or section 2 of this

Act, when such employer has had in its possession such earnings, shall be personally liable for the amount of such earnings which the employer failed or refused to deliver, together with costs, interest, and reasonable attorney's fees.

3. Any employer who dismisses, demotes, disciplines, or in any way penalizes an obligor-employee on account of any proceeding to collect child support, on account of any order or orders entered by the court in such proceeding, or on account of the employer's compliance with such order or orders, shall be liable to the obligor-employee for all damages, together with costs, interest thereon, and reasonable attorney's fees resulting from the employer's action. The employer may be required to make full restitution to the aggrieved obligor-employee, including reinstatements and back pay.
4. An employer may be enjoined by a court of competent jurisdiction from continuing any action in violation of sections 1 and 2 of this Act.
5. Any proceeding against an employer under this section must be commenced within ninety days after the employer's act or failure to act upon which such proceeding is based.
6. Compliance by an employer with an order issued under sections 1 and 2 of this Act operates as a discharge of the employer's liability to the obligor-employee as to that portion of the obligor-employee's wage so affected.

SECTION 4.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHILD SUPPORT - ORDER FOR WAGE ASSIGNMENT OR TO WITHHOLD AND TRANSMIT EARNINGS - DISSOLUTION, REVOCATION OR MODIFICATION.) An order for wage assignment under section 1 of this Act or to withhold and transmit earnings under section 2 of this Act shall dissolve without any court action thirty days after the obligor-employee ceases employment with the employer. Such orders shall be revoked by the court upon an application when the obligor-employee is not in arrears of any court ordered child support as of the day of the application. Such order may be modified or revoked by the court upon application and for good cause shown. All applications to revoke or modify shall be served upon the employer and all persons having an interest in the order by certified mail, addressed to the last known addresses of such persons.

SECTION 5.) A new section to chapter 14-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

CHILD SUPPORT - JUDGMENT OR ORDER AS LIEN ON PROPERTY -
DURATION - EFFECT.)

1. A certified copy of any judgment or order which contains a provision for payment of child support, including any such judgment or order registered in this state under chapter 28-20.1 and 14-12.1, may be docketed in the judgment docket in the office of the clerk of court of any county and shall from such docketing become a lien upon all real property of the obligor in such county, owned by the obligor at the time, or which the obligor may afterwards and before the lien expires, acquire, for the respective amounts of child support installments as they mature. The judgment or order shall not become a lien for any sum or sums prior to the date they severally become due and payable. All liens arising under this section shall have, for a period of ten years from such docketing, the same force, effect and priority as a lien created by the docketing of any judgment pursuant to section 28-20-13, except as otherwise provided in this section. Such orders or judgments may be renewed as a lien for an additional ten years in accordance with sections 28-20-21, 28-20-22, and 28-20-23.
2. The certificate of the obligor sworn under penalty of perjury, that all amounts and installments which have matured under said judgment or order prior to the date of such certificate have been fully paid shall, when acknowledged and recorded, be prima facie evidence of such payment and conclusive in favor of any person dealing in good faith and for a valuable consideration with the obligor or his successors in interest. In the event of the legal disability of the obligor, the affidavit of the personal representative of the obligor shall have the same effect.
3. If any amount of child support provided in a judgment or order has been directed to be paid to the clerk of court pursuant to section 14-08-07 or to any other officer designated by the court pursuant to any other provision of law, and such directive is set forth in the copy of the docketed judgment or order, or in the docket of certified copy of an amended or supplemental order, such certificate shall not affect the lien unless also approved in writing by such clerk or other designated officer.
4. Whenever a certified copy of any judgment or order for child support has been docketed pursuant to this section, it may be cancelled and discharged upon full satisfaction pursuant to sections 28-20-24, 28-20-25, and 28-20-28. Such lien is not satisfied in full until each minor entitled to support under its term has reached majority or is otherwise emancipated or dies and until all arrearages accruing during the operation of the judgment or order have been satisfied.
5. A lien under this section shall not be dischargeable in bankruptcy.

Approved April 3, 1979

CHAPTER 197

HOUSE BILL NO. 1184
(Committee on Judiciary)
(At the request of the Social Service Board)

MODIFICATION OF SUPPORT ORDER

AN ACT to amend and reenact subsection 2 of section 14-12.1-02 of the North Dakota Century Code, relating to the definition of duty of support under the Revised Uniform Reciprocal Enforcement of Support Act; to amend and reenact section 14-12.1-24 of the North Dakota Century Code, relating to the powers and duties of district courts when acting as responding courts in actions for enforcement of support under the Revised Uniform Reciprocal Enforcement of Support Act; and to amend and reenact section 14-12.1-31 of the North Dakota Century Code, relating to the application of payments made under the Uniform Reciprocal Enforcement of Support Act.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 14-12.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Duty of support" means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid, said duty of support subject to modification under the provisions of this chapter upon a showing of material change in circumstances.

SECTION 2. AMENDMENT.) Section 14-12.1-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-12.1-24. ORDER OF SUPPORT.) If the responding court finds a duty of support it may order the obligor to furnish support or reimbursement therefor in accordance with the present needs and circumstances of the obligee and the present ability of the obligor to pay and subject the property of the obligor to the order. The

court, upon a finding of a material change in circumstances relative to the obligor's discharge of obligations under any existing order for child support or decree of divorce, may modify the order for child support or alimony combined with child support, and order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this chapter shall require that payments be made to the clerk of the court of the responding state. The court and prosecuting attorney of any county in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the county in which it was first issued. If enforcement is impossible or cannot be completed in the county in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any county in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.

SECTION 3. AMENDMENT.) Section 14-12.1-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-12.1-31. APPLICATION OF PAYMENTS.) A support order made by a court of this state pursuant to this chapter does not nullify and is not nullified by a support order made by a court of this state pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance or variation in amounts ordered to be paid, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state or by a court of this state pursuant to any other law shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state under this chapter.

Approved March 7, 1979

CHAPTER 198

HOUSE BILL NO. 1054
(Legislative Council)
(Interim Committee on Criminal Justice System)

PENALTY FOR CHILDSNATCHING

AN ACT to provide a criminal penalty for the removal from or detention of a child outside North Dakota by a noncustodial parent in violation of a custody decree.

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

SECTION 1. REMOVAL OF CHILD FROM STATE IN VIOLATION OF CUSTODY DECREE - PENALTY.) Any person who intentionally removes, causes the removal of, or detains his or her own child under the age of eighteen years outside North Dakota with the intent to deny another person's rights under an existing custody decree shall be guilty of a class C felony. Detaining the child outside North Dakota in violation of the custody decree for more than seventy-two hours shall be prima facie evidence that the person charged intended to violate the custody decree at the time of removal.

Approved March 3, 1979

CHAPTER 199

HOUSE BILL NO. 1309
(Unhjem)

DISCLOSURE OF ADOPTIVE INFORMATION

AN ACT to create and enact two new subsections to section 14-15-01 of the North Dakota Century Code, relating to definitions in the Revised Uniform Adoption Act; and to amend and reenact section 14-15-16 of the North Dakota Century Code, relating to the disclosure of adoptive information and providing for retroactive application.

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

SECTION 1.) Two new subsections to section 14-15-01 of the North Dakota Century Code are hereby created and enacted to read as follows:

"Nonidentifying adoptive information" means:

- a. Age of genetic parent in years at the birth of the adopted child;
- b. Heritage of genetic parent;
- c. Educational attainments, including the number of years of school completed by genetic parent at the time of birth of the adopted child;
- d. General physical appearance of genetic parent at the time of birth of the adopted child, including the height, weight, color of hair, eyes, skin and other information of a similar nature;
- e. Talents, hobbies, and special interests of genetic parents;
- f. Existence of any other children born to either genetic parent before the birth of the adopted child;
- g. Reasons for child being placed for adoption or for termination of parental right;

- h. Religion of genetic parent;
- i. Vocation of genetic parent in general terms;
- j. Health history of genetic parents and blood relatives in a manner prescribed by the social service board;
- k. Such further information which, in the judgment of the agency, will not be detrimental to the adoptive parent or the adopted person requesting the information, but the additional information must not identify genetic parents by name or location.

"Genetic parent" means the natural mother or adjudicated mother of the adopted child, or the presumed father or adjudicated father of the adopted child under chapter 14-17.

SECTION 2. AMENDMENT.) Section 14-15-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

14-15-16. HEARINGS AND RECORDS IN ADOPTION PROCEEDINGS - CONFIDENTIAL NATURE - DISCLOSURE OF IDENTIFYING AND NONIDENTIFYING INFORMATION - RETROACTIVE OPERATION.) Notwithstanding any other law concerning public hearings and records:

1. All hearings held in proceedings under this chapter 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, and information pertaining to the adoption whether part of the permanent record of the court or of a file in the public-welfare social service 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~~ confidential and may be disclosed only in accordance with this section;
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.~~ Nonidentifying information, if known, concerning undisclosed genetic parents shall be furnished to:
 - a. The adoptive parents at the time of adoptive placement or upon their request.

- b. The adult adopted person upon written request therefor.
4. An adopted person who is twenty-one years of age or over may request the social service board to secure and disclose information identifying the adopted child's genetic parents or to secure and disclose nonidentifying information not on file with the board or a child placing agency. The social service board shall, within five working days of receipt of the request, notify in writing the child placing agency having access to the information requested of the request by the adopted child.
5. Within three months after receiving notice of the request of the adopted person, the child placing agency shall make complete and reasonable efforts to notify the genetic parents of the adopted child. The child placing agency may charge a reasonable fee to the adopted child for the cost of making a search pursuant to this subsection. All communications under this subsection are confidential. For purposes of this subsection, "notify" means a personal and confidential contact with the genetic parents of the adopted child; the personal and confidential contact shall not be by mail and shall be by an employee or agent of the licensed child placing agency which processed the pertinent adoption, or some other licensed child placing agency designated by the child placing agency; the personal and confidential contact shall be evidenced by filing with the social service board an affidavit of notification executed by the person who notified each genetic parent and certifying that each genetic parent was given the following information:
- a. The nature of the identifying information to which the agency has access;
- b. The nature of any nonidentifying information requested;
- c. The date of the request of the adopted child;
- d. The right of the genetic parent to file, within sixty days of receipt of the notice, an affidavit with the social service board stating that the identifying information should not be disclosed;
- e. The right of the genetic parent to file a consent to disclosure with the social service board at any time; and
- f. The effect of a failure of the genetic parent to file either a consent to disclosure or an affidavit stating that the identifying information should not be disclosed.

6. If the child placing agency certifies to the social service board that it has been unable to notify the genetic parent within three months, the identifying information shall not be disclosed to the adopted child. If either genetic parent has at any time filed with the social service board an unrevoked affidavit stating that the identifying information should not be disclosed, the social service board shall not disclose the information to the adopted child until the affidavit is revoked by the filing of a consent to disclosure by that parent.
7. If, within three months, the child placing agency certifies to the social service board that it has notified the genetic parents pursuant to subsection 5, the social service board shall receive the identifying information from the child placing agency and disclose the information sixty-one days after the date of the latest notice to either genetic parent. This disclosure will occur if, at any time during the sixty-one days, the genetic parent has filed an affidavit with the social service board stating that the information shall be disclosed and the affidavit has not been revoked by the subsequent filing by the genetic parent of an affidavit that the information shall not be disclosed.
8. If the genetic parent has died and has not filed an unrevoked affidavit with the social service board stating that identifying information shall not be disclosed, the information shall be forwarded to and released by the social service board to the adopted child. If the genetic parent has died, and at any time prior to his death the genetic parent has filed an unrevoked affidavit with the social service board stating that the identifying information shall not be disclosed, the adopted child may petition the court of original jurisdiction of the adoption proceeding for an order for release of the identifying information. The court shall grant the petition if, after consideration of the interests of all known persons involved, the court determines that disclosure of the information would be of greater benefit than nondisclosure.
9. Any adopted person twenty-one years of age or over whose adoption was finalized in this state or whose genetic parents had their parental rights terminated in this state may request the social service board to secure and disclose identifying information concerning an adult sibling in the same manner as provided for in subsection 4. Identifying information pertaining exclusively to the adult sibling, whether part of the permanent record of a file in the social service board or in an agency, shall be released only upon consent of that adult sibling.

10. No person may be required to disclose the name or identity of either an adoptive parent or an adopted child except:
 - a. In accordance with this section;
 - b. As authorized in writing by the adoptive parent or the adopted child;
 - c. Upon order of the court for good cause shown in exceptional cases.
11. The provisions of this section governing the release of identifying and nonidentifying adoptive information apply to adoptions completed before and after the effective date of this Act.
12. Any child placing agency discharging in good faith its responsibilities under this section is immune from any liability, civil or criminal, that otherwise might result.
13. The social service board shall make such reasonable rules and regulations as are necessary to carry out the purposes of this section.

Approved March 15, 1979

CHAPTER 200

SENATE BILL NO. 2263
 (Committee on Social Welfare and Veterans Affairs)
 (At the request of the Social Service Board)

ADOPTION PROCEEDINGS AND INVESTIGATIONS

AN ACT to create and enact a new subdivision to subsection 1 of section 14-15-09 of the North Dakota Century Code, relating to the social service board or a county social service board being named as a respondent in an adoption proceedings; and to amend and reenact subsections 2, 5, and 6 of section 14-15-11 and subsection 3 of section 14-15-13 of the North Dakota Century Code, relating to investigations for adoptions, and disposition of adoption petition.

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

SECTION 1.) A new subdivision to subsection 1 of section 14-15-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

The social service board or a county social service board as respondent.

SECTION 2. AMENDMENT.) Subsections 2, 5, and 6 of section 14-15-11 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. An investigation shall be made by the ~~public-welfare~~ social service board, a county ~~welfare~~ social service 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.
5. ~~Unless--directed--by--the--court,--an~~ 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
social service board which-is when required to consent to
the adoption may give consent without making the
investigation.

6. The public-welfare social service 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.

* SECTION 3. AMENDMENT.) Subsection 3 of section 14-15-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.

Approved April 7, 1979

- * NOTE: Subsection 3 of section 14-15-13 was also amended by section 1 of House Bill No. 1433, chapter 201.

CHAPTER 201

HOUSE BILL NO. 1433
(Winkjer)

INTERLOCUTORY DECREE OF ADOPTION

AN ACT to amend and reenact subsection 3 of section 14-15-13 of the North Dakota Century Code, relating to the time at which an interlocutory decree of adoption may become a final decree.

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

* SECTION 1. AMENDMENT.) Subsection 3 of section 14-15-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 in the decree, which day shall not be less than six months nor more than one year after the date of issuance of the decree minor was placed in the adoptive home by an agency or after the social service board or court was informed of the custody of the minor by the petitioner, unless sooner vacated by the court for good cause shown.

Approved March 13, 1979

* NOTE: Subsection 3 of section 14-15-13 was also amended by section 3 of Senate Bill No. 2263, chapter 200.

CHAPTER 202

HOUSE BILL NO. 1362
 (Representatives Vig, Black, Gunsch)
 (Senators Holmberg, Christensen, Tallackson)

BIRTH CERTIFICATES FOR FOREIGN-BORN ADOPTEES

AN ACT to create and enact a new subsection to section 23-02.1-18 of the North Dakota Century Code, relating to the issuance of new birth certificates after the adoption of foreign-born persons; and to amend and reenact section 14-15-18 and subsection 5 of section 23-02.1-17 of the North Dakota Century Code, relating to reports of adoption and the application for a new birth certificate after the adoption of a foreign-born person.

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

SECTION 1. AMENDMENT.) Section 14-15-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 social service board of this state for statistical purposes. In the case of the adoption of a person born outside of the United States, the court may make findings, based on evidence from the petitioner and other reliable state or federal sources, on the date and place of birth and parentage of the adopted person. These findings shall be certified by the court and included with the report of adoption filed with the state registrar of vital statistics pursuant to section 23-02.1-17.

SECTION 2. AMENDMENT.) Subsection 5 of section 23-02.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. When the state registrar shall receive a report of adoption or annulment of adoption or amendment thereof from a court for a person born in the United States but outside this state, such report shall be forwarded to the appropriate registration authority in the state of birth.

SECTION 3.) A new subsection to section 23-02.1-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

For a person born in a foreign county whose adoptive parents are residents of the state of North Dakota at the time of the adoption, the state registrar of vital statistics shall prepare a new certificate of birth:

- a. In the case of a foreign-born person adopted in North Dakota, upon presentation of a report of adoption as required by section 23-02.1-17.
- b. In the case of a foreign-born person adopted outside the state of North Dakota or outside the United States, or in the state of North Dakota prior to the effective date of this section, upon presentation of a certified copy of the adoption decree, and:
 - (1) A certified copy of the certificate of birth of the adopted person; or
 - (2) An affidavit of an adoptive parent setting forth the true or probable date and place of birth and parentage of the adopted person.

Any certificate of birth issued under this subsection shall be in the same form as other certificates of birth issued in this state except that it shall state that it does not purport to be evidence of United States citizenship.

Approved March 24, 1979

EDUCATION

CHAPTER 203

HOUSE BILL NO. 1629
(Unhjem, Backes, Stenehjem, Strinden)

JUDICIAL WING AND OFFICE BUILDING ADD-ALTERNATES

AN ACT authorizing the board of university and school lands to invest permanent funds of the common schools in add-alternates for the judicial wing and state office building; and declaring an emergency.

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

SECTION 1. INVESTMENT OF COMMON SCHOOL FUND.) The board of university and school lands may invest an amount not to exceed two million five hundred thousand dollars from the permanent fund of the common schools in additional square feet of floor space, and other fixtures, equipment, and improvements for the judicial wing and state office building.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 13, 1979

CHAPTER 204

SENATE BILL NO. 2464
(Redlin)

LOAN POOL ACCOUNT INSTRUMENTS

AN ACT to create and enact a new section to chapter 15-03 of the North Dakota Century Code, relating to the execution of instruments under the board of university and school lands loan pool account.

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

SECTION 1.) A new section to chapter 15-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

LOAN POOL ACCOUNT - EXECUTION OF INSTRUMENTS.) The Bank of North Dakota shall, in accordance with standard banking practices, execute all instruments on behalf of the board of university and school lands that pertain to real estate mortgages in the loan pool account, including satisfactions and partial releases. The Bank of North Dakota shall also act as agent for the board and shall execute all instruments, including satisfactions and partial releases, that pertain to mortgages previously issued by the board. All instruments shall be executed in the same manner as specified in section 6-09-26.1. This section is self-executing and no assignment, power of attorney, or other instrument of transfer is necessary to establish the authority of the Bank of North Dakota to act on behalf of the board of university and school lands under this section.

Approved March 15, 1979

CHAPTER 205

HOUSE BILL NO. 1204
 (Committee on State and Federal Government)
 (At the request of the Land Department)

LAND DEPARTMENT RECEIPT ISSUANCE

AN ACT to amend and reenact sections 15-04-13, 15-04-15, 15-04-16, and 15-08-11 of the North Dakota Century Code, relating to the issuance of receipts by the state land department.

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

SECTION 1. AMENDMENT.) Section 15-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-13. APPROVAL OF LEASES BY BOARD - EXECUTION OF ~~DUPLICATE~~ LEASE CONTRACTS.) Immediately upon the receipt of the reports of the county auditor as required by section 15-04-10, the board of university and school lands shall approve and confirm such leases as in its judgment should be made and shall certify at once to the commissioner a list of the approved leases. The commissioner, without delay, shall execute ~~duplicate~~ contracts of lease in the form prescribed by the board and shall forward ~~the duplicate--copy~~ same to the lessee ~~and file the original in the office of the commissioner.~~ The commissioner shall certify forthwith, to the auditor of the proper county, a list of the leases that have been approved by the board.

SECTION 2. AMENDMENT.) Section 15-04-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-15. COLLECTION OF RENTALS ~~--RECEIPTS.~~) The lessee of any land leased under the provisions of this chapter, or his heirs, executors, administrators, or assigns shall pay to the state land commissioner at his office in Bismarck, North Dakota, or to his duly appointed agent any amounts that may become due from time to time upon the lease. ~~For the amount paid, the state land commissioner shall give to the person making the payment a duplicate receipt, specifying the amount paid, the date of payment, the number of the lease, the description of the land for which the payment is made, the name of the person making the payment, the nature of the payment, whether for rent, interest, or penalty, and for what year.~~

~~A separate receipt shall be given for each lease and a separate receipt for each year's payment.~~

SECTION 3. AMENDMENT.) Section 15-04-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-04-16. REPORT BY COUNTY TREASURER OF RENTALS COLLECTED - REGULATIONS--GOVERNING.) All moneys received by each county treasurer under--the-provisions-of-this-chapter following the lease auction shall be held subject to the order and direction of the state treasurer and the board of university and school lands. ~~On or before the fifteenth day of each month, Within five days following the lease auction the county treasurer of each county shall make a report to the commissioner of university and school lands of--all moneys--collected--by--him--during--the--preceding--calendar--month--such report--to--be--in--such--form--and--on--such--blanks--as--may--be--prescribed and on such forms as are furnished by the commissioner of all moneys collected at the auction. The report shall include a--briefly described--list--of--all--receipts--for--the--month--the--amount--of--each receipt--and--the--total--amount--collected--for--the--month--from--each source--and--shall--be--accompanied--by--a--triplicate a copy of each receipt shown thereon issued. The county treasurer shall make a similar--report--to--the--state--auditor--showing--the--total--amount collected--from--leases--for--the--month--and--corresponding--with--the amount--reported--to--the--commissioner.---After--he--has--received--the reports--from--the--several--county--treasurers--the--commissioner--shall check--and--verify--the--reports--from--the--records--of--his--office--and apportion--the--several--amounts--to--the--funds--to--which--the--same--are applicable.---The--apportionment--as--made--by--the--commissioner--shall--be certified--to--the--state--auditor--who--shall--proceed--to--make--drafts--on the--respective--county--treasurers--in--the--same--manner--as--drafts--are made--for--state--taxes.---The--drafts--of--the--state--auditor--shall--be placed--to--the--credit--of--the--proper--funds--certified--to--him--by--the commissioner.~~

SECTION 4. AMENDMENT.) Section 15-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-08-11. CONTRACT PAYMENTS MADE TO COMMISSIONER - REPORT TO STATE TREASURER.) The purchaser of any land sold by the board of university and school lands, his heirs, executors, administrators, or assigns, shall pay to the commissioner of university and school lands any amounts that may become due from time to time upon the contract for principal, interest, and penalties. The commissioner shall report and pay to the state treasurer daily all collections of principal, interest, and penalty payments,--and--shall--receipt therefor--to--the--person--making--such--payment. At the time of such payment to the state treasurer, the commissioner shall apportion the amounts paid to the funds to which the same are applicable and shall certify such apportionment ~~to the state auditor.~~

Approved March 3, 1979

CHAPTER 206

HOUSE BILL NO. 1378
(G. Larson, I. Jacobson, Knudson)

HIGHER EDUCATION RETIREMENT PROGRAM

AN ACT to amend and reenact subsection 13 of section 15-10-17 of the North Dakota Century Code, relating to a retirement program for employees of institutions of higher education as an alternative to chapter 15-39.1.

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

SECTION 1. AMENDMENT.) Subsection 13 of section 15-10-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. To establish a retirement program as an alternative to chapter 15-39.1 for employees of institutions under its control ~~who are not vested members of the teachers' fund for retirement~~ subject to the following guidelines:
 - a. Benefits under the program shall be provided through annuity contracts purchased by the board but which shall become the property of the participants;
 - b. The cost of the annuity contracts shall be defrayed by equal contributions of the participant and employer institution; and
 - c. Eligible employees appointed before July 1, 1973, shall participate in the alternate retirement program only by their individual election. When the electing eligible employee is a member of the teachers' fund for retirement, ~~he may withdraw~~ the employee's assessments and employer's contributions together with interest therefrom as contemplated by section 15-39-1-20 to deposit for his credited at the current rate for one-year certificates then being paid by the Bank of North Dakota shall be transferred to the employee's account in the alternate program. Such election shall be made prior to July 1, 1980, and shall relinquish all rights the eligible employee or

the employee's beneficiary may have to benefits provided in chapters 15-39 and 15-39.2.

The board shall provide for the administration of the alternate retirement program and establish rules and regulations therefor consistent with the foregoing guidelines. Nothing in this subsection shall be construed in derogation of any existing retirement programs approved by the board.

Approved March 19, 1979

CHAPTER 207

HOUSE BILL NO. 1542
(Representative R. Hausauer)
(Senator Melland)

HIGHER EDUCATION LIABILITY INSURANCE

AN ACT to create and enact a new subsection to 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.) A new subsection to section 15-10-17 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To insure itself and its employees and the officers, employees, and students, and any building or other property, real or personal, of any institution under its control against any loss or liability it deems advisable. If the board or any institution under its control purchases insurance pursuant to this subsection, the purchaser shall waive immunity to suit for liability only to the types of insurance coverage purchased and only to the extent of the policy limits of such coverage. For the public buildings, fixtures, and permanent contents therein described in chapter 26-24, insurance secured under this subsection shall be supplemental to and not in lieu of the provisions of chapter 26-24. If a premium savings will result, policies purchased hereunder may be taken out for more than one year, but in no event beyond a period of five years. Policies may be secured in individual or master policy form.

Approved March 13, 1979

CHAPTER 208

SENATE BILL NO. 2327
(Senators Olin, Jacobson, Krauter)
(Representatives Christensen, Murphy, Thompson)

DICKINSON EXPERIMENT STATION LAND TRANSFERS

AN ACT to require the state board of higher education to purchase a working ranch unit for the Dickinson experiment station; to create a committee to select the working ranch unit; to authorize the state board of higher education to sell certain land presently used by the Dickinson experiment station; to authorize the board of university and school lands to invest permanent funds of the common schools in the working ranch unit; to provide an appropriation; and to declare an emergency.

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

SECTION 1.) The state board of higher education, in order to adequately fulfill those research needs which cannot be accomplished at any presently existing or planned experimental facility and to establish an improved Dickinson livestock experiment facility, shall purchase a working ranch unit in southwestern North Dakota, within a thirty-mile radius of the Dickinson experiment station headquarters, capable of supporting a three-hundred unit cow-calf ranching operation. The unit shall consist of at least three thousand acres but not more than three thousand five hundred acres, with at least fifty percent of the acreage to be western short grass native rangeland. The unit shall include suitable physical facilities for the improved operation of the Dickinson experimental livestock research program.

SECTION 2.) A committee is created, composed of the following membership:

1. The vice president for agriculture at North Dakota state university.
2. The director of the main experiment station.
3. The chairman of the department of botany at North Dakota state university.

4. The chairman of the department of animal science at North Dakota state university.
5. The superintendent of the Dickinson branch of the North Dakota agricultural experiment station.
6. The chairman of the state board of higher education, or a board member designated by the chairman.
7. A bona fide operating livestock producer chosen by the board of directors of each of the following associations:
 - a. The North Dakota stockmen's association.
 - b. The North Dakota hereford association.
 - c. The North Dakota polled hereford association.
 - d. The North Dakota angus association.
 - e. The North Dakota shorthorn and polled shorthorn association.
 - f. The North Dakota charolais association.
 - g. The North Dakota simmental association.
 - h. The North Dakota pork producers.
 - i. The North Dakota dairy producers association.
 - j. The North Dakota livestock feeders association.

The representative of the state board of higher education is chairman of the committee and shall call an organizational meeting of the committee as soon as practicable following the effective date of this Act. The chairman is responsible for directing the committee in accomplishing the purposes of this Act. The committee shall perform such acts as are reasonable and necessary in locating and selecting the working ranch unit described in section 1. The committee is responsible to and shall report its findings to the state board of higher education. Committee members shall be paid for expenses incurred in attending committee meetings and in the performance of their official duties in the amounts provided by law for other state officers.

SECTION 3.) The state board of higher education shall purchase the working ranch unit described in section 1 upon selection of the unit by the committee.

SECTION 4.) The board of university and school lands may invest an amount not to exceed two million two hundred sixty-five thousand dollars from the permanent fund of the common schools as a loan to the board of higher education for the section 1 unit

purchase, section 2 committee implementation, and section 6 land sale. The board of higher education is authorized to borrow from the board of university and school lands the sum of two million two hundred sixty-five thousand dollars, or so much thereof as may be necessary, for the purpose of the section 1 unit purchase, section 2 committee implementation, and section 6 land sale. The loan from the board of university and school lands shall be for a term not to exceed ten years, but the amount of the loan, interest rate, and method of repayment are to be negotiated by the board of university and school lands and the board of higher education. The board of higher education is authorized to grant a security interest to the permanent fund of the common schools in the property to be acquired. The members of the state board of higher education shall not be held personally liable for repayment of any loan obtained under this section, and the board shall be liable for repayment only in the manner provided pursuant to this section.

SECTION 5.) Upon full transfer of the Dickinson experimental livestock research program to the working ranch unit, the state board of higher education shall transfer custody and control of that portion of land owned by the board in the west half of section four, township one hundred thirty-nine north, range ninety-six west, comprising approximately forty-two acres, to the use of Dickinson state college. The full appraised value of the land transferred to the use of Dickinson state college shall be reflected in the purchase of the working ranch unit under section 1.

SECTION 6.) Upon full transfer of the Dickinson experimental livestock research program to the working ranch unit, the state board of higher education shall sell the following property used by the Dickinson experiment station and comprising approximately five hundred forty-four acres:

1. That portion of land owned by the board in the northeast quarter of section five, township one hundred thirty-nine north, range ninety-six west.
2. That portion of land owned by the board in the southwest quarter of section five, township one hundred thirty-nine north, range ninety-six west.
3. That portion of land owned by the board in the southwest quarter, the south half of the northwest quarter, and lots three and four, all of section five, township one hundred thirty-nine north, range ninety-six west.

The land shall be conveyed for the terms and under the conditions necessary to obtain the best possible return to the state of North Dakota in accordance with section 54-01-05.2. The state board of higher education may not convey any land described in this section for agricultural purposes. Notwithstanding other provisions of state law and local ordinances, the board, after consultation with the Dickinson planning and zoning commission and Stark County planning and zoning commission, may subdivide the land, and dedicate

streets, alleys, and other lands for public use, install water, sewer, curb, gutter, other utilities, and streets for the purpose of achieving the best possible return to the state of North Dakota.

SECTION 7.) Any rents or profits or proceeds from the sale or other disposition of the property described in section 6 shall be used to make principal and interest payments on such amounts as may be borrowed by the board of higher education pursuant to section 4. Upon payment of the total principal and interest on moneys borrowed by the board, any additional rents, profits, or proceeds as may be received shall be deposited in the general fund in the state treasury.

SECTION 8. APPROPRIATION.) There is hereby appropriated the loan proceeds from any loan under section 4 to the state board of higher education for the following purposes:

Section 1 unit purchase	\$1,750,000
Section 2 committee implementation	15,000
* Section 5 land sale	<u>500,000</u>
Total loan proceeds	\$2,265,000

Section 54-44.1-11 does not apply to the funds appropriated by this section.

SECTION 9. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 21, 1979

* NOTE: Reference should be to section 6.

CHAPTER 209

HOUSE BILL NO. 1305
(Knudson)

HETTINGER EXPERIMENT STATION LAND EXCHANGE

AN ACT to authorize the state board of higher education to exchange land presently used by Hettinger experiment station for land presently owned by Hettinger public school district no. 13.

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

SECTION 1.) The state board of higher education is authorized to exchange the following property, comprising approximately 4.92 acres, presently used by the Hettinger experiment station, for the property described in section 2 owned by Hettinger public school district no. 13:

That tract of land located in the southeast quarter of section 11, township 129, range 96, more particularly described as follows: beginning at a point 1,086 feet north and 33 feet west of the southeast corner of section 11, thence west and parallel to the south line of section 11, a distance of 400 feet, thence north and parallel to the east line of section 11, a distance of 535.78 feet, thence east a distance of 400 feet, thence south a distance of 535.78 feet to the point of beginning.

SECTION 2.) The land described in section 1 is to be exchanged by the board of higher education for the following land owned by Hettinger public school district no. 13, comprising approximately 4.92 acres:

That tract of land located in the Clement subdivision in the south half of the southwest quarter of section 11, township 129, range 96, more particularly described as follows: beginning at a point at the northwest corner of lot 7, thence southeasterly a distance of 200 feet to a point on the east boundary of lot 8, that point being 97 feet south of the northeast corner of lot 8, thence southeasterly to a point on the east boundary of lot 12, that point being 66 feet north of the southeast corner of lot 12, thence easterly to a point on the east boundary of lot 13, that point being 106 feet north

of the southeast corner of lot 13, thence north a distance of 640.7 feet to the northeast corner of the Clement subdivision, thence west 623.15 feet to the point of beginning.

SECTION 3.) The state board of higher education is authorized to deed to Adams County the following described real property, comprising approximately 1.05 acres, presently used by the Hettinger experiment station:

That tract of land located in the southeast quarter of section 11, township 129, range 96, more particularly described as follows: beginning at a point 33 feet north of the southwest corner of the southeast quarter of section 11, thence east and parallel to the south line of section 11 a distance of 430.5 feet more or less to a point on the southerly right-of-way of the CMSPP railway company line, thence in a northwesterly direction on a bearing of north 64 degrees, 8 minutes west a distance of 480.14 feet more or less to a point on the west line of the southeast quarter of section 11, thence in a southerly direction 212.61 feet more or less to the point of beginning.

The deed shall contain a provision that Adams County shall use the property for a county road and, if the property ceases to be used for such purposes, it shall revert to the state of North Dakota. The conveyance authorized herein shall be without compensation to the state of North Dakota from Adams County. The 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 15, 1979

CHAPTER 210

HOUSE BILL NO. 1405
(Representatives Wessman, Black, Kuchera)
(Senators Fritzell, Goodman)

EXCHANGE OF LAND IN GRAND FORKS

AN ACT to authorize the state board of higher education to exchange lands.

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 exchange lots twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, and twenty-two, block seven, and lots ten and eleven, block eight, dacotah place addition to the city of Grand Forks, Grand Forks County, North Dakota, now owned by the state of North Dakota for the use and benefit of the university of North Dakota, for lots one, two, three and those parts of lots four and five, block ten, university place addition to the city of Grand Forks, Grand Forks County, North Dakota, beginning at the northeast corner of lot four, thence west along the north lot line to the northwest corner of lot four, thence south along the west line of lot four a distance of 66.1 feet, thence south 53 degrees and 5 minutes east, a distance of 172.61 feet, thence east a distance of 292.98 feet to the east lot line of lot five, thence north along the easternly lot lines a distance of 166.0 feet to the point of beginning, now owned by The Fellows of the University, Inc., a nonprofit, North Dakota corporation.

Approved April 3, 1979

CHAPTER 211

HOUSE BILL NO. 1590
(Representative Kermott)
(Senator Holmberg)

LAND TRANSFERS TO FOUNDATIONS

AN ACT to authorize the state board of higher education to transfer to the medical center rehabilitation hospital foundation land bequeathed to the university of North Dakota medical center rehabilitation hospital, and to transfer to the North Dakota state university development foundation land bequeathed to North Dakota state university.

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

SECTION 1.) The state board of higher education is authorized to transfer to the medical center rehabilitation hospital foundation the following land bequeathed to the university of North Dakota medical center rehabilitation hospital for unrestricted use at the direction of the hospital: an undivided one-half interest in the northeast quarter of section nine, township one hundred fifty-one north, range forty-nine west of the fifth principal meridian. The land is located in Huntsville Township, Polk County, Minnesota.

SECTION 2.) The state board of higher education is authorized to transfer to the North Dakota state university development foundation the following land bequeathed to North Dakota state university of agriculture and applied science for unrestricted use at the direction of the university: the northwest quarter of section ten, township one hundred fifty-one north, range forty-nine west of the fifth principal meridian. The land is located in Huntsville Township, Polk County, Minnesota.

SECTION 3.) Notwithstanding section 54-01-05.2, the land described in sections 1 and 2 shall be transferred to the medical center rehabilitation hospital foundation and the North Dakota state university development foundation for the sum of one dollar and other valuable consideration.

Approved March 15, 1979

CHAPTER 212

HOUSE BILL NO. 1404
(Representatives Wessman, Black, Kuchera)
(Senators Fritzell, Goodman)

DEED OF LAND TO UNITED STATES

AN ACT to authorize the state board of higher education to deed property owned by the state of North Dakota for the use and benefit of the university of North Dakota to the United States; and declaring an emergency.

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

SECTION 1. AUTHORITY TO CONVEY.) The university of North Dakota, through the state board of higher education, is hereby authorized to deed to the United States for use by the United States department of agriculture human nutrition laboratory the real property, owned by the state of North Dakota for the use and benefit of the university of North Dakota, described as lot twenty and lot twenty-one, block one, of the university park addition to the city of Grand Forks, Grand Forks County, North Dakota.

SECTION 2. USE OF PROPERTY - NO COMPENSATION - QUITCLAIM DEED.) The deed shall contain a provision that the United States shall use the property for the United States department of agriculture human nutrition laboratory and, if the property ceases to be used for such purposes, it shall revert to the state of North Dakota. The conveyance authorized herein shall be without compensation to the state of North Dakota from the United States. The 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.

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, 1979

CHAPTER 213

SENATE BILL NO. 2222
(Committee on Education)
(At the request of the Board of Higher Education)

LEASE OF LAND IN VALLEY CITY

AN ACT to provide for the leasing of certain lands managed and controlled by the state board of higher education.

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

SECTION 1.) The board of higher education is hereby authorized to lease certain lands under the control and management of the board of higher education, described as follows:

All of the east six hundred feet of block eight, Andrus and Siftons Addition to the city of Valley City less street right of way previously acquired. Said tract contains 5.89 acres more or less.

SECTION 2.) It is the intent that the leasing of this land will be utilized for an outdoor riding arena.

Approved March 13, 1979

CHAPTER 214

SENATE BILL NO. 2227
(Committee on Education)
(At the request of the Board of Higher Education)

SALE OF LAND IN BARNES COUNTY

AN ACT to authorize the state board of higher education to sell and convey certain land owned by the state of North Dakota, proceeds to go to the general fund.

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

SECTION 1.) Authorization is hereby granted to the state board of higher education for the conveyance of the title of certain land owned by the state of North Dakota, and that the state board of higher education shall negotiate such sale, which land is described and located as follows:

A tract of land located in the south one-half of the northeast quarter of section twenty-eight, township one hundred forty north, range fifty-eight west of the fifth meridian, Barnes County, North Dakota and more particularly described as follows: Commencing at the northeast corner of the south one-half (1/2) of northeast quarter (1/4) of section 28-140-58 to the city of Valley City; thence south along east line of south one-half of northeast one-fourth of said section twenty-eight a distance of fifty-five feet to the point of beginning; then continuing south along the same line a distance of four hundred forty feet to a point; then north eighty-nine degrees twenty-nine minutes west, a distance of nine hundred forty feet to a point; then north a distance of seventy-two feet to a point on the street right-of-way line; then along the right-of-way line along a forty degree curve to the left, a distance of three hundred fourteen feet to a point; then north fifty-eight degrees thirty-five feet, east a distance of one hundred seventy-three point nine feet; then along a six degree curve to the right a distance of five hundred thirty-two point two feet, to a point; then north eighty-nine degrees twenty-nine minutes east a distance of one point five minutes to the point of beginning. Said tract of land contains five point six acres more or less.

In negotiating the sale of this land, the board shall advertise for bids and shall designate a time and place for the opening of such bids. At that time the board shall allow the top five bidders to orally raise their bids.

SECTION 2.) Upon such sale of such land the proceeds shall be deposited in the general fund of the state treasury.

SECTION 3.) The documents necessary to carry out the provisions of this Act shall be executed by the governor and attested by the secretary of state.

Approved April 7, 1979

CHAPTER 215

SENATE BILL NO. 2390
(Orange, Sandness)

VETERANS AND DEPENDENTS' BENEFITS

AN ACT to amend and reenact sections 15-10-18.2, 15-10-18.3, and 37-01-40 of the North Dakota Century Code; and to repeal chapter 37-20 of the North Dakota Century Code, relating to benefits for veterans and dependents.

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

SECTION 1. AMENDMENT.) Section 15-10-18.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-18.2. DEFINITIONS.)

1. ~~"Prisoner--of-war" and "persons missing in action" for the purposes of section 15-10-18.3 shall mean any person who was a resident of the state of North Dakota as defined in subdivisions a, b, and c of subsection 8 of section 37-25-02 at the time he or she entered service of the United States armed forces, has been declared to be a prisoner of war or to be a person missing in action as established by the secretary of defense after August 5, 1964, and did not return to active duty with the armed forces within ninety days.~~ "Resident veteran" means a person who:

- 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; or
- (3) If not registered for voting in the state of North Dakota, not registered for voting in another state.

2. "Dependent" for purposes of section 15-10-18.3 shall mean any child born before or during the period of time his or her father served as a prisoner of war or was declared a person missing in action, or any child legally adopted or in the legal custody of the father prior to and during the time the father served as a prisoner of war or was declared to be a person missing in action of a resident veteran who was, during any conflict identified in section 37-01-40, killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.

SECTION 2. AMENDMENT.) Section 15-10-18.3 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-18.3. FREE TUITION IN NORTH DAKOTA INSTITUTIONS OF HIGHER EDUCATION.) Any dependent of a prisoner of war or a person missing in action, as defined in section 15-10-18.2 upon being duly accepted for enrollment into any North Dakota state-supported institution of higher education or state-supported technical or vocational school, shall be allowed to obtain a bachelor's degree, or certificate of completion, for so long as he is eligible, free of any tuition and fee charges, except those charged to retire outstanding bonds; provided, however, that such bachelor's degree or certificate of completion is earned within a thirty-six month or eight-semester period or its equivalent. Once a person qualifies as a dependent under sections 15-10-18.2 and 15-10-18.3, there shall be no removal from the benefits of this section due to such an occurrence as the return of the prisoner of war or person missing in action.

SECTION 3. AMENDMENT.) Section 37-01-40 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-01-40. UNIFORM SERVICE DATES FOR VETERANS - DEFINITIONS.) In order to provide for the uniformity of period of service dates for veterans, the following dates and terms shall be applicable to all acts of the state relative to veterans where not otherwise specifically prescribed by statute:

1. The term "veteran" means a person, including women, who served in the active military forces, during a period of war or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released therefrom under honorable conditions. The term "veteran" also includes a person who died in active military forces.
2. The term "Spanish-American War" (a) means the period beginning on April 21, 1898, and ending on July 4, 1902, (b) includes the Philippine insurrection and the Boxer rebellion, and (c) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro province, means the period beginning on April 21, 1898, and ending on July 15, 1903.
3. The term "World War I" (a) means the period beginning on April 6, 1917, and ending on November 11, 1918, and (b) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.
4. The term "World War II" means the period beginning December 7, 1941, and ending December 31, 1946, both dates inclusive.
5. The term "Korean conflict" means the period between June 27, 1950, to January 31, 1955.
6. Civil war and confederate veterans who served between April 12, 1861, and May 26, 1865.
7. Indian wars. Since the Indian wars were fought intermittently over a period of years, the determination as to whether a person shall be considered as having rendered military service during these wars will be carefully considered by the state veterans' affairs commission. January 1, 1817, through December 31, 1898, is considered Indian war period.
8. Mexican wars. Since there were several skirmishes involving the Mexican border, such as Mexican border troubles 1911-1916; Veracruz expedition April 21, 1914, to November 26, 1914; punitive expedition into Mexico, March 15, 1916, to February 5, 1917; therefore the persons rendering military service in any of these skirmishes shall be considered veterans of the Mexican wars between 1911 and February 5, 1917.

9. The "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975.
10. Future dates. The period beginning on the date of any future declaration of war by the Congress or the beginning of an emergency condition recognized by the issuance of a presidential proclamation or a presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to presidential executive order and ending on a date prescribed by presidential proclamation or concurrent resolution of the Congress.

~~10.--The--"Vietnam--era"--means--the--period--beginning--August--5,--1964,--and--ending--on--August--15,--1973--~~

* SECTION 4. REPEAL.) Chapter 37-20 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1979

* NOTE: Section 37-20-03 was amended by section 71 of House Bill No. 1073, chapter 187.

CHAPTER 216

HOUSE BILL NO. 1254
(Representatives Langley, Knudson, Larson)
(Senators Shablow, Iszler, Wright)

REGIONAL VETERINARY MEDICAL
EDUCATION PROGRAM

AN ACT to authorize the state board of higher education to enter into agreements providing for a regional veterinary medical education program.

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

SECTION 1. REGIONAL VETERINARY MEDICAL EDUCATION PROGRAM -
AUTHORITY TO ENTER AGREEMENTS - LIMITATIONS.)

1. The state board of higher education may enter into agreements with the university of Nebraska board of regents and with the appropriate governing boards or institutions of higher education in other states to provide a program of regional veterinary medical education and services.
2. Any agreements entered pursuant to subsection 1 may provide for the following:
 - a. Service by the university of Nebraska as the degree-granting institution.
 - b. Assumption by the university of Nebraska of final responsibility for the overall governance and administration of the educational aspects of the program.
 - c. Cooperation by North Dakota state university in providing input in the establishment of policies relating to curriculum, academic standards, student admissions, and other matters.
3. Within the limits of legislative appropriations, any agreements entered pursuant to subsection 1 may provide for the payment by the state board of higher education of North Dakota's share of the cost of facility construction in Nebraska based upon the proportion of North Dakota

students in the program, provided any such payment is based upon a per student annual facilities use charge.

4. Within the limits of legislative appropriations, any agreements entered pursuant to subsection 1 may provide for the payment by the state board of higher education of North Dakota's share of the operating costs during the planning, start-up, and full operational phases, based upon the proportion of North Dakota students in the program.

Approved March 18, 1979

CHAPTER 217

SENATE BILL NO. 2465
(Smykowski, Strinden, Thane)

JUNIOR COLLEGE AND EDUCATIONAL CENTER MILL LEVIES

AN ACT to amend and reenact sections 15-18-03 and 15-18-04.2 of the North Dakota Century Code, relating to mill levies 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 1977 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, 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. The school board shall have the authority to adopt rules and regulations for classifying students as residents or nonresidents of the district for tuition purposes. 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~~ sixteen mills, the proceeds of which shall be used for the maintenance and operation of the junior college. Of the sixteen mills which may be levied pursuant to this section, the first eight mills shall be levied upon the resolution of the local school board. Any mills to be levied above the initial eight mills must first be approved by the voters of the district. When submitting the question at the election, the board may specify a levy of less than the additional 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~~ aggregate levy under this section than ~~eight~~ sixteen 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 15-18-04.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-18-04.2. MILL LEVY FOR OFF-CAMPUS EDUCATIONAL FACILITIES - ELECTION.) For the purpose of maintaining and operating such off-campus educational center the school board may levy, upon their own resolution, eight mills. If it is found, after the board by resolution has levied its maximum eight mills, that additional funds are needed, the board may submit the question of a an additional mill levy ~~specified-by-the-board~~, not to exceed eight mills, to the electors of the district at any regular or special school election within the district. If approved by sixty percent of the electors voting, the school board may proceed with the levy and collection of the tax. In no case shall the total mills levied under this section exceed sixteen. Such levy shall be in addition to all other mill levy limitations provided by law, and the proceeds shall be placed in a separate fund, accounted for separately, and used exclusively for the support, operation, and maintenance of such off-campus educational center. Expenditures may be made by the school board without going through the institution of higher education with whom an agreement has been entered.

Approved March 21, 1979

CHAPTER 218

SENATE BILL NO. 2452
(Senators Wenstrom, Jones, Lips)
(Representative Mertens)

JUNIOR COLLEGE OR EDUCATIONAL CENTER STATE AID

AN ACT to amend and reenact section 15-18-07 of the North Dakota Century Code, relating to state aid for junior colleges or educational centers.

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

SECTION 1. AMENDMENT.) Section 15-18-07 of the 1977 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 eighteen twenty-four dollars ~~and fifty-nine cents~~ per calendar week, which shall be paid for every full-time student in attendance, provided the school district, city, or county shall levy taxes of not less than ~~four~~ eight 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 "full-time student" ~~shall mean~~ means 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 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. In addition, an amount equal to the weekly payment made for each full-time student shall be made for each full-time equivalent student enrolled for each calendar week of attendance in an approved academic or vocational program meeting the standards prescribed by the respective boards. The number of full-time equivalent students enrolled in each junior college or educational center for each calendar week shall be computed as follows: the total class hours of all students in attendance,

exclusive of temporary absences, who are enrolled in less than twelve class hours, shall be divided by twelve. A class hour ~~shall~~ mean means not less than fifty minutes of instruction or supervised laboratory training. Payments shall be made on a fiscal year basis, which shall mean the period from July first of one calendar year through June thirtieth of the following calendar year.

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.

Approved March 27, 1979

CHAPTER 219

HOUSE BILL NO. 1170
(Freborg)

VOCATIONAL EDUCATION MILL LEVY

AN ACT to amend and reenact section 15-20.1-08 of the North Dakota Century Code, relating to a mill levy for vocational education.

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

SECTION 1. AMENDMENT.) Section 15-20.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.1-08. MILL LEVY FOR ~~PARTICIPATING--IN--COOPERATIVE~~
VOCATIONAL EDUCATION PROGRAMS.)

1. Any school district may, upon resolution of the school board, and approval of sixty percent of those voting on the question at a regularly scheduled or special election in the school district, levy a tax of not to exceed ten mills upon all taxable property within such school district for the purpose of participating in cooperative vocational education programs approved by the state board. Such levy shall be in addition to any other mill levies authorized by law.
2. Any school district may, upon resolution of the school board, and approval of sixty percent of those voting on the question at a regularly scheduled or special election in the school district, levy a tax of not to exceed five mills upon all taxable property within such school district for the purpose of maintaining a vocational education program only for that school district and approved by the state board. The levy shall be in addition to any other mill levies authorized by law.

Approved March 8, 1979

CHAPTER 220

HOUSE BILL NO. 1056
(Legislative Council)
(Interim Committee on Education)

FOUNDATION PAYMENTS FOR KINDERGARTEN AND EDUCATION PROGRAMS

AN ACT to amend and reenact sections 15-20.1-10, 15-40.1-03, 15-40.1-04, 15-40.1-05, 15-40.1-07, 15-40.1-08, 15-40.1-09, 15-40.1-10, 15-40.1-11, 15-40.1-16, 15-40.1-16.1, 15-40.1-18, 15-40.2-05, 15-40.2-10, 15-45-01, 15-45-02, 15-47-16, and 15-59-06 of the North Dakota Century Code, relating to state support for public kindergarten programs; to the payment of state foundation aid payments directly to school districts; and to the establishment, length, and funding of kindergarten programs.

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

SECTION 1. AMENDMENT.) Section 15-20.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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~~ payments, if any, received by the district from a county equalization fund and from state payments on behalf of such student. Payments from the county equalization fund of the student's county of residence and from state payments 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.

* SECTION 2. AMENDMENT.) Section 15-40.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.~~

SECTION 3. AMENDMENT.) Section 15-40.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-04. DETERMINATION OF SUMS DUE ~~COUNTY~~ SCHOOL DISTRICTS.) 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 statewide 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 school district is entitled. ~~Any~~ The school districts of 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 school districts of the county ~~is~~ are entitled.

~~Any~~ The school districts of 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

* NOTE: Section 15-40.1-03 was also amended by section 4 of House Bill No. 1073, chapter 187.

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 school districts of the county ~~is~~ are entitled ~~for-such-fund~~.

~~Any~~ The school districts of 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 school districts of the county ~~is~~ are 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.

* SECTION 4. AMENDMENT.) Section 15-40.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-05. DISTRIBUTION OF PAYMENTS TO COUNTY-EQUALIZATION FUNDS SCHOOL DISTRICTS - 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~~ school districts in the state, together with a statement of payments equal to one-fourth of the total payments made to each respective ~~equalization--fund~~ school district during the previous fiscal year, and the department of accounts and purchases shall pay each ~~county-equalization-fund~~ school district such amounts due, within the limits of legislative appropriation, on or before September first 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 first payments are necessary to constitute one-half of the payments due to each ~~county-equalization--fund~~ school district for the current school year, and shall certify to the department of

* NOTE: Section 15-40.1-05 was also amended by section 1 of Senate Bill No. 2046, chapter 244.

accounts and purchases a list of all county--equalization--funds school districts in the state, together with a statement of the payments due such-funds them. On or before November first, the department of accounts and purchases shall pay to each county equalization-fund school district, within limits of legislative appropriation, the amounts needed in addition to the September first payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter. On or before January first, payments equal to one-fourth of the total payments shall be made to each respective equalization-fund,--and-the-balance-shall-be paid school district; on or before March first, payments equal to one-eighth of the total payments shall be made to each respective school district; and the balance shall be paid on or before May first.

* SECTION 5. AMENDMENT.) Section 15-40.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-07. HIGH SCHOOL PER-PUPIL PAYMENTS - AMOUNT - PROPORTIONATE PAYMENTS.) There shall be paid each year from state funds and from the county equalization fund to all school districts of the county operating high schools, to school districts contracting to educate high school pupils in a federal school, subject to adjustment as provided in section 15-40.1-09, payments as follows:

1. For high schools having under seventy-five pupils in average daily membership, the amount of money resulting from multiplying the factor 1.70 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
2. For high schools having seventy-five or more, but less than one hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.40 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
3. For high schools having one hundred fifty or more, but less than five hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.32 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
4. For high schools having a total high school enrollment of five hundred fifty or more pupils in average daily membership, the amount of money resulting from multiplying the factor 1.20 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.

* NOTE: Section 15-40.1-07 was also amended by section 8 of Senate Bill No. 2439, chapter 243.

Every high school district shall receive at least as much in total payments as it would have received if it had the highest number of pupils in the next lower category. No school district shall receive less in foundation program per-pupil payments for any year than such district would have received in such payments based upon the enrollment in such district in the previous school year. However, no payment shall be made for those pupils 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. Payments shall be made to the high school district in which the student is enrolled for graduation and units of approved vocational education in accordance with the provisions of chapter 15-20.1, and other courses approved by the superintendent of public instruction, earned in another high school district shall be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation, proportionate payments shall be made to the public school district in which such student is enrolled for specific courses. School districts offering high school summer school programs shall be eligible for proportionate payments provided each course offered in such programs satisfies requirements for graduation and comprises at least as many clock hours as courses offered during the regular school term.

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. Payments ~~from the county equalization fund~~ pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

* SECTION 6. AMENDMENT.) Section 15-40.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-08. ELEMENTARY PER-PUPIL PAYMENTS - AMOUNT.) There shall be paid from state funds and out of the county equalization fund to school districts of the county operating elementary schools and to school districts contracting to educate elementary pupils in a federal 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:

* NOTE: Section 15-40.1-08 was also amended by section 9 of Senate Bill No. 2439, chapter 243.

1. For one-room rural schools there shall be paid that amount of money resulting from multiplying the factor 1.30 times the educational support per pupil as provided in section 15-40.1-06 for each of the first sixteen pupils in grades one through eight in average daily membership, and for each additional pupil in grades one through eight in average daily membership there shall be paid .9 times the educational support 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. For elementary schools having under one hundred pupils in average daily membership there shall be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first twenty pupils in grades one through six in average daily membership in each classroom or for each teacher and for each additional pupil in grades one through six in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational support 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. For elementary schools having one hundred or more pupils in average daily membership, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary pupils, there shall be paid that amount of money resulting from multiplying the factor .9 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six 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 daily membership in each classroom or for each teacher.
4. For elementary schools in school districts having an average daily membership of one thousand or more elementary pupils, there shall be paid that amount of money resulting from multiplying the factor .95 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six 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 daily membership in each classroom or for each teacher.
5. For each of the above classes of elementary schools, except for one-room rural schools, there shall be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in

grades seven and eight 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 daily membership in each classroom or for each teacher.

6. For elementary schools having pupils under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, there shall be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each special education pupil under the compulsory age for school attendance in average daily membership in each classroom or for each teacher.
7. For elementary schools providing kindergartens after June 30, 1980, which are established according to provisions of section 15-45-01, there shall be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each of the first twenty-five pupils in average daily membership in each classroom or for each teacher, except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher. The full per-pupil payment shall be made only to those kindergarten programs providing the equivalent of ninety full days of classroom instruction during any twelve-month period. Programs providing shorter periods of instruction during the same time period shall receive a proportionately smaller per-pupil payment.

No school district shall receive less in foundation program per-pupil payments for any year than such district would have received in such payments based upon the enrollment in such district in the previous school year. ~~Payments from the county--equalization fund pursuant to this chapter~~ to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

SECTION 7. AMENDMENT.) Section 15-40.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 or from state

funds 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 or from state funds, 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 days set aside for the North Dakota education association convention, plus any three holidays selected from those listed in subsections 2 through 10 of section 15-38-04.1 which have been decided upon after consultation with the teachers, and the total days all students are absent, divided by one hundred eighty days. School districts educating children of agricultural migratory workers or offering high school summer school programs 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 or from state funds 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.

SECTION 8. AMENDMENT.) Section 15-40.1-10 of the North Dakota Century Code 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 seen 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 operating schools within the county 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.~~

SECTION 9. AMENDMENT.) Section 15-40.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-11. FRACTIONAL PAYMENTS.) Should the moneys in the county equalization fund or in the state general 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 and the superintendent of public instruction on a fractional basis. When fractional payments are made, additional payments may be made from time to time as sufficient moneys come into ~~such~~ each fund, so as to make full payments under this chapter, ~~provided that if~~. 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.

* SECTION 10. AMENDMENT.) Section 15-40.1-16 of the 1977 Supplement to the North Dakota Century Code 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 and from state funds to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to ~~seventeen~~ twenty cents per mile [1.61 kilometers] for school buses having a capacity of sixteen or fewer pupils and ~~thirty-four~~ forty cents per mile [1.61 kilometers] for school buses having a capacity of seventeen or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of seventeen or more pupils shall be entitled to an amount equal to fifteen cents per day for each public school pupil who is transported in such buses, provided that no such payment shall be made for any pupil who lives within the incorporated limits of a city with a population in excess of two hundred fifty and an area in excess of two square miles [518.00 hectares] in which the school in which he is enrolled is located except as provided in section 15-40.1-16.1. The mileage payments provided for in this section shall be made to each school district for transporting pupils to and from school. 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.

** SECTION 11. AMENDMENT.) Section 15-40.1-16.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 15-40.1-16 was also amended by section 10 of Senate Bill No. 2439, chapter 243.

** NOTE: Section 15-40.1-16.1 was also amended by section 6 of Senate Bill No. 2056, chapter 262.

15-40.1-16.1. TRANSPORTATION AID FOR COOPERATIVE CERTAIN VOCATIONAL EDUCATION AND SPECIAL EDUCATION PROGRAMS.) There shall be paid from the county equalization fund and from state funds to each school district an amount for transporting pupils to and from schools in other districts and to and from schools within school districts for vocational education courses offered through cooperative arrangements approved by the state board of vocational education. Similar payments shall be paid to the school districts transporting pupils for special education programs approved by the superintendent of public instruction. Such amount shall be the same amount for mileage and per day as is provided in section 15-40.1-16, except that school districts entitled to transportation aid pursuant to this section shall receive such aid for all miles [kilometers] traveled and for all pupils transported, regardless of whether or not such pupils live within the incorporated limits of cities in which the schools in which they are enrolled are located. Provided, however, that no school district shall receive more than one per-pupil payment for transportation regardless of the number of times any pupil is transported in any one day.

SECTION 12. AMENDMENT.) Section 15-40.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-18. STATE TRANSPORTATION PAYMENTS TO COUNTY EQUALIZATION--FUND SCHOOL DISTRICTS - 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 school districts.~~ The superintendent of public instruction shall determine the total amount of payments to be made to the ~~county-equalization-fund-of-each--county school districts~~ 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 school district.~~ Such payments shall be made in the same manner and at the same time as other payments from the state to ~~county--equalization-funds~~ school districts 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.

SECTION 13. AMENDMENT.) Section 15-40.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 in writing 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. The school board shall, within sixty days of its receipt of such application, meet with the parent or guardian of the pupil concerned and render a decision in regard to payment of tuition charges. If the school board has not rendered a decision within sixty days of receipt of the application, the application shall be deemed approved. 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 the committee may approve or disapprove the application. Upon approval, the committee 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 the committee may approve or disapprove the application. Upon approval, the committee 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~~ and 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.

SECTION 14. AMENDMENT.) Section 15-40.2-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.2-10. RECIPROCAL MASTER AGREEMENTS FOR PUPIL ATTENDANCE IN OTHER STATES.) The superintendent of public instruction may shall 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 or institutions in such bordering states. Such reciprocal agreements may shall provide for payment on a per-pupil basis from ~~the county equalization fund~~ the state foundation aid program 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 and the state foundation aid program. 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~~ school districts pursuant to chapter 15-40.1 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 and the state foundation aid program to the school district or institution in the bordering state.

SECTION 15. AMENDMENT.) Section 15-45-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-01. ESTABLISHING KINDERGARTENS - ELECTION ON MILL LEVY.) The school board of any school district may, upon its own motion, establish free public kindergartens in connection with the public schools of the district for the instruction of resident children below school age during the regular school term. A school board which establishes free kindergartens may submit the question of providing for an annual levy sufficient to finance such kindergartens to the electors of the school district at the next annual or special school election. If a majority of the votes cast on the proposal favor the mill levy, the board shall levy such tax until the kindergartens are discontinued as provided in this chapter or until the board determines a levy is no longer necessary. Such levy shall be over and above any mill levy limitations provided by law. On a petition signed by electors of the school district comprising at least five percent of the number of persons enumerated in the school census for that district for the most recent year such census was taken, but in no case less than twenty-five electors, the school board must submit the question of establishing a kindergarten program at the next annual or special school election. Whenever the question of establishing a kindergarten program is placed upon the ballot by petition, the board shall also place on that same ballot the question of providing for an annual levy sufficient to finance such program. Both proposals must be approved by a majority of the votes cast on each before either may take effect. After the kindergarten program is established, the board shall levy such tax until the program is discontinued as provided in this chapter or until the board determines a levy is no longer necessary. Such levy shall be over and above any mill levy limitations provided by law.

SECTION 16. AMENDMENT.) Section 15-45-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-02. KINDERGARTEN CURRICULUM - RULES AND REGULATIONS - LENGTH OF KINDERGARTEN TERM.) The school board shall establish a curriculum for kindergarten and such other rules and regulations governing the kindergartens as it may deem best, and shall govern them, so far as practicable, in the manner and by the officers provided by law for the government of other public schools. All kindergartens shall provide at least ~~one-hundred-eighty-half-days~~ six weeks of classroom instruction ~~or but not more than the equivalent of ninety full days of classroom instruction during each school-year~~ any twelve-month period. The school board shall determine whether kindergarten shall be provided on a half-day or a full-day basis.

SECTION 17. AMENDMENT.) Section 15-47-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-16. PAYMENTS FROM STATE TUITION AND, COUNTY EQUALIZATION FUNDS, AND STATE FOUNDATION AID MAY BE PAID TO UNITED STATES.) Whenever the educational responsibility of a school district within an Indian reservation in this state shall be completely taken over by the government of the United States, payments from the state tuition fund and, the county equalization fund, and the state foundation aid program which otherwise would be paid to such school district shall be paid to the United States if the compulsory school attendance laws of this state are enforced in such district and government school.

* SECTION 18. AMENDMENT.) Section 15-59-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-06. STATE COOPERATION 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 and state foundation aid program whether or not such pupils are regularly attending school in the school or school district receiving such payments. In the case of a student who is enrolled in a nonpublic school but who is attending a public school special education program, payments shall be made to the appropriate public school district in relation to the proportion of a normal school day as such student participates in such special education program. For the purposes of this section, a normal school day shall be deemed to consist of six hours. 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~~ three 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~~ four 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 April 5, 1979

* NOTE: Section 15-59-06 was also amended by section 9 of Senate Bill No. 2056, chapter 262.

CHAPTER 221

SENATE BILL NO. 2242
(Committee on Education)

(At the request of the Board of Vocational Education)

VOCATIONAL EDUCATION CENTER BOARDS

AN ACT to amend and reenact section 15-20.2-04 of the North Dakota Century Code, relating to multidistrict center boards, appointment of members, terms, compensation and vacancies.

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

SECTION 1. AMENDMENT.) Section 15-20.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.2-04. CENTER BOARDS - APPOINTMENT OF MEMBERS - TERMS - COMPENSATION - VACANCIES.) A multidistrict vocational education center shall be operated by a center board of not less than five members nor more than a total of one member for each participating district, provided, however, that each participating school district with three hundred or more high school students shall be allowed one member for each three hundred high school students or fraction thereof with a limitation of not more than three members from any one school district. Center board members shall be members of the school boards. The terms of office of the members of center boards shall be for three years at least one year and shall terminate upon the expiration of their terms on their respective school boards. Members shall be eligible for reappointment to center boards. ~~At the initial organizational meeting of a center board, the initial terms of office of each member shall be determined by lot in a manner which shall result in approximately one-third of the membership serving for one year, one-third of the membership serving for two years, and the balance of the membership serving for three years.~~ Center board members shall receive the same compensation and expenses for attending center board meetings or for otherwise engaging in official business for the center as provided in section 15-29-05 for members of school boards, ~~but center board meetings shall not be counted in determining the number of board meetings for which school board members may be compensated in any one year.~~ Compensation and expenses of center board members shall be paid out of center funds.

Vacancies on a center board shall be filled by the school board whose representation was lost when the vacancy occurred.

Approved March 10, 1979

CHAPTER 222

SENATE BILL NO. 2065
(Legislative Council)
(Interim Committee on Higher Education)

VOCATIONAL EDUCATION CENTER MOBILE UNITS

AN ACT to amend and reenact section 15-20.2-08 of the North Dakota Century Code, relating to assessment of participating districts for expenses of multidistrict vocational education centers using mobile units.

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

SECTION 1. AMENDMENT.) Section 15-20.2-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-20.2-08. ASSESSMENT OF PARTICIPATING DISTRICTS FOR PROPORTIONATE SHARE OF CENTER EXPENSES - ALLOCATION OF STUDENTS - CIVIL PENALTY FOR FAILURE TO REMIT PAYMENT.) A center board shall, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess each participating school district its proportionate share based upon its high school enrollment as compared to the total high school enrollment of all participating school districts in the multidistrict vocational education center. A center board shall, as nearly as possible, allocate the number of students from each participating district to be served in a multidistrict vocational education center on the same proportionate basis as is used for the assessment of expenses.

A center board utilizing mobile units solely shall, for the purpose of paying any administrative, planning, operating, or capital expenses incurred or to be incurred, assess each participating school district its proportionate share based upon its utilization of programs as compared to total program utilization of all participating school districts in such center. A center board utilizing mobile units solely shall, as nearly as possible, determine the program utilization of each participating school district to be served based upon its high school enrollment as compared to the total high school enrollment of all participating school districts in such center and the school's accessibility to those programs.

Each participating school district shall remit payment of the assessment of its share of expenses to the center board promptly after receipt of the assessment notice, or within a period of time determined by the center board, but no later than sixty days after the official date of receipt as noted on the assessment notice. A civil penalty of one percent per month shall accrue on all assessments not paid when due.

Approved March 10, 1979

CHAPTER 223

SENATE BILL NO. 2269

(Committee on Education)

(At the request of the Department of Public Instruction)

SCHOOL ACCREDITATION STANDARDS

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, relating to accreditation standards; and to amend and reenact subsection 1 of section 15-34.1-03, and sections 15-38-07, 15-41-24, and 15-41-25 of the North Dakota Century Code, relating to the requirements for the minimum curriculum of all schools and the approval of private schools.

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

SECTION 1.) A new section to chapter 15-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

SUPERINTENDENT MAY ADOPT ACCREDITATION STANDARDS - COMPLIANCE NOT MANDATORY.) The superintendent of public instruction shall have the authority to adopt standards for the accreditation of the public and private schools of the state. Any public or private school which complies with such standards shall be deemed to be an accredited school.

SECTION 2. AMENDMENT.) Subsection 1 of section 15-34.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 and the superintendent of public instruction. No such school shall be approved unless the teachers therein are legally certificated in the state of North Dakota and in accordance with section 15-41-25 and chapter 15-36 of the North Dakota Century Code, the subjects offered are in accordance with sections 15-38-07, 15-41-06, and 15-41-24, and ~~15-41-25~~ and such school is in compliance with all municipal and state health, fire and safety laws.

SECTION 3. AMENDMENT.) Section 15-38-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38-07. ~~REQUIRED SUBJECTS IN THE-PUBLIC~~ ALL SCHOOLS.) The following subjects shall be taught in the all public and private schools to pupils who are sufficiently advanced to pursue the same: spelling, reading, writing, arithmetic, language, English grammar, ~~geography~~ geography, United States history, civil government, nature study, and elements of agriculture. Physiology and hygiene also shall be taught, and in teaching such subject, the teacher shall:

1. Give special and thorough instruction concerning the nature of alcoholic drinks and narcotics and their effect upon the human system;
2. Give simple lessons in the nature, treatment, and prevention of tuberculosis and other contagious and infectious diseases;
3. Give, to all pupils below the high school and above the third year of school work, not less than four lessons in hygiene each week for ten weeks of each school year from textbooks adapted to the grade of the pupils;
4. Give, to all pupils in the three lowest primary school years, not less than three oral lessons on hygiene each week for ten weeks of each school year, using textbooks adapted to the grade of the pupils as guides or standards for such instruction.

SECTION 4. AMENDMENT.) Section 15-41-24 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-41-24. HIGH SCHOOLS - MINIMUM CURRICULUM --ACCREDITATION.) The following units of study shall be made available to all students in each public and private high school in this state at least once during each four-year period, and each private high school shall comply with the requirements of this section if such high school is to receive any-~~accreditation~~ approval by the department of public instruction:

1. English, four units
2. Mathematics, three units
3. Science, four units
4. Social Studies, three units
5. Health and Physical Education, one unit
6. Music, one unit

7. Any combination of the following course areas: business education, economics and the free enterprise system, foreign language, industrial arts, vocational education, six units. For purposes of this subsection vocational education shall include home economics, agriculture, office education, distributive education, trade industrial, technical, and health occupations.

Each public or private high school may count for ~~accreditation~~ purposes of compliance with this section those vocational education courses which are offered through cooperative arrangements approved by the state board of vocational education.

SECTION 5. AMENDMENT.) Section 15-41-25 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-41-25. HIGH SCHOOLS - TEACHER QUALIFICATION --~~ACCREDITATION~~.) Not later than July 1, 1961, every teacher in any high school in this state teaching any of the course areas or fields mentioned in section 15-41-24 shall have a valid teacher's certificate and shall have a major or minor in the course areas or fields that he is teaching if such high school is to receive any ~~accreditation~~ approval by the department of public instruction. However, a teacher granted a certificate to teach in the disciplines of trade, industrial, technical, and health under chapter 15-20.1 and possessing neither a major nor a minor in the field in which he is employed shall not affect the ~~accreditation~~ approval of the employing school district.

Approved April 3, 1979

CHAPTER 224

HOUSE BILL NO. 1063
(Legislative Council)
(Interim Committee on Higher Education)

ADULT EDUCATION PROGRAM COORDINATION

AN ACT to create and enact a new section to chapter 15-21 of the North Dakota Century Code, providing for coordination of adult basic and secondary education by the superintendent of public instruction.

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

SECTION 1.) A new section to chapter 15-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

COORDINATION OF ADULT BASIC AND SECONDARY EDUCATION PROGRAMS.)
The superintendent of public instruction shall be responsible for coordinating adult basic and secondary education programs, including the administration of state and federal funding for such programs. The superintendent may hire a director and such assistants as may be necessary for this purpose.

Approved March 19, 1979

CHAPTER 225

SENATE BILL NO. 2079
(Legislative Council)
(Interim Committee on State and Federal Government)

BOARD OF PUBLIC SCHOOL EDUCATION

AN ACT to amend and reenact section 15-21-17 of the North Dakota Century Code, relating to the composition of 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 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~~ of the following districts within the state, to be appointed by the governor subject to the consent of the senate:

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

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 advice and assistance as it may from time to time require.

Approved March 13, 1979

CHAPTER 226

HOUSE BILL NO. 1228
(Meiers, Brokaw, Tinjum)

SCHOOL AND MUNICIPAL ELECTION OFFICIALS COMPENSATION

AN ACT to amend and reenact sections 15-28-05 and 40-21-05 of the North Dakota Century Code, relating to compensation of election officials in school district and municipal elections.

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

SECTION 1. AMENDMENT.) Section 15-28-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-05. COMPENSATION OF ELECTION OFFICIALS.) Election officials at public school district elections shall receive as compensation ~~therefor the sum of eight dollars. When the number of votes cast at such an election exceeds one hundred, each officer shall receive as additional compensation the sum of two dollars for every additional one hundred votes cast or major fraction thereof, but not more than eighteen dollars in all for such services as determined for election officials in section 16.1-05-05.~~ The amounts determined to be due election officials at public school district elections shall be paid from the funds of the public school district holding the election.

SECTION 2. AMENDMENT.) Section 40-21-05 of the 1977 Supplement to 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 as determined for election officials in section 16.1-05-05.~~ The amounts determined to be due election officials at municipal elections shall be paid from the funds of the municipality holding the election. In the event a special municipal election is held on the same date as a statewide, districtwide, or countywide election, and if the same election officials perform services for both elections, the city shall not be required to pay the election officials, except for any extra officials necessary for such special municipal election.

Approved April 7, 1979

CHAPTER 227

HOUSE BILL NO. 1559
(Richard)

PUBLICATION OF SCHOOL BOARD PROCEEDINGS

AN ACT to amend and reenact section 15-28-11 of the North Dakota Century Code, relating to the publication of school board proceedings.

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

SECTION 1. AMENDMENT.) Section 15-28-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-28-11. PUBLICATION OF SCHOOL BOARD PROCEEDINGS - ELECTORATE TO DECIDE BIENNIALY.) Biennially, commencing in the year 1967 at the annual election of school board members held in each school district, the question of whether a record of the proceedings of the school board shall be published in a newspaper of general circulation in such district shall be submitted to the electors of such district. If the publication of such proceedings is approved by a majority of the electors voting thereon, the records of such school board, including an itemized list of obligations approved for payment, shall be published in a newspaper of general circulation in such school district as-seen-as-available. When applicable, these proceedings shall be identified in the newspaper as being published subject to review and revision by the school board. These proceedings shall be given to the newspaper by the board's clerk within a reasonable time after each school board meeting for the succeeding two years, or until disapproved at a succeeding school board election.

Approved March 26, 1979

CHAPTER 228

SENATE BILL NO. 2252
(Committee on Social Welfare and Veterans Affairs)
(At the request of the Social Service Board and
the Department of Public Instruction)

BOARDING HOME CARE FOR SPECIAL EDUCATION STUDENTS

AN ACT to create and enact a new subsection to section 15-29-08 of the North Dakota Century Code, relating to the powers and duties of the school board; and to create and enact eleven new sections to the North Dakota Century Code, relating to the regulation of boarding home care for special education students; and providing a penalty.

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

SECTION 1.) A new subsection to section 15-29-08 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To recruit homes and facilities which provide boarding home care for special education students; to contract with any person, partnership, voluntary association, corporation or public or private agency for the recruitment of such homes and facilities; and to provide boarding home care for special education students in dormitories.

SECTION 2.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

DEFINITIONS.) As used in this Act:

1. "Boarding home care for special education students" means the provision of boarding home care for those students described in subsection 1 of section 15-59-01 and includes the provision of food, shelter, security, and safety, on a twenty-four hour basis to one or more students.
2. "Family boarding home" means an occupied private residence at which boarding home care for special education students is regularly provided by the owner or lessee thereof to no more than four children, unless all students provided

boarding home care are related to each other by blood or marriage, in which case this limitation shall not apply.

3. "Group boarding home" means an occupied private residence in which boarding care for special education students is regularly provided for more than four, but less than ten, unrelated students.
4. "Residential boarding care facility" means a facility other than an occupied private residence providing boarding home care for more than eight special education students, except as may be otherwise provided by rule or regulation.
5. "Registration" shall mean the process whereby the board maintains a record of all family boarding or residential care facilities, prescribes standards and promulgates regulations under section 7 of this Act, and requires the operator of such home or facility to certify that he has complied with the prescribed standards and promulgated regulations.
6. "Registrant" shall mean the holder of a registration certificate issued by the board in accordance with the provisions of this Act.
7. "Registration certificate" is a written instrument issued by the board to publicly document that the certificate holder has certified his compliance with this Act and the applicable regulations and standards as prescribed by the board.
8. "Board" shall mean the social service board of North Dakota.
9. "Relative" shall mean any person having the following relationship to the student by marriage, blood, or adoption: grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle or aunt.

SECTION 3.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

BOARDING HOME CARE FOR SPECIAL EDUCATION STUDENTS - REGISTRATION REQUIRED.) No person, partnership, voluntary organization or corporation shall establish or operate a family boarding home, group boarding home or residential boarding care facility without first obtaining a registration certificate. The mandatory provisions of this section requiring registration shall not apply when the boarding home care is provided in:

1. The home of a relative.

2. A home or institution under the management and control of the state or the public school board.
3. A home or facility furnishing "foster care for children" as defined in subsection 1 of section 50-11-00.1

SECTION 4.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

PUBLIC AGENCY PURCHASE OF BOARDING HOME CARE FOR SPECIAL EDUCATION STUDENTS.) No agency of state or local government shall purchase or provide boarding home care for special education students unless the family boarding home, group boarding home or residential boarding care facility:

1. Has obtained a registration certificate; or
2. If exempted from registration by subsections 1 or 2 of section 3 of this Act, complies with all applicable standards, rules and regulations as may be issued or promulgated by the board.

SECTION 5.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

REGISTRATION CERTIFICATE GRANTED.) Applications for a registration certificate for the operation of a home or facility receiving special education students for boarding home care shall be made on the forms provided, and in the manner prescribed, by the board. The board may investigate the applicant's activities and make an inspection of the proposed home or facility. A registration certificate for the operation of the home or facility shall be granted by the board within ten working days of receipt of the proper forms upon a determination that:

1. The premises to be used are in sanitary condition and properly equipped to provide for the health and safety of all students who may be received;
2. The persons in charge of such home or facility and their assistants are qualified to fulfill the duties required of them according to the provisions of this Act and the rules, regulations and standards prescribed by the board; and
3. The home or facility will be maintained according to the standards prescribed for its conduct by the rules and regulations of the board. The registration certificate shall be in force and effect for a period of not more than two years.

SECTION 6.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

CONVICTION NOT BAR TO REGISTRATION - EXCEPTIONS.) Conviction of an offense shall not disqualify a person from registration under this Act unless the board determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or proprietor of a boarding home or facility for special education students, or that, following conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1

SECTION 7.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

MINIMUM STANDARDS - RULES AND REGULATIONS - INSPECTION BY A GOVERNMENTAL UNIT.) The board may:

1. Establish reasonable minimum standards for the operation of boarding homes and facilities and the registration of such homes and facilities. In appropriate circumstances and upon good cause shown, specific minimum standards may be substituted by alternate, equivalent standards, approved by the board.
2. Take such action and make such reasonable rules and regulations for the regulation of boarding home care for special education students as may be necessary to carry out the purposes of this Act and entitle the state to receive aid from the federal government.
3. Authorize a governmental unit to:
 - a. Inspect any home or facility for which a registration certificate is applied for or issued under this Act; and
 - b. Certify to the board that the home or facility meets the requirements of this Act and the minimum standards prescribed by the board.

SECTION 8.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

INVESTIGATION OF APPLICANTS AND REGISTRANTS - MAINTENANCE OF RECORDS - CONFIDENTIALITY OF RECORDS.)

1. The board and its authorized agents at any time may investigate and inspect the conditions of the home or facility and the qualifications of the owner or operator thereof. Upon request of the board, the state department of health or the state fire marshal, or his designee, shall inspect any home or facility for which a registration certificate is applied for or issued and shall report its findings to the board.

2. All holders of registration certificates shall:

- a. Maintain such records as the board may prescribe regarding each student in their care and control, and shall report to the board, when requested, such facts as the board may require with reference to the students upon forms furnished by the board; and
 - b. Admit for inspection authorized agents of the board and open for examination all records, books and reports of the home or facility.
3. All records and information maintained with respect to students receiving boarding home care for special education students shall be deemed confidential and be properly safeguarded and shall not be disclosed except:
- a. In a judicial proceeding;
 - b. To officers of the law or other legally constituted boards or agencies; or
 - c. To parents and persons having a definite interest in the well-being of the student or students concerned and who, in the judgment of the board, are in a position to serve their interests should that be necessary.

SECTION 9.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

REVOCATION OF REGISTRATION CERTIFICATE.) The board may revoke the registration certificate of any family boarding home, group boarding home or residential boarding care facility upon a proper showing of any of the following:

1. Any of the applicable conditions set forth in section 5 of this Act as prerequisites for the issuance of the registration certificate no longer exist.
2. The registrant is no longer in compliance with the minimum standards prescribed by the board.
3. The registration certificate was issued by fraudulent or untrue representation.
4. The registrant has violated any rules and regulations of the board.
5. The registrant has been guilty of an offense determined by the board to have a direct bearing upon a person's ability to serve the public as a registrant.
6. The registrant has been convicted of any offense and the board, pursuant to section 12.1-33-02.1, has determined that he has not been sufficiently rehabilitated.

SECTION 10.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

DENIAL OR REVOCATION OF REGISTRATION CERTIFICATE - ADMINISTRATIVE HEARING.) Before any application for a registration certificate under the provisions of this Act shall be denied, or before revocation of any registration certificate shall take place, written charges as to the reasons therefor shall be served upon the applicant or registrant. The applicant or registrant shall have the right to an administrative hearing in the manner provided in chapter 28-32 if written request for the hearing is made to the board within ten days after service of the written charges.

SECTION 11.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

CONTENTS OF REGISTRATION CERTIFICATE.) The registration certificate shall show the name of the owner or operator of the boarding home or facility, its location and the maximum number of students who may be received and kept there at any one time.

SECTION 12.) A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

PENALTY.) Any person whether owner, manager, operator or representative of any owner, operator, or manager who violates any of the provisions of this Act is guilty of a class B misdemeanor.

Approved April 3, 1979

CHAPTER 229

HOUSE BILL NO. 1444
(Wald, Lardy)

SCHOOL BUS TRANSPORTATION FEE

AN ACT allowing nonreorganized school districts the option of charging a fee for bus transportation which they provide.

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

SECTION 1. CHARGE FOR BUS TRANSPORTATION OPTIONAL.) The school board of any school district which has not reorganized pursuant to article III of chapter 15-53.1, may charge a fee for school bus service provided to anyone riding on buses provided by the school district. The total fees collected may not exceed an amount equal to the difference between the state transportation payment and the state average cost for transportation or the local school district's cost, whichever is the lesser amount.

Approved March 8, 1979

CHAPTER 230

SENATE BILL NO. 2129
(Committee on Education)
(At the request of the Department of Public Instruction)

TEACHER'S OATH

AN ACT to amend and reenact section 15-37-01 of the North Dakota Century Code, relating to teacher's oath.

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

SECTION 1. AMENDMENT.) Section 15-37-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-37-01. TEACHER'S OATH.) Every person who applies for a certificate to teach in any of the public schools of the state, ~~or for a renewal thereof,~~ shall subscribe to the following oath or affirmation:

I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution of the state of North Dakota, and that I will faithfully discharge the duties of my position, according to the best of my ability.

The oath or affirmation shall be executed in duplicate, and one copy thereof shall be filed with the superintendent of public instruction when the application for a certificate is made, and the other copy shall be retained by the person who subscribes to such oath or affirmation. No certificate shall be issued unless ~~such an~~ a duly witnessed or notarized oath or affirmation shall have been filed.

Approved March 8, 1979

CHAPTER 231

HOUSE BILL NO. 1124
(Committee on Education)
(At the request of the Department of Public Instruction)

TEACHER'S OATH ADMINISTRATION REPEALED

AN ACT to repeal section 15-37-04 of the North Dakota Century Code, relating to administering teacher's oath.

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

SECTION 1. REPEAL.) Section 15-37-04 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

CHAPTER 232

HOUSE BILL NO. 1208
(Committee on Education)
(At the request of the Education Factfinding Commission)

FACTFINDING COMMISSION COMPENSATION AND PROCEDURE

AN ACT to amend and reenact sections 15-38.1-04, 15-38.1-05, and paragraphs (1) and (2) of subdivision b of subsection 2 of section 15-38.1-13 of the North Dakota Century Code, relating to the compensation, powers and procedure of the education factfinding commission.

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

SECTION 1. AMENDMENT.) Section 15-38.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38.1-04. COMPENSATION OF COMMISSION AND FACTFINDERS.) Members of the commission shall receive ~~twenty-five~~ fifty dollars per day for their attendance at regular or special meetings of the commission or in the performance of such special duties as the commission may direct. In addition to such compensation, they shall receive an allowance for actual and necessary travel and subsistence expenses while performing commission functions away from their places of residence. Factfinders, appointed by the commission, including commission members when so serving, shall be reimbursed for expense on the same basis as members of the commission and shall receive such compensation as the commission shall from time to time establish.

SECTION 2. AMENDMENT.) Section 15-38.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-38.1-05. POWERS OF THE COMMISSION.) The commission shall have the power to adopt its own rules and regulations. In addition to other powers authorized by law and under this chapter, the members of the commission and any factfinder appointed by it, shall, in the performance of their duties, have the powers contained in sections 28-32-09, 28-32-10, 28-32-11, and 28-32-12 of the North Dakota Century Code.

SECTION 3. AMENDMENT.) Paragraphs (1) and (2) of subdivision b of subsection 2 of section 15-38.1-13 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- (1) Upon request of either contending party, and in the event that the commission determines that an impasse exists between a school board and a representative organization, the commission shall itself act as a factfinding commission or appoint a factfinder from a list of qualified persons maintained by the commission. If a factfinder is appointed, he shall have such powers as are designated to him by the commission and he shall make his recommendation to the commission. The commission shall consider the facts and make its findings and recommendation, or it shall consider the report and recommendation of its factfinder, and, after such further investigation as it may elect to perform, it shall make its findings and recommendation. Within ~~twenty~~ forty days after the request to render assistance is received, the findings and recommendation of the commission shall be transmitted to the contending parties and if the issue is not then resolved, the commission shall between ten and twenty days thereafter be made after such transmittal make its findings and recommendations public.
- (2) In the event that facts are found or recommendations made under factfinding procedures agreed upon between the contending parties and the impasse continues, the commission may consider such findings and recommendation without instituting its own factfinding procedures and from them issue its own findings and recommendations to the contending parties, and if the issue is not then resolved the commission shall within between ten and twenty days thereafter after such transmittal make its findings and recommendations public.

Approved March 3, 1979

CHAPTER 233

HOUSE BILL NO. 1242

(Committee on Education)

(At the request of the Teachers' Fund for Retirement)

TEACHERS' RETIREMENT PROVISIONS

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to protecting the teachers' fund for retirement against fraud; and to amend and reenact subsection 1 of section 15-39.1-04 and sections 15-39.1-13, 15-39.1-17, and 15-39.1-20 of the North Dakota Century Code relating to the definition of a teacher, exemptions from the legal process, the final payment on a member's account, and withdrawal from the teachers' fund for retirement; and providing a penalty.

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

SECTION 1.) A new section to chapter 15-39.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

FRAUD AGAINST FUND - PENALTY.) Any person who shall knowingly make a false statement, or shall falsify or permit to be falsified any record or records of this retirement fund in any attempt to defraud such fund as a result of such act, shall be guilty of theft, and shall be punishable therefor under the laws of the state of North Dakota. Should any change or error in records result in any person receiving from the fund more or less than that person would have been entitled to receive had the records been correct, then, on the discovery of any such error, the retirement board shall correct such error, and, as far as practicable, shall adjust the payments in such a manner that the actuarial equivalent of the benefit to which such person was correctly entitled shall be paid.

SECTION 2. AMENDMENT.) Subsection 1 of section 15-39.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Teacher" shall include:

- a. All persons who are certified to teach in this state who are employed either in teaching or as a teacher's

aide for more than ten days in any one school year 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, and the professional staff of the North Dakota high school activities association.
- c. The executive director of the North Dakota school boards association, the executive secretary of the teachers' fund for retirement, and the secretary of the North Dakota school administrators association, provided that such persons were previously members of and have credits in the fund.

SECTION 3. AMENDMENT.) Section 15-39.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-13. ~~ANNUITIES-EXEMPT~~ EXEMPTIONS FROM LEGAL PROCESS.) The refunds and 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.

SECTION 4. AMENDMENT.) Section 15-39.1-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 the surviving spouse, or if no surviving spouse, to the surviving children, or if none, to his estate; provided, however, that if no probate proceedings have been instituted within thirty days of the death of the member, then to such heirs at law who file claim with the fund within one hundred

and fifty days of the death of the member. His assessments shall earn interest from the July first 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 designated beneficiary may apply for a refund of his assessments accumulated with interest as described in the above paragraph. If there is no designated beneficiary, then the same shall be paid to the surviving spouse, or if no surviving spouse, to the surviving children, or if none, to his estate; provided, however, that if no probate proceedings have been instituted within thirty days of the death of the member, then to such heirs at law who file claim with the fund within one hundred and fifty days of the death of the member. In lieu of such refund, the designated beneficiary, if a beneficiary has been designated, may elect to receive a monthly annuity in accordance with option one as set forth in section 15-39.1-16, with the amount of such annuity being determined as though the deceased member had retired under the option on the 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.

If a member who has received annuity payments other than a reduced retirement allowance as provided in section 15-39.1-16 dies prior to receiving accumulated annuity payments which exceed the assessments paid by the member to the fund plus interest as outlined in section 15-39.1-20, the member's beneficiary shall receive a final payment equal to the assessments the member paid to the fund plus interest as provided in section 15-39.1-20 less the amount of the annuity payments made prior to the member's death.

SECTION 5. AMENDMENT.) Section 15-39.1-20 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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, after a period of one hundred twenty days, 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. The one hundred twenty day requirement may be waived by the board of trustees when it has evidence the teacher will not be returning to teach in 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.

Approved March 26, 1979

CHAPTER 234

SENATE BILL NO. 2285
(Senators Peterson, Strand, Smykowski)
(Representatives Berger, Knudson)

TEACHERS' RETIREMENT ASSESSMENTS AND BENEFITS

AN ACT to amend and reenact section 15-39.1-09, section 15-39.1-10, and section 15-39.1-11 of the North Dakota Century Code, relating to assessments for teachers, age for eligibility for benefits, calculation of benefits, and to vested rights in retirement benefits in the teachers' fund for retirement.

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

SECTION 1. AMENDMENT.) Section 15-39.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 ~~five~~ six and twenty-five hundredths 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 ~~five~~ six and twenty-five hundredths percent per annum of the salary of each teacher employed by it. All such sums shall be certified by the disbursing official and shall be paid quarterly to the state treasurer who shall set the same aside in the teachers' fund for retirement.

* SECTION 2. AMENDMENT.) Section 15-39.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-10. ELIGIBILITY FOR BENEFITS.)

1. The following teachers are eligible to receive monthly lifetime retirement benefits under this section:
 - a. All teachers who have completed ten years of teaching credit and who have attained the age of sixty-five years.

* NOTE: Subsection 3 of section 15-39.1-10 was also amended by section 2 of Senate Bill No. 2215, chapter 235.

- b. All teachers who have attained the age of sixty-five years and who completed their final year of teaching in 1971.
- c. All teachers who have attained the age of sixty years and who have completed thirty-five years of teaching credit of which one year must be completed after July 1, 1979.
2. The amount of retirement benefits shall be calculated as follows:
- a. One percent of the final average monthly salary of the teacher ~~for the school year next preceding July 1, 1971,~~ multiplied by the number of years of credited service ~~prior to that date.~~ For the purposes of this subsection, monthly salary means one-twelfth of the annual salary paid the teacher. Final average monthly salary shall be the average of the teacher's highest monthly salaries received for any five years employed during the last ten years of employment.
- ~~b. One and one-half percent of the monthly salary of the teacher for each school year subsequent to July 1, 1971.~~
- ~~For the purposes of this subsection, monthly salary means one-twelfth of the annual salary paid the teacher. If the salary of the teacher for the school year next preceding July 1, 1971, is shown to be unrepresentative of his normal salary or if the teacher was not employed during the year next preceding July 1, 1971, the board shall use the salary received during the last full year of teaching prior to the 1970-1971 school year for making the calculations required by this subsection.~~
3. Notwithstanding any other provision of this section, no full-time teacher who retired in 1971 or after such year, eligible to receive or who is receiving benefits under former chapter 15-39, chapter 15-39.1, or section 15-39.2-02, shall receive benefits which are less than:
- a. Six dollars per month per year of teaching to twenty-five years.
- b. Seven dollars and fifty cents per month per year of teaching over twenty-five years.
- c. 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--any-person-employed-in-teaching-as-lay
faucity-in-a-nonpublic-school shall not be eligible
for the minimum benefits provided by this subsection.
As-used-in-this-subsection,--the--term--"lay--faucity"
shall--mean--any-person-who-teaches-elementary-or-high
school-students-in-a-nonpublic-school,--and-is--neither
a--member--of--an--eccelesiastical--order--or--religious
house,--or--an--ordained-clergyman-~~

The greater benefit available from this chapter as it existed on July 1, 1977, and July 1, 1979, shall be available to any teacher who had rights vested in the chapter on June 30, 1979.

SECTION 3. AMENDMENT.) Section 15-39.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 or is sixty years of age with thirty-five years of teaching credit of which one year must be completed after July 1, 1979 ~~unless he shall elect--to--claim--an
early-retirement-as-hereinafter-set-ferth.~~

Approved March 21, 1979

CHAPTER 235

SENATE BILL NO. 2215
(Committee on Education)

(At the request of the Teachers' Fund for Retirement)

TEACHERS' RETIREMENT PARTICIPATION

AN ACT to create and enact a new section to chapter 15-39.1 of the North Dakota Century Code, relating to permitting nonpublic school teachers to participate in the teachers' fund for retirement; and to amend subsection 3 of section 15-39.1-10 of the North Dakota Century Code, relating to the eligibility of nonpublic school teachers to participate in the teachers' fund for retirement.

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

SECTION 1.) A new section to chapter 15-39.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

PARTICIPATION OF NONPUBLIC SCHOOL TEACHERS.) Any nonpublic school teacher who has participated in chapter 15-39 between July 1, 1971, and June 30, 1979, may elect to receive benefits in accordance with chapter 15-39.1 by paying into the teachers' fund for retirement the difference between the amount actually paid in accordance with chapter 15-39 by the teacher and employer during such teacher's years of participation during that period and the amount which would have been required had the teacher participated in the fund during that period under the provisions of section 15-39.1-09. Interest on this difference shall be paid by the teacher to the teachers' fund for retirement at a rate equal to that then being paid by the Bank of North Dakota for one-year certificates. All nonpublic school teachers who elect to participate for the first time in the teachers' fund for retirement after July 1, 1979, shall be required to participate as provided for by chapter 15-39.1. For the purposes of this section, "nonpublic school teachers" shall mean "lay faculty" as defined by subdivision k of subsection 1 of section 15-39-01.

Any nonpublic school teacher who exercises the election to come within the provisions of this chapter as authorized by this section shall give the teacher's employer written notice of the teacher's election and shall authorize such employing authority, as

part of said notice, to deduct from each payment of salary the teacher assessments due the fund as prescribed in section 15-39.1-09. The nonpublic school shall advise the teacher whether it assents to payment of employer contributions prescribed in section 15-39.1-09. If the nonpublic school assents, it shall pay the employer contribution and perform all other acts required of it under this chapter. If the nonpublic school declines to pay employer's contributions, it shall be paid by the teacher, in addition to the teacher's assessments deducted from the teacher's salary, and shall be forwarded to the fund as provided by this chapter. Once having assented to the payment of employer contributions for a specific teacher, the nonpublic school shall be required to continue payment of employer contributions as long as the teacher remains a member of the fund and continues teaching at that nonpublic school.

* SECTION 2. AMENDMENT.) Subsection 3 of section 15-39.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notwithstanding any other provision of this section, no full-time teacher who retired in 1971 or after such year, eligible to receive or who is receiving benefits under former chapter 15-39, chapter 15-39.1, or section 15-39.2-02, shall receive benefits which are less than:
 - a. Six dollars per month per year of teaching to twenty-five years.
 - b. Seven dollars and fifty cents per month per year of teaching over twenty-five years.
 - c. 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--any-person-employed-in-teaching-as-lay-faculty-in-a-nonpublic-school~~ shall not be eligible for the minimum benefits provided by this subsection. ~~As-used-in-this-subsection,--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--~~

Approved March 13, 1979

* NOTE: Subsection 3 of section 15-39.1-10 was also amended by section 2 of Senate Bill No. 2285, chapter 234.

CHAPTER 236

HOUSE BILL NO. 1241

(Committee on Education)

(At the request of the Teachers' Fund for Retirement)

ANNUITIES DISCONTINUED ON RESUMPTION
OF TEACHING

AN ACT to provide for the discontinuance of annuities from the teachers' fund for retirement on resumption of teaching, and to repeal section 15-39.1-19 of the North Dakota Century Code, relating to discontinuance of annuities from the teachers' fund for retirement on resumption of teaching.

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

SECTION 1. ANNUITIES DISCONTINUED ON RESUMPTION OF TEACHING.)
The benefits payable to any retired person who has retired from teaching under the provisions of chapters 15-39, 15-39.1, or 15-39.2 and who again returns to teaching in a public school or state institution in this state or any other state shall be discontinued when the retired person's earnings during the fund's fiscal year exceed the maximum earnings allowed by the Federal Social Security Act. Such person shall immediately notify the office of the fund in writing when the retired person's earnings have exceeded such maximum. Failure to notify the fund shall result in the loss of one month's annuity benefits when the payment of the annuity is resumed upon further retirement, in addition to the discontinuance of benefits paid after reaching such maximum.

Any retired person who returns to teaching shall pay the required assessments on those earnings received after the maximum has been exceeded in the fiscal year and the employer shall pay the required contributions in a like manner.

Upon the teacher's subsequent retirement, the member's benefit shall be resumed as follows:

1. If the teacher subsequently retires with less than two years of additional credited service, the teacher's assessments paid to the fund shall be refunded in accordance with section 15-39.1-20 and the teacher shall not be entitled to receive the discontinued annuity for those months of the fiscal year during which the earnings were in excess of the maximum earnings so established.

2. If the teacher subsequently retires with more than two years of additional service, the retired person's annuity shall be the sum of the discontinued annuity, plus an additional annuity computed according to the provisions of this chapter based upon years of service and average salaries earned during such period of reemployment.

SECTION 2. REPEAL.) Section 15-39.1-19 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 21, 1979

CHAPTER 237

HOUSE BILL NO. 1532
(Wentz)

TEACHERS' RETIREMENT TEACHING CREDIT

AN ACT to amend and reenact subsection 2 of section 15-39.1-24 of the North Dakota Century Code, relating to receiving additional credit for teaching toward retirement.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 15-39.1-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any teacher who, within ~~twenty-four~~ thirty 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~~ thirty 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.

Approved March 3, 1979

CHAPTER 238

HOUSE BILL NO. 1377
(I. Jacobson)

TEACHERS' RETIREMENT MILL LEVY

AN ACT to amend and reenact section 15-39.1-28 of the North Dakota Century Code, relating to the mill levy for teachers' retirement.

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

SECTION 1. AMENDMENT.) Section 15-39.1-28 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-28. MILL LEVY FOR TEACHERS' RETIREMENT.) Any school district by a resolution of its school board may levy a tax of not to exceed ~~seven~~ forty 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 chapter. The mill levy permitted by this section shall be in addition to any tax levy limitations now prescribed by law.

Approved March 19, 1979

CHAPTER 239

HOUSE BILL NO. 1614
 (Representative I. Jacobson)
 (Senator Wenstrom)

TIAA-CREF RETIREMENT ANNUITY

AN ACT to amend and reenact sections 15-39.2-01 and 15-39.2-05 of the North Dakota Century Code, relating to the method for calculating retirement annuity of teachers retired under the teachers' insurance and annuity association of America-college retirement equities fund.

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

SECTION 1. AMENDMENT.) Section 15-39.2-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.2-01. RETIRED TEACHERS - ELECTION OF COVERAGE - ELIGIBILITY - ~~CONTRIBUTION-TO-FUND--~~ LIMITATION.) Notwithstanding the provisions of chapter 15-39.1, any person who retired from teaching under the teachers' insurance and retirement fund prior to July 1, 1971, who had ten or more years of teaching credit under that program shall be entitled to elect to qualify for benefits under the teachers' fund for retirement by complying with the provisions of this chapter. A college teacher who retired from teaching after July 1, 1971, may, notwithstanding the provisions of section 15-39.1-25, elect to receive benefits in accordance with chapter 15-39.1 and section 15-39.2-05. ~~An annuitant who elects to come under the 1971 law shall pay into the teachers' fund for retirement the difference between the amount actually paid into the fund or the predecessor fund by the teacher and the school board during his last year of teaching and the amount which would have been required to have been paid on the salary paid the annuitant for his last year of teaching under the 1971 law.~~

The amount of monthly benefits to which an annuitant electing to come under the 1971 law shall be entitled until death shall be equal to one percent of the monthly salary of the annuitant for the last school year for each year of service of such annuitant. 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 last

year of teaching are shown to have been nonrepresentative 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. As used in this section, "college teacher" means a retired teacher who is entitled to receive an annuity through the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF), ~~who contributed to TIAA-CREF while teaching at a North Dakota public institution of higher education as a result of having participated in the North Dakota state board of higher education TIAA-CREF retirement plan for North Dakota state institutions of higher education.~~

SECTION 2. AMENDMENT.) Section 15-39.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.2-05. BENEFITS PAYABLE - CALCULATION.) A retired teacher who makes the election authorized under section 15-39.2-01 shall receive ~~the difference,~~ from the teachers' fund for retirement, ~~between these payments~~ a benefit amount equal to the difference between the benefit payable under the single life annuity option to which he would otherwise be entitled under the teachers' fund for retirement and ~~the first payment received after making the election under section 15-39.2-01 to which he is entitled as a minimum annuity generated by contributions by the employer and the employee to the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF).~~ ~~The difference payable by the teachers' fund for retirement as first calculated under this section for a particular retiree shall be the maximum amount payable from the fund to that retiree. However, the amount payable pursuant to this section may be decreased if the minimum annuity payable to a retiree under TIAA-CREF should increase. However, no payment shall be made from the teachers' fund for retirement to a retired teacher affected by this section unless the board of trustees of the teachers' fund for retirement, or its agent, has received the necessary information from the teachers' insurance and annuity association of America - college retirement equities fund (TIAA-CREF) an income offset. The income offset is equal to the single life annuity income, as of the first day of the month coinciding with or next following a teacher's retirement date under the teachers' fund for retirement based on accumulations attributed to employee and employer contributions under the TIAA-CREF retirement plan adopted by the North Dakota state board of higher education for North Dakota institutions of higher education and assuming that all such contributions were paid to TIAA.~~

A retired teacher who made the election authorized under section 15-39.2-01 prior to May 1, 1979, shall have a TIAA-CREF income offset which will be fixed at the value of the May 1, 1979, TIAA-CREF income offset as calculated in accordance with this section prior to its being amended.

No payment shall be made from the teachers' fund for retirement to a retired teacher affected by this section unless the board of trustees of the teachers' fund for retirement, or its agent, has received notice of the amount of the teacher's income offset from TIAA-CREF.

Approved April 7, 1979

CHAPTER 240

HOUSE BILL NO. 1199
(G. Larson, Berger, Knudson)

TEACHERS' POST-RETIREMENT ADJUSTMENT

AN ACT to create and enact a new section to chapter 15-39.2 of the North Dakota Century Code, relating to a post-retirement adjustment.

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

SECTION 1.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

RETIRED TEACHERS - MINIMUM BENEFITS.) Any teacher who was sixty-five years of age at retirement and who is eligible to receive or who is receiving benefits under former chapter 15-39 may receive benefits which are not less than:

1. Six dollars per month per year of teaching to twenty-five years.
2. Seven dollars and fifty cents per month per year of teaching over twenty-five years.

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 any person employed in teaching as lay faculty in a nonpublic school are not eligible for the minimum benefits provided by this section. As used in this section, the term "lay faculty" means 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, nor an ordained clergyman.

A teacher who retired at any time prior to sixty-five years of age is entitled to benefits not less than the minimum benefits established by this section reduced to the actuarial equivalent of the benefit credits earned to the date of early retirement.

Approved April 3, 1979

CHAPTER 241

HOUSE BILL NO. 1416
(Kuchera)

DECEASED COLLEGE TEACHER BENEFICIARY ELECTION

AN ACT to create and enact a new section to chapter 15-39.2 of the North Dakota Century Code, relating to the election of beneficiaries of certain deceased college teachers; and declaring an emergency.

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

SECTION 1.) A new section to chapter 15-39.2 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

BENEFICIARIES OF DECEASED COLLEGE TEACHERS.) If a college teacher who is eligible to make the election provided by this chapter dies prior to receiving an annuity, the college teacher's designated beneficiary may elect to receive a monthly annuity computed according to the provisions of this chapter in a manner which the deceased teacher's annuity would have been computed if the deceased teacher had lived, made such an election, and selected option one as outlined in section 15-39.1-16. The designated beneficiary of a college teacher who exercised the election in section 15-10-17 shall not be eligible for benefits provided in this section.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 3, 1979

CHAPTER 242

HOUSE BILL NO. 1565
(G. Larson, Knudson)

COLLEGE TEACHER RETIREMENT ELECTION

AN ACT to create and enact three new sections to chapter 15-39.2 of the North Dakota Century Code, relating to college teachers under the teachers' fund for retirement, alternative benefits, and methods of paying assessments; to amend and reenact section 15-39.1-25 of the North Dakota Century Code, relating to fixed rights and obligations for college teachers; and providing an appropriation.

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

SECTION 1.) Section 15-39.1-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-39.1-25. CERTAIN RIGHTS AND OBLIGATIONS FIXED.)
~~Notwithstanding any other provisions of law~~ Except as otherwise provided in chapter 15-39.2, 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.

SECTION 2.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

COLLEGE TEACHERS - ELECTION - CONTRIBUTION TO FUND.) In lieu of the election provided for by section 15-39.2-01, a college teacher may elect prior to July 1, 1980, notwithstanding the provisions of section 15-39.1-25, to receive benefits in accordance with chapter 15-39.1 and section 4 of this Act. A teacher who elects to receive such benefits shall pay into the teachers' fund for retirement, in the manner provided for by section 3 of this Act, the difference between the amount actually paid to the fund by the teacher during the period from July 1, 1969, to such time as the teacher exercises the election authorized by this section, and the amount which would have been required had the teacher's assessment rate remained the same as that of a public school teacher during that period. The amount shall be determined by the board of trustees of the teachers' fund for retirement.

SECTION 3.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

ASSESSMENTS - METHOD OF PAYMENT.) A college teacher making the election provided for in section 2 of this Act shall make the payment of the required assessments for the period prior to the election by a single sum payment in the manner provided for by the board of trustees of the teachers' fund for retirement. Payment of the required assessments for the period after the election shall be made in the manner provided for in section 15-39.1-09.

SECTION 4.) A new section to chapter 15-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

BENEFITS.) Any college teacher making the election provided for in section 2 of this Act and paying the assessments provided for in section 3 of this Act shall be eligible for the same benefits as a public school teacher with like average salary and years of service would receive under section 15-39.1-10.

SECTION 5. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$1,200,000.00, or so much thereof as may be necessary, to the teachers' fund for retirement for the purposes of funding any employer's contribution, with interest, and

interest on teacher assessments to the teachers' fund for retirement necessitated by chapter 15-39.1 for each teacher making the election provided for in this Act and any unfunded liability to the teachers' fund for retirement arising out of the adoption of this Act. The election authorized in section 2 shall not be available once the appropriation authorized in this section has been expended.

Approved April 7, 1979

CHAPTER 243

SENATE BILL NO. 2439
(Committee on Appropriations)

FOUNDATION AND TRANSPORTATION AID

AN ACT to set forth legislative intent covering any appropriation for school textbooks, to provide that a portion of oil and gas bonus payments received by the board of university and school lands be apportioned and distributed to the public schools, to provide for the contingent transfer of unused Vietnam bonus funds for the foundation program, and to provide for adjusting foundation aid payments; to amend and reenact section 4 of chapter 476 of the 1975 Session Laws of North Dakota, relating to legislative intent concerning the Vietnam bonus sinking fund; to amend and reenact sections 15-40.1-06, 15-40.1-07, 15-40.1-08, 15-40.1-16, and 54-17.1-12 of the North Dakota Century Code, relating to the level of educational support per pupil for the 1979-81 biennium, enrollment periods used in determining per-pupil foundation program payments for school districts, aid for school bus transportation, and Vietnam bonus funds; to repeal subdivision b of subsection 3 of section 15-40.1-06 of the North Dakota Century Code, relating to the deduction for federal impact payments; to provide an appropriation for kindergarten aid and to appropriate moneys in the state tuition fund; and to declare an emergency.

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 any funds appropriated to the department of public instruction specifically for the purpose of providing free textbooks to the public school students of North Dakota be distributed to the local school districts through the foundation aid program.

SECTION 2. OIL AND GAS BONUS PAYMENTS - APPORTIONMENT AND DISTRIBUTION.) Fifty percent of the oil and gas bonus payments on common school lands received by the board of university and school lands shall be apportioned and distributed among the common schools for their maintenance and support based upon the student population.

SECTION 3. DISTRIBUTION OF BONUS MONEYS COLLECTED AFTER DECEMBER 31, 1978.) The distribution of oil and gas bonus payments required by section 2 of this Act applies to oil and gas bonus payments received by the board of university and school lands after December 31, 1978. The oil and gas bonus payments received by the board of university and school lands for distribution pursuant to section 2 of this Act during the period beginning January 1, 1979, and ending June 30, 1979, shall be apportioned and distributed as provided by section 2 of this Act to the school districts after June 30, 1979.

SECTION 4. TRANSFER OF FUNDS IN VIETNAM CONFLICT ADJUSTED COMPENSATION BOND FUND - CONTINGENCY.) All existing funds in the sinking fund for the state of North Dakota general obligation bonds, Vietnam conflict adjusted compensation series, in excess of those funds needed to redeem all outstanding bonds and interest coupons shall be subject to transfer by the state treasurer to the superintendent of public instruction upon certification by the superintendent of public instruction that the general fund appropriation approved by the forty-sixth legislative assembly and other available funds are insufficient to make the foundation program payments to schools as authorized by the forty-sixth legislative assembly for the 1979-81 biennium. Only such funds as are necessary to make foundation program payments shall be transferred, and any funds transferred pursuant to this section shall be distributed as provided in section 15-40.1-05.

SECTION 5. ADJUSTMENT OF FOUNDATION AID PAYMENT.) Whenever the taxable valuation of property is diminished because of the reclassification of real property as personal property which results from either legislative or judicial action, the state foundation aid payment to the affected school district shall be based on the diminished valuation in the year in which it is paid to the school district.

SECTION 6. AMENDMENT.) Section 4 of chapter 476 of the 1975 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 4. LEGISLATIVE INTENT - INDUSTRIAL COMMISSION AUTHORITY - INVESTMENT BY BANK OF NORTH DAKOTA.)

1. The legislative assembly intends that the moneys appropriated by section 3 of this Act, and other moneys in the sinking fund, may be expended by the industrial commission to purchase, in the open market or by negotiation, outstanding Vietnam conflict adjusted compensation bonds, of either or both series, at such times as the commission sees fit. The industrial commission is hereby authorized to purchase and retire the aforementioned bonds whenever the commission shall judge that it is financially in the best interest of the state to do so.

2. The Bank of North Dakota, on behalf of the state treasurer, shall invest the moneys appropriated by section 3 of this Act, consistent with the provisions of section 21-10-07, at the best possible rate of interest, and all interest earned thereby shall be deposited to the credit of the sinking fund created by section 54-17.1-07 for use in meeting bond principal and interest payments as they come due, to the extent such funds are necessary to pay bond principal and interest payments.

* SECTION 7. AMENDMENT.) Section 15-40.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-06. DECLARATION OF LEGISLATIVE INTENT - EDUCATIONAL SUPPORT PER PUPIL - SCHOOL DISTRICT EQUALIZATION FACTOR - LIMITATIONS.)

1. 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. In determining the educational cost per pupil, the following criteria shall not be used:
 - a. Expenditures for capital outlay for buildings and sites, or debt service.
 - b. Expenditures from school activities and school lunch programs.
 - c. Expenditures for the cost of transportation, including the cost of school buses.
2. It is hereby determined that the educational support per pupil during the first year of the ~~1977-1979~~ 1979-81 biennium shall be ~~seven-hundred-seventy-five~~ nine hundred three dollars and for the second year of the biennium the educational support per pupil shall be ~~eight-hundred-fifty~~ nine hundred seventy 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 be supported in the amount 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.
3. In determining the amount of payment due school districts for per-pupil aid under this section, the following shall be subtracted from the amount of such aid:

* NOTE: Subdivision b of subsection 3 of section 15-40.1-06 was repealed by section 12 of this bill, and was also amended by section 1 of House Bill No. 1126, chapter 245

- a. The product of twenty mills times the latest available net assessed and equalized valuation of property of the school district.
- b. That amount in dollars of the state group rate for Title I of Public Law 81-874 represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 81-874 payments, except that this subsection shall not include 3B students residing in tax-exempt, federally owned mobile homes. The amount of funds deducted from a school district shall not be in excess of the funds that may be taken into account under federal regulations Public Law 81-874, section 5(d).
- c. The amount of funds estimated by the superintendent of public instruction to be received by each school district for the period from May first of the current year through April thirtieth of the following year from distributions of oil and gas bonus payments pursuant to section 2 of this Act, which shall be subtracted from the school district's November first foundation program payment. The May first foundation program payment shall be adjusted to reflect a subtraction for the actual amounts received pursuant to section 2 of this Act by the school district during this period.

* SECTION 8. AMENDMENT.) Section 15-40.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-07. HIGH SCHOOL PER-PUPIL PAYMENTS - AMOUNT - PROPORTIONATE PAYMENTS.) There shall be paid each year from state funds and from the county equalization fund to all school districts of the county operating high schools, to school districts contracting to educate high school pupils in a federal school, subject to adjustment as provided in section 15-40.1-09, payments as follows:

1. For high schools having under seventy-five pupils in average daily membership, the amount of money resulting from multiplying the factor 1.70 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
2. For high schools having seventy-five or more, but less than one hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.40 times the educational support per pupil as provided

* NOTE: Section 15-40.1-07 was also amended by section 5 of House Bill No. 1056, chapter 220.

in section 15-40.1-06 for each high school pupil registered in the schools each year.

3. For high schools having one hundred fifty or more, but less than five hundred fifty pupils in average daily membership, the amount of money resulting from multiplying the factor 1.32 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.
4. For high schools having a total high school enrollment of five hundred fifty or more pupils in average daily membership, the amount of money resulting from multiplying the factor 1.20 times the educational support per pupil as provided in section 15-40.1-06 for each high school pupil registered in the schools each year.

Every high school district shall receive at least as much in total payments as it would have received if it had the highest number of pupils in the next lower category. No school district shall receive less in foundation program per-pupil payments for any the 1979-80 school year than such district would have received in such payments based upon the average enrollment in such district in for the previous three school year years, and no school district shall receive less in foundation program per-pupil payments for any year thereafter than such district would have received in such payments based upon the enrollment in such district for the previous school year. However, no payment shall be made for those pupils 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. Payments shall be made to the high school district in which the student is enrolled for graduation and units of approved vocational education in accordance with the provisions of chapter 15-20.1, and other courses approved by the superintendent of public instruction, earned in another high school district shall be included to meet the minimum four required units. In the case of students enrolled in nonpublic schools for graduation, proportionate payments shall be made to the public school district in which such student is enrolled for specific courses. School districts offering high school summer school programs shall be eligible for proportionate payments provided each course offered in such programs satisfies requirements for graduation and comprises at least as many clock hours as courses offered during the regular school term.

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. ~~Payments from the county--equalization--fund~~ pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

* SECTION 9. AMENDMENT.) Section 15-40.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-08. ELEMENTARY PER-PUPIL PAYMENTS - AMOUNT.) There shall be paid from state funds and out of the county equalization fund to school districts of the county operating elementary schools and to school districts contracting to educate elementary pupils in a federal 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. For one-room rural schools there shall be paid that amount of money resulting from multiplying the factor 1.30 times the educational support per pupil as provided in section 15-40.1-06 for each of the first sixteen pupils in grades one through eight in average daily membership, and for each additional pupil in grades one through eight in average daily membership there shall be paid .9 times the educational support 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. For elementary schools having under one hundred pupils in average daily membership there shall be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first twenty pupils in grades one through six in average daily membership in each classroom or for each teacher and for each additional pupil in grades one through six in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational support 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. For elementary schools having one hundred or more pupils in average daily membership, and provided the districts in which such schools are located have an average daily membership of less than one thousand elementary pupils, there shall be paid that amount of money resulting from multiplying the factor .9 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six in average daily membership in each classroom or for each

* NOTE: Section 15-40.1-08 was also amended by section 6 of House Bill No. 1056, chapter 220.

teacher, except that no payment shall be made for more than thirty pupils in average daily membership in each classroom or for each teacher.

4. For elementary schools in school districts having an average daily membership of one thousand or more elementary pupils, there shall be paid that amount of money resulting from multiplying the factor .95 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades one through six 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 daily membership in each classroom or for each teacher.
5. For each of the above classes of elementary schools, except for one-room rural schools, there shall be paid that amount of money resulting from multiplying the factor 1.0 times the educational support per pupil as provided in section 15-40.1-06 for each of the first thirty pupils in grades seven and eight 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 daily membership in each classroom or for each teacher.
6. For elementary schools having pupils under the compulsory age for school attendance, but not less than three years of age, in a special education program approved by the director of special education, there shall be paid that amount of money resulting from multiplying the factor .49 times the educational support per pupil as provided in section 15-40.1-06 for each special education pupil under the compulsory age for school attendance in average daily membership in each classroom or for each teacher.

No school district shall receive less in foundation program per-pupil payments for any the 1979-80 school year than such district would have received in such payments based upon the average enrollment in such district for the previous three school year years, and no school district shall receive less in foundation program per-pupil payments for any year thereafter than such district would have received in such payments based upon the enrollment in such district for the previous school year. ~~Payments from the county equalization fund~~ pursuant to this chapter to school districts in bordering states shall be made after subtracting the amount realized from a twenty-mill levy in the sending school district divided by the total number of resident pupils enrolled in the school district plus the number of resident pupils from the district attending school in another state.

* SECTION 10. AMENDMENT.) Section 15-40.1-16 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 15-40.1-16 was also amended by section 10 of House Bill No. 1056, chapter 220.

15-40.1-16. AID FOR TRANSPORTATION.) There shall be paid from the county equalization fund and from state funds to each school district providing school bus transportation in contract school buses or in district-owned and operated school buses, a sum equal to seventeen twenty cents per mile [1.61 kilometers] for school buses having a capacity of sixteen or fewer pupils and ~~thirty-four~~ forty cents per mile [1.61 kilometers] for school buses having a capacity of seventeen or more pupils. In addition, those school districts qualifying for payments for buses having a capacity of seventeen or more pupils shall be entitled to an amount equal to fifteen cents per day for each public school pupil who is transported in such buses, provided that no such payment shall be made for any pupil who lives within the incorporated limits of a city with a population in excess of two hundred fifty and an area in excess of two square miles [518.00 hectares] in which the school in which he is enrolled is located except as provided in section 15-40.1-16.1. The mileage payments provided for in this section shall be made to each school district for transporting pupils to and from school. 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.

SECTION 11. AMENDMENT.) Section 54-17.1-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17.1-12. APPROPRIATIONS AND TRANSFERS IRREPEALABLE.) All appropriations and transfers provided to pay bonds issued under the provisions of this chapter and interest thereon, to the extent necessary to pay such bonds and interest, shall not be repealed until such bonds and interest are fully paid.

* SECTION 12. REPEAL.) Subdivision b of subsection 3 of section 15-40.1-06 of the 1977 Supplement to the North Dakota Century code is hereby repealed effective July 1, 1980.

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 \$1,000,000.00, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of providing aid to school districts which provide kindergartens during the 1980-81 school year and which are established pursuant to the provisions of chapter 15-45. Payments made pursuant to this section shall be made on a per-pupil basis prorated under guidelines established by the superintendent of public instruction based upon the average daily memberships for eligible kindergartens as certified by the school districts. Such certifications shall be made to the superintendent of public instruction on or before June 1, 1981, and the superintendent of

* NOTE: Subdivision b of subsection 3 of section 15-40.1-06 was amended by section 7 of this bill, and was also amended by section 1 of House Bill No. 1126, chapter 245

public instruction shall certify to the department of accounts and purchases the amounts to be paid to the school districts on or before June 30, 1981.

SECTION 14. APPROPRIATION.) There is hereby appropriated out of any moneys in the state tuition fund in the state treasury, not otherwise appropriated, the sum of \$16,500,000.00, or so much thereof as is or may become available, to the public schools of this state as provided in section 154 of the Constitution of the state of North Dakota and chapter 15-44, for the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 15. EMERGENCY.) Section 3 of this Act is hereby declared to be an emergency measure and is in effect from and after the passage and approval of this Act.

Approved April 5, 1979

CHAPTER 244

SENATE BILL NO. 2046
 (Legislative Council)
 (Interim Budget Section)

FOUNDATION PAYMENTS DISTRIBUTION

AN ACT to amend and reenact section 15-40.1-05 of the North Dakota Century Code, relating to due dates of payments to school districts.

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

* SECTION 1. AMENDMENT.) Section 15-40.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-05. DISTRIBUTION OF PAYMENTS TO COUNTY-EQUALIZATION FUNDS SCHOOL DISTRICTS - 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 school districts in the state, together with a statement of payments equal to one-fourth of the total payments made to each respective equalization--fund school district during the previous fiscal year, and the department of accounts and purchases shall pay each county--equalization-fund-such school district the amounts due, within the limits of legislative appropriation, on or before September first 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 first payments are necessary to constitute one-half of the payments due to each county-equalization--fund school district for the current school year, and shall certify to the department of accounts and purchases a list of all county--equalization--funds school districts in the state, together with a statement of the payments due such-funds them. On or before November first, the department of accounts and purchases shall pay to each county equalization-fund school district, within limits of legislative appropriation, the amounts needed in addition to the September first payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter. On or before January 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 March first school district; on or before March first, payments equal to one-eighth of the total payments shall be made to each respective school district; and the balance shall be paid on or before May first.

Approved March 27, 1979

* NOTE: Section 15-40.1-05 was also amended by section 4 of House Bill No. 1056, chapter 220.

CHAPTER 245

HOUSE BILL NO. 1126
(Committee on Education)
(At the request of the Department of Public Instruction)

FOUNDATION PROGRAM PAYMENT DEDUCTIONS

AN ACT to amend and reenact subdivision b of subsection 3 of section 15-40.1-06 of the North Dakota Century Code, relating to foundation program payments; and to provide an effective date.

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

* SECTION 1. AMENDMENT.) Subdivision b of subsection 3 of section 15-40.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. That amount in dollars of the state group rate for Title I of Public Law 81-874 represented by the twenty-one mill county equalization levy in the determination of the state group rate multiplied times the number of students for whom the district received Public Law 81-874 payments, except that this subsection shall not include 3B students residing in tax-exempt, federally owned mobile homes. The amount of funds deducted from a school district shall not be in excess of the funds that may be taken into account under federal regulations Public Law 81-874, section 5(d).

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective through June 30, 1980, and after that date shall be of no force or effect.

Approved March 15, 1979

- * NOTE: Subdivision b of subsection 3 of section 15-40.1-06 was also amended by section 7, and repealed by section 12, of Senate Bill No. 2439, chapter 243.

CHAPTER 246

SENATE BILL NO. 2360
(Nelson)

RESIDENCY DETERMINATION FOR SCHOOL TUITION

AN ACT to amend and reenact section 15-40.2-08 of the North Dakota Century Code, relating to residency determination in child placement cases for school tuition purposes.

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

SECTION 1. AMENDMENT.) Section 15-40.2-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 any referrals made from a state-operated institution;
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; or
3. At the time of any voluntary admission to Grafton state school or any state-licensed child care home or agency.

Such residence district shall be liable for tuition upon claim of the admitting district, provided that both the residence district and the admitting district be notified of the placement, admission, or court order at the time the same is ordered. Notification shall be made by the placement agency. Where the parent or parents of the child were residents of the district at the time of placement under subsections 1 through 3, but such parent or both parents have

subsequently gain--residence--in--another--school--district moved elsewhere, so that there is no parent residing in said residence district, then the tuition and excess cost due the admitting district shall be paid by the new-district-of-residence-in-which-the-parent-or-parents--reside state from funds appropriated by the legislative assembly for the foundation aid program. If the child is handicapped or otherwise requires special education or related services approved by the director of special education, the residence district shall be liable for the cost of tuition and for the excess educational costs related to such special education. ~~If, at-the-time-of-referral-or-discharge-from-the-Grafton--state--school-or--any--state-licensed--child-care-home-or-agency,--the-parents-of-a-child-no-longer-reside-in-the-same-school-district-as-at-the-time-of-admission,--the--district-of-residence-of-the-parents-at-the-time-of-such-referral-or-discharge-shall-be-construed-to-be--the--residence-district--of--such--child.~~ In the event of placement by a county or state welfare agency with the consent of the parent or guardian, or the voluntary admission to any state-licensed child care home or agency, including referrals made therefrom, 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, which 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. ~~If-the-residency-of-neither-parent-can-be-determined-to-be-within--the--state--at--the--time--of-referral--or--discharge--from-the-Grafton-state-school-or-any-state-licensed-child-care-home-or--agency,--the--tuition--and--the--excess-educational--costs--related--to--such--special--education--due--the-admitting--district--shall--be--paid--by--the--state--from--funds-appropriated--by--the--legislative--assembly--for--the--foundation-aid-program.~~

Approved March 15, 1979

CHAPTER 247

HOUSE BILL NO. 1057
(Legislative Council)
(Interim Committee on Education)

TEXTBOOKS AND AUTHORIZED SCHOOL FEES

AN ACT to prohibit school boards from selling textbooks to pupils or otherwise charging unauthorized fees, to allow school boards to establish authorized fees, to allow the superintendent of public instruction to withhold foundation payments if a school district has charged unauthorized fees and, after notification, refuses to discontinue such action, to exempt postsecondary instructional programs; to repeal sections 15-43-07, 15-43-08, 15-43-09, 15-43-10, and 15-43-11 of the North Dakota Century Code, relating to selling textbooks to pupils, purchase of textbooks from families moving from a school district, discretionary authority of school districts to provide free textbooks, prescribing the duty of parents or guardians of pupils to furnish textbooks, and changing of textbooks.

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

SECTION 1. PUBLIC POLICY - DEFINITION.)

1. It is the policy of this state that public education shall be free. No pupil shall be denied an education because of economic inability to furnish textbooks necessary for advancement in or graduation from the public school system. No school board shall sell textbooks nor otherwise charge fees to pupils except as provided by law.
2. For the purposes of this Act, "textbooks" shall include textbooks and workbooks necessary for participation in any instructional course. It shall not include personal or consumable items, such as pencils, paper, pens, erasers, notebooks, or other items of personal use or products which a student may purchase at his option, such as student publications, class rings, annuals, and similar items.

SECTION 2. AUTHORIZED FEES.) A school board is authorized to require payment of the following fees:

1. A security deposit for the return of textbooks, materials, supplies, or equipment, and may require pupils to furnish personal or consumable items. A use charge may be made when the "textbook" returned has had an undue amount of wear.
2. Admission fees or charges for extracurricular or noncurricular activities where attendance is optional.
3. Fees or premiums for any authorized student health and accident benefit plan.
4. Fees for personal physical education and athletic equipment and apparel. Any pupil may provide his own equipment or apparel if it meets reasonable health and safety standards established by the board.
5. Fees in any program where the resultant product becomes the personal property of the pupil.
6. Fees for behind-the-wheel drivers education instruction.
7. Other fees and charges permitted by statute.

This Act shall not preclude the operation of a school store where pupils may purchase school supplies and materials. A board may waive any fee if any pupil or his parent or guardian shall be unable to pay such fees. No pupil's rights or privileges, including the receipt of grades or diplomas, may be denied or abridged for nonpayment of fees. This shall not preclude the school district's right to withhold diplomas for a student's failure to pay for those costs incurred by his own negligence or choice, such as fines for damaged texts and school equipment, library fines, and materials purchased from the school at the option of the student.

SECTION 3. ADOPTION OF ADDITIONAL FEES - PENALTY.) A school board may adopt additional fees not inconsistent with the provisions of this Act. Any school district which requires the payment of fees prohibited by this Act and refuses to discontinue such action following notification by the superintendent of public instruction shall forfeit foundation payments for those students so charged.

SECTION 4. POSTSECONDARY INSTRUCTIONAL PROGRAMS.) A school board may charge reasonable fees for goods, including textbooks, and services provided in connection with any postsecondary instructional program, including vocational and technical programs, adult or continuing education programs, and similar educational programs beyond the secondary level or outside established elementary or secondary education programs.

SECTION 5. REPEAL.) Sections 15-43-07, 15-43-08, 15-43-09, 15-43-10, and 15-43-11 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

CHAPTER 248

HOUSE BILL NO. 1127
(Committee on Education)

(At the request of the Department of Public Instruction)

KINDERGARTEN TEACHER CERTIFICATION

AN ACT to amend and reenact section 15-45-03 of the North Dakota Century Code, relating to kindergarten teachers.

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

SECTION 1. AMENDMENT.) Section 15-45-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-45-03. KINDERGARTEN TEACHERS - QUALIFICATIONS.) Kindergarten teachers shall hold valid certificates issued by the superintendent of public instruction entitling them to teach kindergarten in the elementary schools of this state. ~~Training must include special courses in kindergarten education at approved institutions of higher learning.~~

Approved March 3, 1979

CHAPTER 249

HOUSE BILL NO. 1064
 (Legislative Council)
 (Interim Committee on Higher Education)

ADULT EDUCATION PROGRAMS

AN ACT to amend and reenact sections 15-46-01 and 15-46-04 of the North Dakota Century Code, relating to adult education programs and funding; and to repeal sections 15-46-02, 15-46-03, and 15-46-05 of the North Dakota Century Code, relating to requirements for the establishment of evening schools, salaries of evening school teachers, and the expenditure of evening school funds.

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

SECTION 1. AMENDMENT.) Section 15-46-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-46-01. EVENING---SCHOOLS ADULT EDUCATION PROGRAMS - ESTABLISHMENT --SUPERVISION.) The school board of any public school district may establish and maintain a public evening-school adult education program as a branch of the public schools. ~~At--the direction--of--the--superintendent--of--schools--of--the--county--or--city--in which--the--district--or--territory--is--situated,--or--at--the--direction--of the--superintendent--of--public--instruction,--the--board--shall--establish and--maintain--such--evening--school.~~ An evening-school adult education program, when maintained, shall be available to all persons over sixteen years of age who, from any cause, are unable to attend the public schools of the district. ~~The--branches--taught--at--evening schools--and--the--general--conduct--thereof--shall--be--subject--to--the direction--and--control--of--the--superintendent--of--public--instruction.~~

SECTION 2. AMENDMENT.) Section 15-46-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-46-04. COUNTY--APPROPRIATION--AND--LEVY FUNDING FOR EVENING SCHOOLS ADULT EDUCATION PROGRAMS.) The board---of---county commissioners--of--each--county--in--the--state,--when--petitioned--by--the board of a public school district,---shall---make---an---annual appropriation--of---five--hundred--dollars,--and--may--levy--a--tax--upon--all of--the--taxable--property--of--the--county--to--raise--such--amount, may use school district funds for the purpose of aiding and promoting any

evening-school adult education program established by the school board of such district, and may charge reasonable fees to persons enrolled in adult education programs. ~~The school board of any district receiving aid from the county under the provisions of this section shall contribute to the maintenance of the evening school an amount equal to the amount received from the county for that purpose.~~

SECTION 3. REPEAL.) Sections 15-46-02, 15-46-03, and 15-46-05 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

CHAPTER 250

SENATE BILL NO. 2130
(Committee on Education)

(At the request of the Department of Public Instruction)

KINDERGARTEN STARTING AGE

AN ACT to amend and reenact section 15-47-01 of the North Dakota Century Code, relating to starting age for kindergarten pupils.

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

SECTION 1. AMENDMENT.) Section 15-47-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-01. SCHOOLS FREE AND ACCESSIBLE - SCHOOL AGES.) The public schools of the state shall be equally free, open, and accessible at all times to all children between the ages of six and twenty-one, except that children who do not arrive at the age of six years by midnight August 31 shall not start the first grade in an elementary school until the beginning of the following year, except children who by reason of special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the state department of public instruction and administered by the school district, or who have completed kindergarten in an approved kindergarten, may start school at a younger age. However, under no circumstances shall a child start ~~school~~ first grade that school year if he is not six years of age by January first. Children who do not arrive at the age of five years by midnight August 31 shall not start kindergarten until the beginning of the following school year, except children who by reason of special talents or abilities as determined by a series of developmental and readiness screening instruments approved by the state department of public instruction and administered by the school district may start school at a younger age. However, under no circumstances shall a child start kindergarten that school year if he or she is not five years of age by January first.

Approved March 21, 1979

CHAPTER 251

SENATE BILL NO. 2358
(Senators Holmberg, Redlin, Reiten)
(Representatives Black, Mattson, Reed)

SCHOOL DISTRICT ELECTION QUALIFICATIONS

AN ACT to amend and reenact section 15-47-05 of the North Dakota Century Code, relating to qualifications for voting in school district elections for school officers and for eligibility for school district offices; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-47-05 of the 1977 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~~ of this state is qualified to vote ~~at~~ for 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 clerk, 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. For the purposes of elections held pursuant to this chapter, only, a person who resides on an air force base is a resident of a school district if the school district receives students from the air force base pursuant to contract and receives impact aid pursuant to Public Law 81-874, as amended [64 Stat. 1100, 20 U.S.C. 236 et seq.].

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 15, 1979

CHAPTER 252

HOUSE BILL NO. 1610
(Wentz)

SCHOOL CENSUS

AN ACT to amend and reenact section 15-47-13 of the North Dakota Century Code, relating to the school census; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 15-47-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-13. SCHOOL CENSUS - REPORT.) The school board of each public school district shall cause an enumeration to be made between the first and thirty-first days of May of each odd-numbered year, of all persons under eighteen years of age, ~~as of such thirty-first day of May,~~ having their legal residence in the district. The census shall enumerate such persons by their ages as of the thirty-first day of August. The census also shall include the ~~following information:~~

1. ~~The names and ages of such persons and the names and post-office addresses of parents or guardians having the care and custody of each;~~
2. ~~The names and ages of all deaf, blind, and mentally deficient persons between the ages of five years and twenty-five years residing in the district, including all such persons who are too deaf or mentally deficient to acquire an education in the common schools;~~
3. ~~The names and ages of all crippled persons of any age residing in the district;~~
4. ~~The names and post-office addresses of the parents or guardians of all the persons mentioned in subsections 2 and 3 of this section.~~

The enumeration shall be made upon and in accordance with forms prescribed by the superintendent of public instruction and furnished by the county superintendent of schools, and shall be approved by the school board and returned to the county superintendent prior to the fifteenth day of July in the year in which it is made, ~~and immediately upon receipt of such report the county superintendent of schools shall furnish a copy of the enumeration of deaf persons to the superintendent of the school for the deaf, a copy of the enumeration of blind persons to the superintendent of the school for the blind, and a copy of the enumeration of mentally deficient persons to the superintendent of the Grafton state school.~~ The county superintendent shall submit the enumeration to the superintendent of public instruction.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 15, 1979

CHAPTER 253

SENATE BILL NO. 2139
(Fritzell)

INSTRUCTION CONCERNING NATIONAL ANTHEM

AN ACT to amend and reenact section 15-47-37 of the North Dakota Century Code, relating to instructing school students concerning the United States and state constitutions and the pledge of allegiance, and providing for instruction concerning the national anthem.

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

SECTION 1. AMENDMENT.) Section 15-47-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-47-37. INSTRUCTION ON UNITED STATES AND STATE CONSTITUTIONS - PLEDGE OF ALLEGIANCE - NATIONAL ANTHEM.) The officers of every school district shall ensure that all students from the seventh grade through the twelfth grade, inclusive, in every school within the district, shall receive the equivalent of at least a forty-five minute class period of study, each week, on the Constitution of the United States and the Constitution of North Dakota, for at least three of those six years. And that each morning the pledge of allegiance to the flag shall precede each day's study in the first grade through the sixth grade, inclusive. Students shall also receive instruction concerning the words and music of the national anthem so they are able to recite or sing the words and recognize the music by the time the students complete the sixth grade.

Approved March 21, 1979

CHAPTER 254

SENATE BILL NO. 2321
(Albers)

ELEMENTARY SCHOOL CONTINUANCE

AN ACT to amend and reenact section 15-53.1-27 of the North Dakota Century Code, relating to the continuance of elementary schools in reorganized 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 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 school board in the old district where the school is located, by a majority unanimous vote, approve approves 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 school board action.

Approved March 19, 1979

CHAPTER 255

SENATE BILL NO. 2102
(Thane)

REVENUE BOND ISSUE FOR SCHOOL OF SCIENCE STUDENT HOUSING

AN ACT to authorize the state board of higher education to issue revenue bonds for the construction of student housing at the state school of science at Wahpeton; to provide an appropriation; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSE.) In accordance with chapter 15-55, the state board of higher education is hereby authorized and empowered to issue and sell bonds for the purpose of purchasing land and constructing student housing facilities at the state school of science at Wahpeton, North Dakota, in an amount not to exceed three million dollars. The bonds authorized by this section shall be retired solely from revenue from the student housing facilities, and shall not be a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds authorized under section 1, or so much thereof as may be necessary, are hereby appropriated for the purchase of land, and constructing and equipping the student housing facilities 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.

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

Approved February 8, 1979

CHAPTER 256

HOUSE BILL NO. 1376
(Representatives Swiontek, Kennelly)
(Senator Hanson)

REVENUE BOND ISSUE FOR STATE UNIVERSITY STUDENT HOUSING

AN ACT to authorize the state board of higher education to issue revenue bonds for the construction of student housing at North Dakota state university of agriculture and applied science; to provide an appropriation; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSE.) In accordance with chapter 15-55, the state board of higher education is hereby authorized and empowered to issue and sell bonds for the purpose of constructing student housing facilities at North Dakota state university of agriculture and applied science, in an amount not to exceed two million dollars. The bonds authorized by this section shall be retired solely from revenue from the student housing facilities, and shall not be a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds authorized under section 1, or so much thereof as may be necessary, are hereby appropriated for constructing and equipping the student housing facilities 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.

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

Approved March 3, 1979

CHAPTER 257

HOUSE BILL NO. 1525
(Representatives Stenehjelm, Kuchera)
(Senator Holmberg)

REVENUE BOND ISSUE FOR UNIVERSITY STUDENT UNION

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds to construct a revenue-producing facility at the university of North Dakota; to make an appropriation; to set a limitation and provide an exception; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSES.) The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds, in any amount up to but not exceeding two million dollars, for the purpose of constructing a revenue-producing addition to the memorial student union at the university of North Dakota, Grand Forks. Bonds issued under the provisions of this Act shall not become a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds, or so much thereof as may be necessary, plus any available funds received from federal or private sources, are hereby appropriated for the construction and equipment of the facility authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the authorized bonds.

SECTION 3. LIMITATION - EXCEPTION.) Funds used for construction and equipment of the authorized facility shall not exceed the amount authorized in section 1, except to the extent that funds received from private or federal sources exceed the authorized amount.

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

Approved March 3, 1979

CHAPTER 258

HOUSE BILL NO. 1526
(Representatives Stenehjelm, Kuchera)
(Senator Holmberg)

REVENUE BOND ISSUE FOR UNIVERSITY PARKING LOTS

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds to construct revenue-producing facilities at the university of North Dakota; to make an appropriation; to set a limitation and provide for an exception; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSES.) The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds in any amount up to but not exceeding five hundred thousand dollars, for the purpose of constructing revenue-producing parking lots at the university of North Dakota. Bonds issued under the provisions of this Act shall not become a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds, or so much thereof as may be necessary, plus any available funds received from federal or private sources, are hereby appropriated for the construction and equipment of the facility authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the authorized bonds.

SECTION 3. LIMITATION - EXCEPTION.) Funds used for construction and equipment of the authorized facility shall not exceed the amount authorized in section 1, except to the extent that funds received from private or federal sources exceed the authorized amount.

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

Approved March 3, 1979

CHAPTER 259

SENATE BILL NO. 2349
(Olin)

REVENUE BOND ISSUE FOR DICKINSON STATE MARRIED STUDENT HOUSING

AN ACT to authorize the state board of higher education to issue and sell self-liquidating, tax-exempt bonds to construct a revenue-producing facility at Dickinson state college; to make an appropriation; to set a limitation and to provide an exception to it; and to declare an emergency.

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

SECTION 1. BOARD OF HIGHER EDUCATION - BOND ISSUANCE - PURPOSE.) The state board of higher education, in accordance with chapter 15-55, is hereby authorized to issue and sell self-liquidating, tax-exempt bonds, in any amount up to but not exceeding six hundred thousand dollars, for the purpose of constructing revenue-producing married student housing at Dickinson state college. Bonds issued under the provisions of this Act shall not become a general obligation of the state of North Dakota.

SECTION 2. USE OF PROCEEDS - APPROPRIATION.) The proceeds resulting from the sale of bonds, or so much thereof as may be necessary, plus any available funds received from federal or private sources, are hereby appropriated for the construction and equipment of the buildings authorized in section 1. Any unexpended balances from the sale of bonds shall be placed in sinking funds for the retirement of the authorized bonds.

SECTION 3. LIMITATION - EXCEPTION.) Funds used for construction and equipment of the authorized buildings shall not exceed the amounts authorized in section 1, except to the extent that funds received from private or federal sources exceed the authorized amounts.

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

Approved March 18, 1979

CHAPTER 260

SENATE BILL NO. 2060
(Legislative Council)
(Interim Committee on Education)

ADVISORY COUNCIL ON SPECIAL EDUCATION REPEALED

AN ACT to amend and reenact sections 15-59-03, 15-59-04, and 15-59-05 of the North Dakota Century Code, relating to the advisory council on special education; and to repeal section 15-59-02 of the North Dakota Century Code, relating to the advisory council on special education.

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

SECTION 1. AMENDMENT.) Section 15-59-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-03. DIRECTOR OF SPECIAL EDUCATION.) A qualified director of special education and such ~~assistane~~ assistants as may be necessary shall be employed by the superintendent of public instruction ~~with-the-advice-and-approval-of-the-advisory-council.~~

SECTION 2. AMENDMENT.) Section 15-59-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-04. SCHOOL DISTRICTS TO PROVIDE SPECIAL EDUCATION.) School districts shall provide special education to handicapped children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with ~~the--state--advisory--council--and~~ the director of special education and with the institutions of the state. Each school district shall submit a plan with the superintendent of public instruction for implementing special education in the district by July 1, 1975. Special education services shall be fully implemented by July 1, 1980. School districts may provide special education to gifted children in accordance with the provisions of this chapter and in so doing may act jointly with one or more other districts and shall cooperate with ~~the-state-advisory-council-and~~ the director of special education.

SECTION 3. AMENDMENT.) Section 15-59-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-05. POWERS AND DUTIES OF ~~ADVISORY--COUNCIL-AND THE~~ DIRECTOR OF SPECIAL EDUCATION.) The ~~advisory--council,--acting through--the--office--of--the~~ superintendent of public instruction, shall establish general state policy within the provisions of this chapter and shall endeavor to ensure a cooperative special education program coordinating all available services. ~~It~~ He shall cooperate with private agencies, soliciting their advice and cooperation in the establishment of policy and in the coordination and development of special education programs. ~~With-the-approval-of-the-advisory council-and-in~~ In accordance with the provisions of this chapter ~~and the--policy--of--the--council,~~ the director of special education shall prescribe rules and regulations for the special education of exceptional children and for the administration of this chapter ~~and he.~~ He shall assist the school districts of the state in the inauguration, administration, and development of special education programs, and he shall establish standards and provide for the approval of certification of schools, teachers, facilities, and equipment.

SECTION 4. REPEAL.) Section 15-59-02 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

CHAPTER 261

HOUSE BILL NO. 1624
(Fleming, Herman, Knudson, Mushik)

SERVICES TO HANDICAPPED STUDENTS

AN ACT to provide for payment of room and board on behalf of handicapped students in out-of-state placements, and the development of implementation of interagency agreements for the provision of related services to handicapped students.

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

SECTION 1. COSTS OF OUT-OF-STATE BOARDING CARE FOR HANDICAPPED STUDENTS PAID BY THE SOCIAL SERVICE BOARD OF NORTH DAKOTA.) Within the limits of legislative appropriation, the social service board of North Dakota shall fund the provision of room and board on behalf of those handicapped children placed by school districts in out-of-state public or private facilities in accordance with section 15-59-07.

SECTION 2. INTERAGENCY COOPERATIVE AGREEMENTS FOR THE PROVISION OF EDUCATIONAL RELATED SERVICES TO HANDICAPPED STUDENTS - REPORT BY DEPARTMENT OF PUBLIC INSTRUCTION.) The department of public instruction shall cooperatively develop and implement interagency agreements with appropriate public and private agencies, including the director of institutions, the state social service board, and the state department of health, for purposes of maximizing available state resources in fulfilling the educational related service requirements of Public Law 94-142 and section 504 of the Rehabilitation Act of 1973, as amended. The department of public instruction shall report to the interim legislative council committee on education the content of such interagency agreements and the progress in achieving the goals and objectives set out therein at such time as the interim committee may direct.

Approved March 27, 1979

CHAPTER 262

SENATE BILL NO. 2056
(Legislative Council)
(Interim Committee on Education)

MULTIDISTRICT SPECIAL EDUCATION PROGRAMS

AN ACT to provide for the creation of multidistrict special education boards; to amend and reenact sections 15-40.1-16.1, 15-59-01, 15-59-05.1, 15-59-06, 15-59-07, and 15-59-08 of the North Dakota Century Code, relating to transportation costs, special education of exceptional children, financing and mill levies for special education; and to repeal section 15-59-09 and chapter 15-59.1 of the North Dakota Century Code, relating to county special education programs and the election to discontinue the mill levy for special education.

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

SECTION 1. MULTIDISTRICT SPECIAL EDUCATION PLAN.) School districts may be organized into multidistrict special education programs for purposes of planning and coordinating special education and related services. The multidistrict program board shall submit a plan for implementation by July 1, 1980 for such organization to the superintendent of public instruction, who shall approve or disapprove any plan submitted. Such plan and any amendments shall meet the regulations and guidelines as established by the superintendent of public instruction. School districts not participating in a multidistrict special education program shall submit a plan for providing special education and related services. The school board of any school district which has been excluded from a multidistrict special education program who wish to have their school district included in such program may petition the superintendent of public instruction, who shall consider such petition prior to approving any plan submitted pursuant to this section or section 5 of this Act. Appeals may be made to the state board of public education.

SECTION 2. ORGANIZATIONAL PLAN - CONTENTS.) The organizational plan to be submitted to the superintendent of public instruction shall include the number of members on the multidistrict special education board, how each district will be represented, selection of officers, terms of office, meeting times, requirements for a quorum, and such other items as may be required by regulation

of the superintendent of public instruction. Representatives on the multidistrict board shall be appointed by the school boards of the participating districts. Compensation for board members shall be the same as that allowed school board members pursuant to section 15-29-05.

SECTION 3. AGREEMENT OF PARTICIPATION IN MULTIDISTRICT PROGRAMS.) Upon approval of the plan by each school district by a majority vote of the school board, the school district shall become a member of the multidistrict special education program.

SECTION 4. WITHDRAWAL FROM A MULTIDISTRICT PROGRAM.) In order to withdraw from a multidistrict special education program, a school district must, on or before March first prior to the beginning of the school year for which it seeks withdrawal:

1. Approve the withdrawal by a majority vote of the school board.
2. Notify the multidistrict board of the withdrawal.
3. Submit a plan to the superintendent of public instruction for providing services to handicapped children.

SECTION 5. POWERS AND DUTIES OF THE MULTIDISTRICT BOARD.) The powers and duties of a multidistrict special education board shall be as follows:

1. To prepare, on behalf of the participating school districts, an annual plan for providing special education and related services, such plan to be submitted to the superintendent of public instruction for approval.
2. To receive state and federal funds and distribute them to each of the participating school districts.
3. To employ personnel to carry out administrative, itinerant instruction, coordinative, and related services, who shall have the same statutory rights as school district employees. Rights which teachers shall have during the transition as set forth herein shall include, but not be limited to, those rights available under sections 15-47-27 and 15-47-38 of the North Dakota Century Code.
4. To receive and expend any private, local, state, or federal funds for the payment of personnel and for expenses of the multidistrict board.
5. To contract with school districts within and without the multidistrict area to provide special education and related services.

* SECTION 6. AMENDMENT.) Section 15-40.1-16.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-40.1-16.1. TRANSPORTATION AID FOR COOPERATIVE CERTAIN VOCATIONAL EDUCATION AND SPECIAL EDUCATION PROGRAMS.) There shall be paid from the county equalization fund and from state funds to each school district an amount for transporting pupils to and from schools in other districts and to and from schools within school districts for vocational education courses offered through cooperative arrangements approved by the state board of vocational education. Similar payments shall be paid to school districts transporting pupils for special education programs approved by the superintendent of public instruction. Such amount shall be the same amount for mileage and per day as is provided in section 15-40.1-16, except that school districts entitled to transportation aid pursuant to this section shall receive such aid for all miles [kilometers] traveled and for all pupils transported, regardless of whether or not such pupils live within the incorporated limits of cities in which the schools in which they are enrolled are located. Provided, however, that no school district shall receive more than one per-pupil payment for transportation regardless of the number of times any pupil is transported in any one day.

SECTION 7. AMENDMENT.) Section 15-59-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-01. DEFINITIONS.) As used in this chapter:

1. "Exceptional child" means a natural person ~~to the age of twenty-one~~ not less than three nor more than twenty-one years of age, who, because of mental, physical, emotional, or learning characteristics, requires special education services. This may include a handicapped child or a gifted child. Services to handicapped children from three to six years of age may be provided in accordance with regulations as established by the state superintendent of public instruction.
2. "Special education" means classroom, home, hospital, institutional, or other instruction to meet the needs of handicapped children, transportation, and corrective and supporting services required to assist exceptional children in taking advantage of, or responding to, educational programs and opportunities.
3. "Handicapped child" means a child who is mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, emotionally disturbed, specific learning disabled, crippled, or otherwise health impaired who by reason thereof requires special education and related services.

* NOTE: Section 15-40.1-16.1 was also amended by section 11 of House Bill No. 1056, chapter 220.

4. "Gifted child" means a gifted and talented child identified by professional, qualified persons, who, by virtue of outstanding abilities, is capable of high performance and who requires differentiated educational programs and services beyond those normally provided by the regular school program in order to realize his contribution to self and society.
5. "Learning disability" means 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.

SECTION 8. AMENDMENT.) Section 15-59-05.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-05.1. ELIGIBILITY FOR STATE AND FEDERAL AID.) The superintendent of public instruction may apply for, administer, receive, and expend any federal aid for which this state may be eligible, under the office of the superintendent of public instruction, in the administration of this chapter within the limits of legislative appropriation. School districts, county special education boards and multi-county special education boards and multidistrict special education programs shall be eligible to serve as the local education agency for application, receipt, administration, and expenditure of state and federal aid within the limits of legislative appropriation. The North Dakota school for the blind, the North Dakota school for the deaf, the Grafton state school, the state industrial school, and the Jamestown state hospital shall be eligible to apply, receive, administer, and expend federal aid.

* SECTION 9. AMENDMENT.) Section 15-59-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-06. STATE COOPERATION 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 and state foundation aid program whether or not such pupils are regularly attending school in the school or school district receiving such payments. In the case of a student who is enrolled in a nonpublic school but who is

* NOTE: Section 15-59-06 was also amended by section 18 of House Bill No. 1056, chapter 220.

attending a public school special education program, payments shall be made to the appropriate public school district in relation to the proportion of a normal school day as such student participates in such special education program. For the purposes of this section, a normal school day shall be deemed to consist of six hours. 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~~ three 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~~ four 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.

SECTION 10. AMENDMENT.) Section 15-59-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-07. CONTRACTS FOR HANDICAPPED CHILDREN TO ATTEND PRIVATE OR OUT-OF-STATE PUBLIC SCHOOLS.) If any school district in this state has any ~~educable~~ handicapped 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 or mental handicap or because of a learning disability, such school district shall contract with any accredited private nonsectarian nonprofit corporation within or without the state or an out-of-state public school 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 or out-of-state public school 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 or the out-of-state public school as part of the cost of educating such student an amount for the school year equal to ~~three~~ two and one-half 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 or out-of-state public school. The transportation shall be furnished as provided by rules and

regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for at least eighty percent of the costs incurred by it in providing transportation for the applicant. The reimbursement shall not be for more than six round trips home per year at a rate not to exceed that paid state officials. The remainder of the actual cost of educating the handicapped student not covered by other payments or credits shall be paid from funds appropriated by the legislative assembly for special education notwithstanding limitations cited in section 15-59-06. The district of residence shall be entitled to the per-pupil foundation payment. ~~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~~ state special education funds 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.~~

SECTION 11. AMENDMENT.) Section 15-59-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-59-08. SCHOOL DISTRICT SPECIAL EDUCATION PROGRAM - FINANCING - LEVY - LIMITATIONS OF LEVY.) The school board of any school district may budget funds from the school district general fund for a special education program for the school district. If the school district is located in a county which is not levying a county tax for special education, the school board may, upon approval by a majority of the voters voting on the proposal at an election called by the school board, levy a tax not to exceed a total of three five mills upon all taxable property in the school district for the purpose of carrying out a special education program for the school district, separately or, whenever possible, in cooperation with other school districts. Funds presently in the county special education program will be prorated back to all school

~~districts within the county or multidistrict special education board by a majority vote of the county special education board. If the school district is located in a county which is levying less than three mills for special education, or if the school district consists of territory in more than one county and one or more of the counties of which the district is a part, levy a tax for special education, the tax provided in this section shall be levied on all of the property in the district to the extent possible, provided that the levy on any property which is new subjected to a county levy for special education shall be reduced, if necessary, to ensure that none of the property located within the school district is subjected to a combined county and school district special education levy in excess of three mills. The school board of a school district, all or a part of which is located in a county levying a tax for special education, shall cooperate with the county or counties having special education programs to provide a program of special education for the children with special education needs in the school district. The levy provided in this section shall be over and above any mill levy limitations provided by law and shall be collected and paid in the same manner as are other school district property taxes. The county treasurer shall credit the proceeds of the tax levy, together with any other funds received from the state or other sources for school district special education purposes, to a school district special education fund. Such funds shall be expended, within the limitations of the budget approved by the school board, for the school district special education program.~~

SECTION 12. REPEAL.) Section 15-59-09 of the 1977 Supplement to the North Dakota Century Code and chapter 15-59.1 of the North Dakota Century Code are hereby repealed effective July 1, 1980.

Approved April 7, 1979

CHAPTER 263

SENATE BILL NO. 2128
(Committee on Education)

(At the request of the Department of Public Instruction)

STATE SCHOOL CONSTRUCTION FUND LOAN ELIGIBILITY

AN ACT to amend and reenact subsection 2 of section 15-60-03 of the North Dakota Century Code, relating to the state school construction fund.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 15-60-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The board shall have no power at any time or in any manner to pledge the credit or taxing power of the state or any other school districts. No obligations or debts of the board shall be deemed to be obligations of the state or any other school districts, and the state or any other school districts shall not be liable for the payment of principal or interest on such obligations. The board shall at no time enter into any contract with a school district under the provisions of this chapter, unless such school district is at that time annually levying a sufficient mill levy which the board has determined will provide for repayment of the contracted loan within twenty years after the initial payment from the state school construction fund to the school district, but a school district shall not borrow more than thirty percent of the taxable valuation of the district from the fund and shall not be permitted to levy less than ten mills for the maintenance of a building fund. The levy required by this section for repayment must be maintained over the life of the contract with the board, and the school district must have at the time of the loan an existing bonded indebtedness to the maximum limit permitted by law.

Approved March 12, 1979

CHAPTER 264

HOUSE BILL NO. 1356
(Berger, Black)

STATE SCHOOL CONSTRUCTION FUND
LOAN LIMIT

AN ACT to amend and reenact section 15-60-04 of the North Dakota Century Code, relating to amount of loan from the state school construction fund.

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

SECTION 1. AMENDMENT.) Section 15-60-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-60-04. LIMITATIONS OF PURPOSES AND AMOUNT EXPENDED.) The board may expend for construction or improvements for any district thirty percent of its taxable valuation, but not to exceed ~~one~~ two million dollars to any one school district. No money shall be expended for gymnasiums or auditoriums except that in the event an entire school unit is constructed, the auditorium or gymnasium may be considered as part of the total plant and the district may be eligible, provided priority shall first be given the construction and improvements of school units not including an auditorium or gymnasium.

Approved March 3, 1979

CHAPTER 265

SENATE BILL NO. 2164

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

SALE OF SURPLUS PROPERTY

AN ACT to amend and reenact section 15-61-05 of the North Dakota Century Code, relating to disposition of surplus property.

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

SECTION 1. AMENDMENT.) Section 15-61-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-61-05. DISPOSITION OR EXCHANGE OF STATE SURPLUS PROPERTY.) Whenever any department, agency, or institution of the state of North Dakota has in its possession property which is surplus, whether originally obtained with state or federal funds, and it appears to the head of such department, agency, or institution that such surplus property may be used by any other department, agency, or institution of the state or any political subdivision of the state, he shall inform the director of the department of accounts and purchases, which department shall then proceed to dispose of said property in the following manner:

1. By transferring it to other state departments, institutions, or agencies without cost, except for transportation expenses which shall be paid by the receiving agency, and except that when such surplus property was originally purchased pursuant to an appropriation other than from the general fund of the state, the agency receiving surplus property shall pay an amount equal to the fair market value of such property with such funds being deposited in the fund from which the original purchases were made; or
2. If not disposed of under subsection 1, then by sale on sealed bids or public auction at the highest and best bid for property valued at more than three thousand dollars with no money deposit required prior to sale, or by sealed bids or public auction or negotiation at fair value for property valued at less than three thousand dollars; or

3. If not disposed of under subsections 1 or 2, title to the property shall be transferred to the political subdivisions without cost, except for transportation expenses.

All proceeds of property sold under authority of this section, less sales costs, shall be deposited in the general fund except as provided for in subsection 1. No department, agency, or institution shall exchange items as part of a purchase price of new items until a detailed statement of the value of the items to be exchanged and request for approval have been submitted to the director of the department of accounts and purchases. Such approval shall be given by the director of the department of accounts and purchases only after he has determined that the item has been valued at fair value.

Approved March 10, 1979

CHAPTER 266

HOUSE BILL NO. 1109
(Committee on Education)
(At the request of the Bank of North Dakota)

STATE SCHOLARSHIP REVOLVING FUND REPEALED

AN ACT to repeal chapter 15-62 of the North Dakota Century Code,
relating to the discontinued state scholarship revolving fund.

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

* SECTION 1. REPEAL.) Chapter 15-62 of the North Dakota
Century Code is hereby repealed.

Approved March 3, 1979

* NOTE: Chapter 15-62 was also repealed by section 108 of
House Bill No. 1073, chapter 187.

CHAPTER 267

HOUSE BILL NO. 1334

(Unhjem, Lipsiea, Mattson, Stenehjem, Swiontek)

GUARANTEE LOAN PROGRAM

AN ACT to amend and reenact section 15-62.1-01, subsection 1 of section 15-62.1-02, and sections 15-62.1-04, 15-62.1-07, and 15-62.1-09 of the North Dakota Century Code, relating to the guaranteed student loan program; and to repeal sections 15-62.1-11 and 15-62.1-12 of the North Dakota Century Code, relating to the guaranteed loan program.

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

SECTION 1. AMENDMENT.) Section 15-62.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.1-01. GUARANTEE LOAN PROGRAM - ADMINISTRATION.) The Bank of North Dakota, hereinafter called the "agency", shall be the state agency designated to administer a state guarantee loan program, as provided in this chapter. ~~The--board--of--higher education,--hereinafter-referred-to-as-the-"board",--shall--advise--the agency--on--criteria--for--student--eligibility--to--participate--in--the program.~~ The industrial commission shall appoint an advisory board consisting of a representative of the board of higher education, two representatives of the financial community, three representatives of both public and private education, one student, one representative of the Bank of North Dakota who is involved in the loan function, and one lay person. The industrial commission shall solicit nominations from the appropriate constituent groups. The constituent groups may include, but are not limited to, the North Dakota bankers association, the state credit union board, the state savings and loan association, the accredited and/or approved postsecondary institutions in the state, the North Dakota student association, the state board of higher education and the Bank of North Dakota.

SECTION 2. AMENDMENT.) Subsection 1 of section 15-62.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. To guarantee the loan of money by eligible lending institutions, upon such terms, conditions, and application procedures, commensurate with the applicable provisions of the Federal Higher Education Act of 1965,* [20 U.S.C. 1001 et seq.] as amended, which it may establish in accordance with the provisions of this chapter, to students, ~~provided such persons shall have been residents of this state for at least one year and who~~ meet such other requirements as may be determined necessary, prior to making application under this chapter, and who are accepted for enrollment or are attending ~~or plan to attend~~ an eligible postsecondary institution located within or without this state to assist them in meeting their expenses of higher education or vocational education postsecondary education. Students who are accepted for enrollment or are attending ~~or plan to attend~~ colleges an eligible postsecondary institution on at least a part-time half-time basis, as determined by the postsecondary institution, shall be eligible for loans hereunder. The agency shall, by rule, establish minimum qualifications for a person to be deemed a part-time student for purposes of this chapter.

SECTION 3. AMENDMENT.) Section 15-62.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.1-04. REPAYMENT OF LOANS.) Loans ~~made under the provisions of this chapter and any other loans received by the student under the provisions of the Higher Education Act of 1965,* as amended, shall be repaid in the amount of not less than thirty dollars per month commencing on the first day of the tenth calendar month following termination of enrollment or earlier at the option of the borrower. Deferment of repayment provisions for not more than three years may be authorized by the agency if the student shall serve on active duty as a member of the armed forces of the United States or an active member of such other program as may be approved by the agency.~~ Repayment, or deferment of repayment, of loans guaranteed under this chapter shall be consistent with the provisions of the Higher Education Act of 1965 [20 U.S.C. 1001 et seq.], as amended.

SECTION 4. AMENDMENT.) Section 15-62.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.1-07. FEES FOR INSURANCE AND OTHER REASONABLE COSTS.) The agency is hereby authorized to charge reasonable fees for guarantee and insurance to students obtaining loans under this chapter, and such receipts shall be deposited in the reserve fund in the agency fees shall be available to defray costs of administering the guarantee loan program. Fees in excess of the amount required to pay the cost of administering the program shall be deposited in the reserve fund.

SECTION 5. AMENDMENT.) Section 15-62.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.1-09. INFORMATION SYSTEM.) The eligible postsecondary educational institutions in the state shall furnish to the agency and other lending institutions such information as may be necessary to properly administer the guarantee loan program and the agency shall furnish information in regard to student loan transactions on a regular basis to such postsecondary educational institutions.

SECTION 6. REPEAL.) Sections 15-62.1-11 and 15-62.1-12 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

CHAPTER 268

SENATE BILL NO. 2377
(Melland)

STUDENT FINANCIAL ASSISTANCE PROGRAM ADMINISTRATION

AN ACT to amend and reenact sections 15-62.2-01, 15-62.2-02, 15-62.2-03, and 15-62.2-04 of the North Dakota Century Code, relating to the student financial assistance program and providing that the program be administered by the state board of higher education.

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

SECTION 1. AMENDMENT.) Section 15-62.2-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-01. STUDENT FINANCIAL ASSISTANCE PROGRAM - ESTABLISHMENT - ADMINISTRATIVE RESPONSIBILITY.) There is hereby established a North Dakota student financial assistance program, which shall provide grants to assist the following students:

1. Resident undergraduate students ~~having--graduated--from North-Dakota-high-schools~~ pursuant to section 15-10-19.
2. North Dakota resident students who have attended and graduated from a high school in a bordering state pursuant to section 15-40.2-10, who are attending qualified institutions of postsecondary education within North Dakota.
3. North Dakota resident students who, because of physical or mental handicap as certified by a physician, are attending postsecondary institutions out-of-state due to the lack of special services or facilities, or both, necessary to meet the postsecondary educational needs of the handicapped students within North Dakota.

The student must be in substantial need of financial assistance. This program shall be administered by ~~a-single-state--agency,--which shall-be~~ the state board of higher education ~~or-such-other-agency-as may-otherwise-be-designated--by--the--governor--in--accordance--with~~

~~federal--law--Hereinafter,--reference-to-the-"administrative-agency" will signify that board, agency, or commission ultimately designated as--provided--in--this--section--to--officially-administer-the-North-Dakota-student-financial-assistance-program.~~

SECTION 2. AMENDMENT.) Section 15-62.2-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-02. ADMINISTRATIVE-AGENCY BOARD OF HIGHER EDUCATION - POWERS AND DUTIES.) The powers and duties of the administrative agency board of higher education under this chapter shall be:

1. To administer the North Dakota student financial assistance program, and to adopt functional rules and regulations regarding the eligibility and selection of grant recipients.
2. To determine the amount of individual grants, but not to exceed five hundred dollars per recipient per academic year.
3. To establish criteria for substantial need based upon the ability of the parents or guardian to contribute toward the applicant's educational expenses.
4. To establish the appropriate procedures for fiscal control, fund accounting, and necessary reports.
5. ~~To--determine--the--organization--of--the--program,--hire-a-director-and-staff,--and-do-such-ether--things--as--may--be-necessary--and--incidental--in--the--administration-of-the-program-~~
- 6- To apply for, receive, expend, and administer granted moneys from federal or private sources.

SECTION 3. AMENDMENT.) Section 15-62.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-03. ADVISORY BOARD - MEMBERSHIP - APPOINTMENT - AUTHORITY.) There is hereby created and established a North Dakota student financial assistance program advisory board, which shall consist of three practicing financial aid officers, one chief administrator of a postsecondary educational institution, one chief fiscal officer of a postsecondary educational institution, one full-time secondary school counselor, and one student enrolled full time at a postsecondary educational institution. All advisory board members are to be selected from North Dakota educational institutions, except that no single institution shall provide more than one member. The advisory board members will be appointed and have terms designated by the administrative-agency board of higher education. Advisory board members shall be reimbursed for travel

expenses in the same manner and amounts as other state officials and employees. The advisory board shall have the responsibility to advise the administrative-agency board of higher education on all matters relating to the North Dakota student financial assistance program, and to act as a liaison between the administrative--agency board of higher education and the participating institutions of postsecondary education.

SECTION 4. AMENDMENT.) Section 15-62.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-62.2-04. FUNDS RECEIVED BY THE ADMINISTRATIVE-AGENCY BOARD OF HIGHER EDUCATION - WHERE DEPOSITED - HOW APPROPRIATED - HOW EXPENDED.) Funds received by the administrative-agency board of higher education shall be deposited in the state treasury in a special fund to be known as the North Dakota student financial assistance fund and expended in accordance with legislative appropriation. All expenditures from this fund shall be paid by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the administrative-agency board of higher education.

Approved March 23, 1979

CHAPTER 269

HOUSE BILL NO. 1319
(Representatives Unhjem, Conmy, Kuchera)
(Senator Melland)

TUITION ASSISTANCE GRANT PROGRAM

AN ACT to establish a tuition assistance grant program for eligible resident students of accredited private institutions in North Dakota; and to provide an appropriation.

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. "Accredited private institution" means an institution of higher learning located in North Dakota which is operated privately and not controlled or administered by any state agency or subdivision of the state, and which is accredited by the north central association of colleges and secondary schools.
2. "Baccalaureate degree" means the degree customarily granted upon completion of a course of study normally requiring four academic years of college work.
3. "Agency" means the North Dakota student financial assistance agency.
4. "Final unmet financial need" means that need which remains after deducting any amounts available from the United States department of health, education, and welfare in the form of a basic educational opportunity grant, or from the state of North Dakota in the form of a North Dakota student assistance grant or a tuition assistance grant, or both.
5. "Financial need" means the difference between (a) the student's financial resources available, including those available from the student's parents as determined by a need analysis as defined in the 1977-78 student financial aid handbook issued by the United States department of health, education, and welfare, and (b) the student's

anticipated annual expense while attending the accredited private institution. Financial need for each student shall be calculated each year.

6. "Full-time resident student" means a North Dakota resident, pursuant to section 15-10-19 of the North Dakota Century Code, who is enrolled at an accredited private institution in a course of study including at least one hundred eighty instructional hours per semester.
7. "Half-time resident student" means a North Dakota resident who is enrolled at an accredited private institution in a course of study including at least ninety instructional hours per semester.
8. "Qualified student" means a full-time or half-time resident student who has established financial need and who is making satisfactory progress towards graduation.
9. "Tuition assistance grant" means a grant by the state of North Dakota to a qualified student.

SECTION 2. ADMINISTRATION OF TUITION ASSISTANCE GRANT PROGRAM BY NORTH DAKOTA STUDENT FINANCIAL ASSISTANCE AGENCY.) The agency shall:

1. Administer the North Dakota tuition assistance grant program, and may adopt rules pursuant to chapter 28-32 with respect to program administration.
2. Receive from the accredited private institutions a computation of financial need for each eligible student, to which shall be attached a copy of a corroborating needs analysis from an agency authorized by the United States department of health, education, and welfare to process family financial statements.
3. Disburse tuition assistance grants.
4. Annually report to the legislative assembly on funds distributed to students of each accredited private institution, including the amounts disbursed, the number of full-time and part-time students assisted, the final unmet need of each student, if any, and funds returned because of discontinued student attendance.

SECTION 3. TUITION ASSISTANCE GRANT ELIGIBILITY - APPLICATION.) Any full-time resident student or half-time resident student who is admitted to and attends an accredited private institution and who establishes financial need is eligible for a tuition assistance grant upon application to the agency.

SECTION 4. TUITION ASSISTANCE GRANT MAXIMUM.) The maximum amount of a tuition assistance grant to a qualified full-time

resident student for each academic year consisting of two semesters is the lesser of (a) the amount of the student's financial need for that period, (b) the difference between the tuition charged by the accredited private institution and the highest undergraduate tuition charged by state colleges or universities, or (c) five hundred dollars. The maximum amount of a tuition assistance grant to a qualified half-time resident student is one-half the amount which would be paid to a qualified full-time resident student.

SECTION 5. TUITION ASSISTANCE GRANT DURATION.) A qualified full-time resident student may receive tuition assistance grants for not more than eight semesters of undergraduate study or until the attainment of a baccalaureate degree, whichever comes first. A qualified half-time resident student may receive tuition assistance grants for not more than sixteen semesters of undergraduate study or until the attainment of a baccalaureate degree, whichever comes first.

SECTION 6. DISTRIBUTION OF GRANT FUNDS.) Subject to section 4, the agency shall distribute available grant funds among qualified students so as to reduce the unmet financial need to the same amount for each student. The total funds appropriated for tuition assistance grants are to be equally divided for awarding grants during each academic year of the appropriation. The agency shall pay one-half of the tuition assistance grant to the student at the beginning of the fall semester and one-half to the student at the beginning of the spring semester upon receipt of certification by the accredited private institution that the student is enrolled and is in attendance. If the student discontinues attendance before the completion of any term, any refund to the student and/or repayment to the tuition assistance grant fund shall be governed by the published refund/repayment policy of the institution. The distribution of tuition assistance grant funds shall be by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the agency.

SECTION 7. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$200,000.00, or so much thereof as may be necessary, to the North Dakota student financial assistance agency for the purpose of providing tuition assistance grants under this Act for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 24, 1979

CHAPTER 270

SENATE BILL NO. 2094
(Jones)

INDIAN STUDENT SCHOLARSHIPS

AN ACT to amend and reenact sections 15-63-02, 15-63-03, 15-63-04, and 15-63-05 of the North Dakota Century Code, relating to scholarships for Indian students.

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

SECTION 1. AMENDMENT.) Section 15-63-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-02. DUTIES OF BOARD.) The state board for Indian scholarships shall:

1. Award scholarship grants as provided in this chapter.
2. Make necessary rules and regulations and establish standards, requirements, and procedures for the administration of this chapter.
3. Encourage persons of Indian blood to attend and be graduated from any institution of higher learning or state vocational education program within North Dakota, and to make application for scholarships.

SECTION 2. AMENDMENT.) Section 15-63-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-03. NUMBER AND NATURE OF SCHOLARSHIPS.) The state board for Indian scholarships shall provide scholarships each year for resident persons of at least one-fourth degree of Indian blood or for enrolled members of tribes now resident in North Dakota to entitle persons so selected to enter and attend any institution of higher learning or state vocational education program within North Dakota upon compliance with all requirements for admission and to pursue any course or courses offered in such institutions or programs.

SECTION 3. AMENDMENT.) Section 15-63-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-63-04. ELIGIBILITY OF CANDIDATES - DETERMINATION.) The initial and continuing scholarship eligibility of resident persons of one-fourth degree of Indian blood or enrolled members of tribes now resident in North Dakota shall be determined by the state board for Indian scholarships after the candidate has gained admission to any institution of higher learning or state vocational education program within North Dakota and has had this fact certified to the board. Factors to be considered in the award of these scholarships shall be the candidate's health, character, financial need, and probable and continuing success as a student.

SECTION 4. AMENDMENT.) Section 15-63-05 of the 1977 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 eligible for a credit in fees in the enrolling institution of higher learning or state vocational education program to apply toward the cost of registration, health, activities, board, books, and other necessary items of not to exceed six hundred sixty-seven dollars per quarter for three quarters, or one thousand dollars per semester for two semesters, in any academic year. The board for Indian scholarships may reduce the amount of any scholarship to accord with individual financial need or funds available. After the enrolling institution or program 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 director of the department of accounts and purchases the name of each recipient and the amount payable, and the director of the department of accounts and purchases shall issue his warrant to the state treasurer who shall pay the amount of the scholarship to the institution of higher learning or state vocational education program 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 13, 1979

ELECTIONS

CHAPTER 271

HOUSE BILL NO. 1138
(Winkjer, Conmy, Stenehjem, Strinden)

ELECTION LAW REVISION

AN ACT to create and enact chapters 16.1-01, 16.1-04, 16.1-05, 16.1-06, 16.1-07, 16.1-08, 16.1-09, 16.1-10, 16.1-12, 16.1-13, 16.1-14, 16.1-15, and 16.1-16, and sections 16.1-11-03 through 16.1-11-24 and sections 16.1-11-26 through 16.1-11-34 of the North Dakota Century Code, relating to a new election code establishing qualifications for electors, initiative and referendum procedures, election offenses, the administration of elections, the establishment of voting precincts, the qualifications and duties of election officers, election supplies, ballots, electronic voting systems, and voting machines, absent voters' ballots, political contributions by corporations and associations, the disclosure of financial interests, corrupt practices, primary elections, nominations at the general election, the conduct of elections, presidential electors, election returns, recounts, and contests; to provide effective dates; and to repeal chapters 16-01, 16-03, 16-05, 16-06, 16-08, 16-09, 16-10, 16-11, 16-12, 16-13, 16-14, 16-15, 16-16, 16-18, 16-20, 16-21, 16-21.1, 16-22, and sections 16-04-02, 16-04-02.1, 16-04-03, 16-04-04, 16-04-05, 16-04-06, 16-04-07, 16-04-08, 16-04-09, 16-04-10, 16-04-12, 16-04-13, 16-04-15.1, 16-04-15.2, 16-04-16, 16-04-17, 16-04-18, 16-04-19, 16-04-21, 16-04-25, 16-04-26, 16-04-27, 16-04-28, 16-04-29, 16-04-30, 16-04-31, 16-04-32, 16-04-33, 16-04-34, 16-04-35, 16-04-36, 16-07-01, 16-07-02, 16-07-03, 16-07-04, 16-07-05, 16-07-06, 16-07-07, 16-07-08, 16-07-09, 16-17-10, and 16-17-12 of the North Dakota Century Code, relating to general election provisions, individual nominations, primary elections, nominations for office, general and special elections, the no-party ballot, the establishment of precincts and voting places, election officers and supplies, the conduct of elections, returns and contests of elections, voting by new residents, absent voters' ballots, corrupt practices, voting machines, electronic voting systems, and the disclosure of financial interest.

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

SECTION 1.) Chapter 16.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-01-01. SECRETARY OF STATE TO SUPERVISE ELECTION PROCEDURES - COUNTY ADMINISTRATOR OF ELECTIONS.)

1. The secretary of state shall be, ex officio, supervisor of elections; he may employ additional personnel to administer this title. The secretary of state shall supervise the conduct of elections and in that supervisory capacity shall have, in addition to other powers conferred on him by law, the power to examine upon his request or the request of any election official, any election ballot or other material, machine, or device used in connection with any election, for the purpose of determining sufficient compliance with the law. The secretary of state, upon determining that any ballot or other material, machine, or device is not in sufficient compliance with the law, shall direct the proper changes to be made.
2. In addition to other duties provided elsewhere by law, the secretary of state shall:
 - a. Develop and implement training programs for all election officials in the state.
 - b. Prepare information for voters on voting procedures.
 - c. Publish and distribute to each county a political calendar, a manual on election procedures, and a map of all election districts for state and national office in that county.
 - d. Convene an annual state election conference of county auditors to discuss uniform implementation of state election policies.
 - e. Prescribe the form of all ballots and the form and wording of ballots on state referendum questions, issues, and constitutional amendments.
 - f. Investigate nonperformance of duties or violations of election laws by election officers.
 - g. Require such reports from county auditors on election matters as he deems necessary.
 - h. Certify results of statewide elections.
 - i. Establish and carry out accounting procedures designed to reflect all election expenditures incurred by the state.

- j. Prepare and publish biennial reports on the conduct and costs of voting in the state, including a tabulation of election returns and such other information and statistics as he may deem appropriate.
 - k. Establish standards for all election machinery, locations, and supplies, including but not limited to, ballots, wrappers, seals, stamps, ballot boxes, pollbooks, tally sheets, reports, voting machines, electronic voting systems, and voting places.
3. In carrying out his duties and to assure uniform voting opportunities throughout the state, the secretary of state shall issue those rules and regulations he deems necessary.
 4. In each county there shall be a county administrator of elections who shall be the county auditor. The county auditor shall be responsible to the secretary of state for the proper administration within his county of state laws, rules, and regulations concerning election procedures.
 5. In addition to other statutory duties, the county auditor shall:
 - a. Procure and distribute supplies required for voting in the county.
 - b. Prepare and disseminate voter information as prescribed by the secretary of state.
 - c. Carry out training programs for all county and precinct election officials as prescribed by the secretary of state.
 - d. Receive and handle complaints referred to him by any voter or precinct official involving circulation of petitions, challenges to voters, actions of election officials, or irregularities of any kind in voting. He shall refer complaints to the secretary of state or the proper prosecuting authority, as he deems appropriate.

Upon completion of the duties required by this subsection, the county auditor shall certify to the secretary of state, in the manner prescribed by the secretary of state, that the duties have been completed.

16.1-01-02. APPLICABILITY OF PROVISIONS OF TITLE.) The provisions of this title shall govern all primary, general, and special statewide and legislative elections, and all other elections, unless otherwise provided by law.

16.1-01-03. OPENING AND CLOSING OF THE POLLS.) The polls at all primary, general, and special elections shall be opened at nine a.m. or at such earlier hour, but not earlier than seven a.m., that may be designated for any precinct by resolution of the governing body of the city or township in which such precinct is located. They shall remain open continuously until seven p.m. or such later hour, not later than nine p.m., as may be designated for a precinct by resolution of the governing body of the city or township in which the precinct is located. All electors standing in line to vote at the time the polls are set to close shall be allowed to vote, but electors arriving after closing time shall not be allowed to vote. The election officers present shall be responsible for determining who arrived in time to vote, and they shall establish appropriate procedures for making that determination. The polling hours for precincts located in unorganized townships shall be established by the county commission of the county in which the unorganized township is located, in accordance with this section. All determinations required to be made pursuant to this section relating to polling hours shall be made, and the county auditor notified of them, no later than thirty days prior to an election.

16.1-01-04. QUALIFICATIONS OF ELECTORS.)

1. Every citizen of the United States who is: eighteen years or older; a resident of this state; and has resided in the precinct at least thirty days next preceding any election, except as otherwise provided in regard to residency in chapter 16.1-14, shall be a qualified elector.
2. Every qualified elector of the state shall have only one voting residence.
3. A person's voting residence shall be determined in accordance with the rules for determining residency as provided in section 54-01-26.
4. Pursuant to section 122 of the Constitution of North Dakota, voting by persons convicted and sentenced for treason or felony shall be limited according to chapter 12.1-33.
5. Pursuant to section 122 of the Constitution of North Dakota, no person who is under guardianship, non compos mentis, or insane shall be qualified to vote at any election. To be denied the right to vote under this subsection, a person must have a guardian duly appointed by a court of competent jurisdiction, upon a finding of incompetence or incapacitation due to mental illness or defect.

16.1-01-05. VOTING BY QUALIFIED ELECTOR MOVING FROM ONE PRECINCT TO ANOTHER.) Where a qualified elector moves from one precinct to another precinct within this state, he shall be entitled

to vote in the precinct from which he moved until he has established his new voting residence.

16.1-01-06. HIGHEST NUMBER OF VOTES ELECTS.) Unless otherwise expressly provided by the laws of this state, in all elections for the choice of any officer, the person receiving the highest number of votes for any office shall be deemed to have been elected to that office.

16.1-01-07. CONSTITUTIONAL AMENDMENTS AND OTHER QUESTIONS TO BE ADVERTISED - NOTIFICATION BY SECRETARY OF STATE - MANNER OF PUBLISHING.) Whenever a proposed constitutional amendment or other question is to be submitted to the people of the state for popular vote, the secretary of state shall, not less than thirty days before the election, certify the amendment or other question to each county auditor and each auditor shall cause notice thereof to be included in the notice required by section 16.1-13-05. Questions to be submitted to the people of a particular county shall be advertised in the same manner.

The secretary of state shall, at the same time he certifies notice to the county auditors of the submission of a constitutional amendment or other question, certify the ballot form for such questions. The ballot form shall conform to the provisions of section 16.1-06-09 and shall be used by all county auditors in preparing ballots for submission to the electorate of each county and in the preparation of sample ballots. Sample ballots shall conform in form and style to samples of such ballots contained in the legal publications handbook prepared under subsection 5 of section 46-01-02. Any requirements in this title that a sample ballot be published will be met by the publication of either the paper ballot or the ballot as it will appear to persons using a voting machine, depending upon the method of voting used in the area involved. Absentee voter ballots shall not be considered in determining which method of voting is used in an area. If both paper ballots and voting machines are used in an area, both forms must be published as sample ballots to meet publication and notice requirements.

At the same time as the sample ballot is published, an analysis of any constitutional amendment, initiated measure, or referred measure shall be published in columns to enable the electors to become familiar with the effect of the proposed constitutional amendment or initiated or referred measure, in addition to the sample ballot listing ballot titles.

16.1-01-08. CORRECTING ERRORS ON BALLOTS - REQUIRING PERFORMANCE OF DUTY - CORRECTING OR PROSECUTING WRONGFUL PERFORMANCE.) The secretary of state shall thoroughly investigate, when the matter comes to his attention, any of the following:

1. Any error or omission which has occurred or is about to occur in the placing of any name on an official election ballot.

2. Any error which has been or is about to be committed in printing the ballot.
3. Any wrongful act which has been or is about to be done by any judge or election clerk, county auditor, canvassing board, a canvassing board member, or any other person charged with any duty concerning the election.
4. Any neglect of duty which has occurred or is about to occur.

If required, the secretary of state shall order the officer or person charged with such error, wrong, or neglect to correct the error, desist from the wrongful act, or perform any required duty. The secretary of state may call upon any county auditor for aid in investigation and correction of the problem. The secretary of state shall cause any person who violates his order to be prosecuted, if the violation constitutes an offense pursuant to this chapter. If the administrative remedies fail to correct the problem, or if the secretary of state refuses to act, any person may petition the supreme court, or the district court of the relevant county where the election of a county officer is involved, for an order compelling the correction of the error, wrong, neglect, or act.

16.1-01-09. REGULATIONS GOVERNING INITIATIVE, REFERENDUM, OR RECALL PETITIONS.)

1. No person shall sign any initiative, referendum, or recall petition circulated pursuant to the provisions of article 105 of the amendments to the Constitution of North Dakota 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, telephone number if he has one, and the date of signing. Every qualified elector signing a petition 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 was signed in his presence, and that the petition was circulated in its entirety.
2. No petition shall be circulated under the authority of article 105 of the amendments to the Constitution by a person who is less than eighteen years of age, nor shall the affidavit called for by subsection 1 of this section be executed by a person who is less than eighteen years of age at the time of signing. All petitions circulated under the authority of the Constitution and of this section must be circulated in their entirety.

16.1-01-10. SECRETARY OF STATE TO PASS UPON SUFFICIENCY OF PETITIONS - METHOD - TIME LIMIT.) The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to

pass upon the sufficiency of any petition mentioned in section 16.1-01-09. The form and style of the verification procedure shall be determined by the secretary of state. Signatures determined by the secretary of state to be invalid shall not be counted, and all violations of law discovered by the secretary of state shall be reported to the attorney general for prosecution.

16.1-01-11. 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.

16.1-01-12. ELECTION OFFENSES - PENALTY.) It shall be unlawful for a person to:

1. Fraudulently alter another person's ballot or substitute one ballot for another, or to otherwise defraud a voter of his vote.
2. Obstruct an elector on the way to a polling place.
3. Vote or offer to vote more than once in any election.
4. Knowingly vote in the wrong election precinct or district.
5. Disobey the lawful command of an election officer as defined in chapter 16.1-05.
6. Knowingly exclude a qualified elector from voting, or knowingly allow an unqualified person to vote.
7. Knowingly vote when not qualified to do so.
8. Sign an initiative, referendum, recall, or any other election petition when not qualified to do so.
9. Sign a name other than his own name to an initiative, referendum, recall, or any other election petition.
10. Circulate an initiative, referendum, recall, or any other election petition not in its entirety, or circulate such a petition when unqualified to do so.
11. Willfully fail to perform any duty of an election officer after having accepted the responsibility of being an election officer by taking the oath as prescribed in this title.
12. Willfully violate any rule or regulation promulgated by the secretary of state pursuant to this title.

13. Willfully make any false canvass of votes, or make, sign, publish, or deliver any false return of an election, knowing the same to be false, or willfully deface, destroy, or conceal any statement or certificate entrusted to his care.
14. Destroy ballots, ballot boxes, election lists, or other election supplies except as provided by law.

A violation of subsections 1 through 13 of this section shall be a class A misdemeanor. A violation of subsection 14 occurring after an election but before the final canvass, or during an election, shall be a class C felony, and in other cases shall be a class A misdemeanor.

Every act which by the provisions of this chapter is made criminal when committed with reference to the election of a candidate is equally criminal when committed with reference to the determination of a question submitted to electors to be decided by votes cast at an election.

SECTION 2.) Chapter 16.1-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-04-01. PRECINCTS AND VOTING PLACES - DUTIES AND RESPONSIBILITIES OF THE BOARD OF COUNTY COMMISSIONERS.) The board of county commissioners of each county:

1. Shall divide the county into precincts and establish the precinct boundaries, except that within the boundaries of any incorporated city, the governing body of the city shall divide the city into precincts and establish their boundaries pursuant to title 40. Any number of townships or parts of townships may be joined into a single precinct provided that no precinct shall encompass more than one legislative district.
2. May alter the number and size of precincts within the county by combining or dividing precincts. However, the governing body of any incorporated city shall have the authority to alter the number and size of precincts located within its boundaries. The board of county commissioners may relinquish the jurisdiction provided under subsection 1 of this section over all or any portion of a township or townships under its jurisdiction to a city for the purpose of establishing a voting precinct if a majority of the governing body of the city agrees to assume such jurisdiction. The governing body of a city, by majority vote, may return jurisdiction granted herein to the county and the county shall accept that jurisdiction.
3. Shall designate a voting place for each precinct and may alter such voting places when there is a good and

sufficient reason. However, the voting places for precincts located within the boundaries of any incorporated city shall be designated, and altered if required, by the governing body of the city.

4. Shall provide voting places which are reasonably accessible to the elderly and the handicapped.

The authority granted by this section shall be exercised by the respective governing bodies no later than thirty days before an election. If legislative apportionment occurs, the authority granted by this section shall be exercised, as it relates to the establishment or reestablishment of voting precincts that may be required because of any change in legislative districts, within ten days after the effective date of the apportionment.

SECTION 3.) Chapter 16.1-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-05-01. ELECTION OFFICERS.) At each primary, general, and special statewide or legislative district election, and at county elections, each polling place shall have an election board in attendance. The election board shall consist of an election inspector and two election judges.

1. The election inspector shall be selected in the following manner:
 - a. In all precincts established by the governing body of an incorporated city pursuant to chapter 16.1-04, the governing body shall appoint the election inspectors for those precincts and shall fill all vacancies occurring in those offices.
 - b. In all other areas, the board of county commissioners shall appoint the election inspectors and shall fill all vacancies occurring in those offices.
 - c. Except in the case of special elections, all appointments required to be made under this section shall be made at least twenty-one days preceding an election. The governing body or board shall notify the county auditor of the appointments, and of any vacancies filled, within twenty-four hours of its action.
2. The election judges for each precinct shall be the precinct committeemen receiving the largest number of votes at the precinct caucus at which they were elected, and representing the two parties which cast the largest and next largest number of votes in the state at the last general election. If for any reason a precinct committeeman does not wish to serve as an election judge, he shall appoint from his precinct a member of his party

to serve as election judge. Should such appointment not be made, the position shall be filled by appointment by the district party chairman. Each election judge shall be given a certificate of appointment signed by the chairman of the district committee of his party. The district committee chairman shall notify the county auditor of the counties in which the precincts are located of the appointment of the election judges at least two weeks prior to the primary, general, or special election. If this notice is not received within the time specified in this section, the election inspector shall appoint the judge no later than one week prior to the election. If at any time before or during an election, it shall be made to appear to an election inspector, by the affidavit of two or more qualified electors of the precinct, that either of the election judges or any poll clerk is disqualified under the provisions of this chapter, the inspector shall remove such judge or clerk at once and shall fill the vacancy by appointing a qualified person of the same political party as that of the judge or clerk removed. If the disqualified judge or clerk had taken the oath of office as prescribed in this chapter, the inspector shall place such oath or affidavit before the state's attorney of the county.

3. Poll clerks shall be appointed by the election judges. Each election judge may appoint one poll clerk. However, in voting precincts or districts in which over three hundred votes are cast in any election, election judges may each appoint one additional poll clerk. The appointment of poll clerks by the election judges shall be made on the basis of the prospective clerks' knowledge of the election procedure and ability to write legibly. All election precincts that use voting machines as authorized in chapter 16.1-06 may, in addition to all other authorized poll clerks, have as many as two additional poll clerks appointed by each election judge. The additional poll clerks shall be appointed on the same basis as other poll clerks.

16.1-05-02. QUALIFICATIONS OF MEMBERS OF THE BOARD OF ELECTION - OATH OF OFFICE.)

1. Every member of the election board and each poll clerk must be a qualified elector of the precinct in which he is assigned to work and must be eligible to vote at the polling place to which he is assigned.
2. No person may serve as a member of the election board or as a poll clerk who:
 - a. Has anything of value bet or wagered on the result of an election.

- b. Is a candidate in the election at which he is serving.
 - c. Is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother, or sister, whether by birth or marriage, of the whole or the half-blood, of any candidate in the election at which he is serving.
3. Prior to assuming their duties, all members of the election board and the poll clerks severally shall take and subscribe an oath in the following form:

I do solemnly swear (or affirm as the case may be), that I will perform the duties of inspector, judge, or clerk (as the case may be) according to law and to the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting the same.

Such oath may be taken before any officer authorized by law to administer oaths, and in case no such officer is present at the opening of the polls, the inspector or election judges shall administer the oath to each other and to the poll clerks. The person administering the oath shall cause an entry thereof to be made and subscribed by him and prefixed to the pollbook.

4. A person serving as a member of the election board shall, prior to each election, attend a period of instruction conducted by the county auditor or his designated representative, provided that such period of instruction has been conducted since the appointment of the election judges or election inspector.
5. If any member of the election board fails to appear at the hour appointed for the opening of the polls, the remainder of the board shall select a person to serve in the absent person's place. In filling a vacancy in the office of election judge, the remainder of the board shall select a person of the absent person's political party if such a person is reasonably available. The office of election inspector may be filled by any qualified person without regard to political affiliation. If no members of the election board appear at the hour appointed for opening the polls, the qualified electors present shall orally elect a board as nearly as possible in conformity with the provisions of this section. If any poll clerk fails to appear at the opening of the polls, the election judge who appointed the absent clerk may appoint a person from the same political party to fill the vacancy.

16.1-05-03. SECRETARY OF STATE AND COUNTY AUDITORS TO DISTRIBUTE ELECTION INFORMATION - COUNTY AUDITOR TO PROVIDE INSTRUCTION.)

1. Not less than thirty days before any primary, general, or special election, the secretary of state shall provide an instruction manual approved by the attorney general, which in layman's terms presents in detail the responsibilities of each election official. The secretary of state shall forward sufficient copies of this manual to each county auditor who shall distribute them to each member of all the election boards in the county.
2. Not more than eight days nor less than three days before each primary, general, or special statewide or legislative district election, each county auditor or his designated representative shall conduct a course on election laws and election procedures for all members of each election board in the county. The course shall be conducted at such place or places throughout the county as the county auditor deems necessary. Attendance at the course is mandatory, and the auditor shall notify the members of the election boards of the time and place of the course. The county auditor shall also notify the state's attorney of the time and place of the course. The state's attorney shall attend all sessions of the course to give advice on election laws. On the date of such course or courses, the county auditor may deliver to all election inspectors at such meeting the official ballots, suitable manila envelopes, and all other materials as provided in chapter 16.1-06. Each person attending the course or courses provided for herein shall be compensated as hereinafter provided.

16.1-05-04. DUTIES OF THE MEMBERS OF THE ELECTION BOARD DURING POLLING HOURS.)

1. It shall be the duty of the election inspector to assign ministerial duties to poll clerks, who shall carry out the ministerial duties assigned by the election inspector.
2. It shall be the duty of the election inspector to assign two poll clerks, one from each political party represented on the election board to perform the function of maintaining the pollbooks. It shall be the duty of the two designated poll clerks to each maintain a pollbook. Each pollbook shall contain the name and address of each person voting at the precinct, and shall be arranged in the form and manner prescribed by the secretary of state.
3. It shall be the duty of the members of the election board to challenge the right of anyone to vote whom they know or have reason to believe is not a qualified elector. Pollbooks from previous elections shall be used as one of the bases for identifying electors. If the challenged person signs an affidavit indicating he is qualified to vote, the officer shall allow the challenged person to vote. All affidavits shall be executed in duplicate as

provided in this chapter, and one copy shall be turned over to the appropriate county auditor for verification.

4. It shall be the duty of each member of the election board to remain on the premises of the polling place during the time the polls are open to prevent the occurrence of fraud, deceit, or other irregularity in the conduct of the election.
5. It shall be the duty of all members of the election board to distribute ballots and other election materials to electors. It shall be the duty of both election judges together to give any assistance requested by electors in marking ballots or operating voting machines. It shall be the duty of the election officers to instruct voters on how to open and close voting machines and how to move the levers to cast and change votes. The election inspector shall supervise the conduct of the election at the polling place, and shall assign duties so as to equally and fairly include both political parties represented on the election board.
6. It shall be the duty of each member of the election board to maintain order in the polling place.
7. It shall be the duty of the election inspector to determine which voters were in line at the poll closing hour and to allow those in line at that time to vote.

16.1-05-05. COMPENSATION OF ELECTION OFFICERS - COMMISSIONER OF LABOR TO CERTIFY MINIMUM WAGE APPLICABLE TO ELECTION OFFICIALS - SECRETARY OF STATE TO CERTIFY AMOUNT TO COUNTY AUDITORS.) The state commissioner of labor, thirty days before each statewide primary, general, or special election, shall determine the state minimum wage applicable to election inspectors, election judges, poll clerks, or any other private individual who performs duties in the election process, and shall certify the amounts to the secretary of state. The secretary of state shall then certify the amounts to the county auditors. As required by this title, the county auditors shall pay the amounts so determined to the relevant election officials, but in no event shall the compensation exceed fifty dollars for each election. State, county, or other election officials who are required to incur expenses while performing duties in the election process shall be reimbursed only for their actual and necessary expenses and mileage in the performance of those duties, in accordance with sections 54-06-09, 44-08-04, and 11-10-15. Other persons performing election duties shall also be paid for expenses and mileage in like manner and amounts. Members of election boards who attend the training sessions provided by section 16.1-05-03 shall be paid twenty-five percent more than the minimum wage determined in this section, during the time spent in the performance of their election duties; however, they shall receive only their actual and necessary expenses and mileage for attendance at the training session.

16.1-05-06. POLL CHALLENGERS - POLL CHECKERS.)

1. One poll challenger appointed by the district chairman of each political party represented on the election board shall be entitled to be in attendance at each polling place. Individual poll challengers may be replaced at any time during the hours of voting, but no more than one poll challenger from each political party shall be entitled to be in attendance at each polling place at any one time. If any person offering to vote is challenged by a poll challenger or by a member of the election board, the challenged person, unless the challenge is withdrawn, shall stand aside and shall not vote unless he executes an affidavit, acknowledged before the election inspector, that he is a legally qualified elector of the precinct. The affidavit shall be executed in duplicate and shall include the name, age, street address, phone number, if any, occupation, name of employer, if any, and the period of time the affiant has lived in the precinct. The person offering to vote shall also be required to produce a driver's license or some other form of identification. Before allowing any person to sign an affidavit, the election inspector shall advise the person of the penalty for making a false affidavit and of the fact that the affidavit will be turned over to the county auditor for verification. Written notice of the penalty for making a false affidavit and that the county auditor will verify the affidavits shall be prominently displayed at the polling place in a form prescribed by the secretary of state. Any person who falsely swears in order to cast his vote shall be guilty of an offense and shall be punished pursuant to chapter 16.1-01. The county auditor shall verify randomly at least ten percent of the affidavits signed in the county, and shall report all violations to the state's attorney.
2. In addition to the poll challenger, not more than two poll checkers appointed by the district chairman of each political party represented on the election board may be in attendance at each polling place, provided such poll checkers do not interfere with the election process or with the members of the election board or poll clerks in the performance of their duties. The poll challengers and poll checkers shall be qualified electors of the district in which they are assigned.

SECTION 4.) Chapter 16.1-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-06-01. BALLOTS FURNISHED AT PUBLIC EXPENSE - EXCEPTIONS.) Except for local elections, election ballots shall be printed and distributed at county expense. For a local election, the expense shall be a charge against the local subdivision in which the election is held. For the purpose of this chapter, local

elections shall include elections in townships, school districts, cities, and park districts.

16.1-06-02. BALLOTS PREPARED BY COUNTY AUDITOR OR LOCAL OFFICIAL.) For a local election, the ballots shall be printed and distributed under the direction of the auditor or clerk of the local subdivision. For all other elections, ballots shall be printed and distributed under the direction of the county auditor, subject to the supervision and approval of the secretary of state as to the legal sufficiency of the form, style, wording, and contents of the ballots.

16.1-06-03. OFFICIAL BALLOTS ONLY TO BE USED.) The official ballot prepared by the county auditor or the local auditor or clerk shall contain the name of each candidate whose name has been certified to or filed with such auditor or clerk in the manner provided in this title. Ballots other than official ballots prepared by the county auditor or local auditor or clerk shall not be cast or counted in any election governed by this title. The list of officers and candidates and the statements of measures and questions to be submitted to the voters shall be deemed an official ballot in precincts in which voting machines or electronic voting systems are used.

16.1-06-04. FORM AND QUALITY OF BALLOTS GENERALLY.) All official ballots prepared under the provisions of this title for use in precincts in which voting machines or electronic voting systems are not used shall:

1. Be a specific color, and the secretary of state shall prescribe a different color for each separate type of ballot used.
2. Be printed on uniform quality paper in an ink color suitable to make the ballot clearly legible.
3. Be of sufficient length to contain the names of all candidates to be voted for at such election.
4. Have the language "Vote for _____ name (or names) only" placed immediately under the name of each office.
5. Have printed thereon "Place a crossmark (X) following the name of the person for whom you wish to vote."
6. Leave sufficient space for each office to write or paste a name, or names, as the case may be, in lieu of those printed on the ballot.
7. Provide 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, and such space shall follow the candidate's name on the same line.

8. Have printed thereon the following language: "All ballots, other than those used to vote absentee, must be stamped and initialed by appropriate election officials in order to be counted."

In precincts in which voting machines or electronic voting systems 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 the requirements of this section.

16.1-06-05. FORM OF GENERAL ELECTION BALLOT.) The official ballots provided for partisan election at general elections in precincts in which voting machines or electronic voting systems are not used shall be prepared as follows:

1. The ballots shall be of sufficient length and width to contain all of the political party tickets to be voted for, under the appropriate party designation for each.
2. On the left-hand side of such ballot shall be a column designating the office to be voted for, and on the same line, in the column under the appropriate party designation of each, all of the names of the candidates duly nominated for that office shall be printed.
3. The names of candidates under headings designating each official position shall be alternated in the printing of the official ballot in the same manner as is provided for the primary election ballot.
4. The names of all persons nominated by petition shall be placed in one column under the designation "independent nominations" in the lines respectively specifying the offices for which they are nominated.
5. The size of types shall be specified by the secretary of state.
6. The ballots shall have printed thereon the following language: "All ballots, other than those used to vote absentee, must be stamped and initialed by appropriate election officials in order to be counted."

In precincts in which voting machines or electronic voting systems are used, the list of offices and candidates and the statements of measures and questions to be submitted to the voters shall be arranged in a manner and form best approximating the requirements of this section.

16.1-06-06. 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 16.1-06-05, ballots shall be prepared containing only the names of

duly certified candidates for presidential electors for use by persons authorized to vote for those offices by 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 presidential electors pursuant to sections 16.1-14-18, 16.1-14-19, and 16.1-01-04.

16.1-06-08. NO-PARTY BALLOT AT GENERAL ELECTIONS - CONTENTS - DELIVERED TO ELECTOR.) There shall be a separate no-party ballot at the general election upon which shall be placed the names of all candidates who have been nominated on the no-party primary ballot at the primary election. Such ballots shall be in the same form as the no-party primary ballot and shall be delivered to each elector by the proper election official. In precincts in which voting machines or electronic voting systems are used, the list of offices and candidates shall be entitled "no-party ballot" in a manner to clearly indicate the separation of the no-party list of offices and candidates from the party list of offices and candidates.

16.1-06-09. 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 or measures, initiated measures, and referred measures, duly certified to the county auditor by the secretary of state, or any other question or measure to be voted on, except the election of public officers at any primary, general, or special election including officers subject to a recall petition, 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 ballot title shall be written by the secretary of state and approved by the attorney general. 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 measure, initiated measure, 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 measure, initiated measure, 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 measure, initiated measure, 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 or electronic voting systems 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 the 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.

16.1-06-10. VOTING MACHINES AUTHORIZED.) The use of voting machines, in accordance with the provisions of this chapter, is hereby authorized in any election precinct upon finding and declaration by resolution of the city or township governing body, and also of the board of county commissioners of the county in which such election precinct is located, that such use is advisable or necessary in that precinct. Thereafter, the machines shall be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city or township and county, agreed upon by the respective governing bodies, the machines may then be used in any state, county, city, or district election in that precinct or other voting area of which that precinct is a part.

16.1-06-11. ELECTRONIC VOTING SYSTEMS AUTHORIZED.) The use of electronic voting systems in accordance with the provisions of this chapter, is hereby authorized in any election precinct upon finding and declaration by resolution of the city or township governing body, and also of the board of county commissioners of the county in which such election precinct is located, that such use is advisable or necessary in that precinct. Thereafter, the system or systems shall be procured, on a temporary or permanent basis, under terms and conditions, including assumption and division of cost of acquisition and maintenance by the city or township and county, agreed upon by the respective governing bodies, the system or systems may then be used in any state, county, city, or district

election in that precinct or other voting area of which that precinct is a part.

16.1-06-12. DEFINITIONS.) As used in this title with regard to electronic voting systems:

1. "Automatic tabulating equipment" means an apparatus which automatically tabulates and counts votes recorded on ballot cards.
2. "Ballot card" means a tabulating card on which votes may be recorded.
3. "Ballot label" means the booklet or guide containing the names of offices, candidates, and questions to be voted on, which is used in conjunction with the voting device and voting card.
4. "Counting center" means the location or locations designated by the county auditor for the automatic tabulating and counting of ballots.
5. "Electronic voting system" means a system employing a voting device in conjunction with ballot labels or ballot cards and automatic tabulating equipment for the recording, tabulating, and counting of votes in an election.
6. "Ballot envelope" means the envelope in which the ballot card is enclosed and upon which the names of write-in candidates may be written.
7. "Voting device" means a device in which ballot cards are used in connection with a punch device for the piercing of ballots by the voter, a device for marking ballots with ink or other substance, or any other method for recording votes on ballots in a manner that the votes may be tabulated and counted by automatic tabulating equipment.

16.1-06-13. REQUIREMENTS FOR VOTING MACHINES.) Any voting machine used in an election in this state shall:

1. Provide facilities for voting for nominated candidates, for persons not in nomination, and upon questions or measures submitted to the voters.
2. Permit each voter to vote for as many persons for any office as he is entitled to vote for, 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.

3. Permit each voter to change his vote for any candidate, or upon any measure or question submitted to the voters, up to the time he begins the final operation to register his vote.
4. Permit and require voting in absolute secrecy, and shall be so constructed and controlled that no person can see or know for whom any other elector has voted or is voting, save a voter whom he has assisted or is assisting in voting, as prescribed by law, and that no person may see or know the number of votes registered for any candidate or tamper with any of the registering mechanism.
5. Have a counter, or other device, the register of which is visible at all times from the outside of the machine, which shall show during any period of voting the total number of voters who have operated the machine during said period of voting and have a protective counter, or other device, which shall record the cumulative total number of movements of the operating mechanism.
6. Be provided with a lock or locks, by the use of which, immediately after the polls are closed, or the operation of the machine for an election is completed, all movement of the registering mechanism is absolutely prevented.
7. Be so constructed that when properly operated it shall register or record correctly and accurately every vote cast.
8. Be so constructed that a voter may readily learn the method of operating it.

16.1-06-14. REQUIREMENTS FOR ELECTRONIC VOTING SYSTEMS.) Any electronic voting system used in an election in this state shall:

1. Provide facilities for voting for nominated candidates, for persons not in nomination, and upon questions or measures submitted to the voters.
2. Permit each voter to vote for as many persons for any office as he is entitled to vote for, 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.

3. Permit each voter, by the replacement of spoiled ballots, to change his vote for any candidate, or upon any measure or question submitted to the voters, up to the time he begins the final operation to register his vote.
4. Permit and require voting in absolute secrecy, and shall be so constructed and controlled that no person can see or know for whom any other elector has voted or is voting, save a voter whom he has assisted or is assisting in voting, as prescribed by law, and that no person may see or know the number of votes registered for any candidate or tamper with any mechanism.
5. Have a counter, or other device, the register of which is visible at all times from the outside of the system, which shall show during any period of tabulation the total number of votes tabulated during the period of tabulation and have a protective counter, or other device, which shall record the cumulative total number of movements of the tabulating equipment.
6. Be provided with a procedure, by the use of which, immediately after the polls are closed, all voting is absolutely prevented.
7. Be so constructed that when properly operated it shall register or record correctly and accurately every vote cast.
8. Be so constructed that a voter may readily learn the method of operating it.
9. Permit voting by ballot card.
10. Permit voting for presidential electors by making only one mark or punch.
11. Permit write-in voting and absentee voting.
12. Permit the rotation of names of candidates on ballots where required by this title.

16.1-06-15. MANDATORY TESTING OF ELECTRONIC VOTING SYSTEMS BEFORE ELECTION AND BEFORE AND AFTER TABULATION OF BALLOTS.) All electronic voting systems used in this state shall be tested to ascertain whether the automatic tabulating equipment will accurately count the votes cast for all offices and measures. The testing shall be conducted prior to each election at which the system will be used, and before and after the counting of the ballots at each election. The testing shall be done by the county auditor or his designee, and after each test, the testing materials, programs, and preaudited ballots shall be sealed and retained in the same manner as paper ballots after an election. The test shall be conducted by processing a preaudited group of ballot cards on which are recorded

a predetermined number of valid votes for each candidate and measure, and shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject such votes. During the test a different number of valid votes shall be assigned to each candidate for an office, and for and against each measure. If an error is detected, the cause of it shall be ascertained and corrected, and an errorless count shall be secured and filed as provided in this section. The test that is conducted before the election shall be conducted at least one week before the election, and the district chairman of each political party having a candidate on the ballot shall be sent notice of the test by the county auditor by certified mail at least one week before the test. The notice shall state the time, place, and date of the test or tests, and that the district chairman or his designee may attend.

16.1-06-16. COUNTY AUDITOR TO PROVIDE AND DISTRIBUTE BALLOTS - OTHER ELECTION SUPPLIES DELIVERED AT SAME TIME.) For each election precinct in his county, the county auditor shall provide the number of ballots he deems necessary. At least eight days before any election, each county auditor shall:

1. Have the ballots printed and the same may be inspected by any person at the auditor's office.
2. Deliver to the inspector in each precinct the number of ballots and blank forms of pollbooks, blanks for election returns with the proper captions, forms of oaths and certificates, and tally sheets necessary to carry out the provisions of this title.

16.1-06-17. COUNTY AUDITOR TO PROVIDE BALLOTS AND OTHER ELECTRONIC VOTING SYSTEM SUPPLIES.) At the same time as other election supplies are provided and distributed, the county auditor shall provide to each precinct in the county using an electronic voting system:

1. A sufficient number of voting devices and ballots.
2. Four facsimile diagrams of the entire face of the voting device as it will appear on election day.
3. Appropriate instruction material for the use of the voting devices.
4. All other materials required to carry on the election process through the use of electronic voting systems.

16.1-06-18. DELIVERY OF BALLOTS AND MANILA WRAPPERS - OFFICIAL STAMP DELIVERED.) At the meeting provided for in section 16.1-05-03, the county auditors shall deliver, or cause to be delivered, by mail or other reliable method, to the inspector of elections in each precinct the official ballots, if available, together with suitable manila wrappers. Such ballots and manila

wrappers shall be delivered in sealed packages marked plainly on the outside designating the number of ballots enclosed and the precinct for which they are intended. The county auditor also shall deliver or cause to be delivered to such inspector, or if that is impracticable, to one of the election judges of such precinct, a stamp with an inepad for the purpose of stamping each ballot with the words "official ballot" and the name or number of the precinct, the name of the county, the date of the election, and providing for a blank line preceded by the word "initials" for the purpose of providing a space where the judge or inspector shall place his initials. He also shall deliver or cause to be delivered a manila wrapper and a suitable seal for the purpose of wrapping and sealing the stamp and inepad at the close of the voting but prior to the counting of the ballots. He also shall deliver or cause to be delivered a suitable seal, which has the name of the county inscribed thereon, for the purpose of sealing the wrapper containing the ballots as provided in section 16.1-15-08.

16.1-06-19. INSTRUCTIONS, ADVERTISEMENTS, AND BALLOTS POSTED IN POLLING PLACES.) Each county auditor shall have cards printed, in large type, containing full instructions to electors on obtaining and preparing ballots and a copy of section 16.1-01-12. He shall furnish ten such cards to the election inspector in each election precinct who, prior to the opening of the polls, shall post at least one of the cards in each booth or compartment provided for the preparation of ballots and at least three of the cards in and about the polling place. Three of the official ballots without the official stamp thereon shall be posted conspicuously in the polling place on 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 at least 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 conspicuously in the polling place on the morning of the election.

16.1-06-20. ELECTION INSPECTOR AND JUDGES TO DISPLAY MATERIAL AND PROVIDE INSTRUCTION.) In addition to other duties provided by law, the election inspector in precincts using an electronic voting system shall post in a conspicuous manner at the voting place, the four facsimile diagrams of the voting devices used to vote with electronic voting systems and three copies of the official ballot used with electronic voting systems. The election inspector and judges shall provide adequate instruction on the use of the electronic voting device to each voter before he enters the voting booth.

16.1-06-21. POLLBOOKS DELIVERED BY COUNTY AUDITOR - CONTENTS - INSPECTOR OF ELECTIONS TO DELIVER.) The county auditor of each county shall see that two copies of the new pollbook are delivered to the election inspector in each election precinct in the county. Each new pollbook shall contain:

1. A copy of the law prescribing the qualifications of electors.
2. The provisions of this title relating to the duties of inspectors, judges, and clerks of election.
3. The penalties imposed for offenses against the election laws.
4. Blanks for all entries required to be made therein.
5. A typed list, arranged in alphabetical order, containing the names and addresses of all electors who voted in such precinct in either of the last two elections conducted at such precinct, except that the county auditor, city auditor, or clerk of the school board, as the case may be, is authorized to strike from such listing all entries relating to individuals who are known to be no longer electors of such precinct. Any elector whose name is not on the typed list shall be required to execute an affidavit in accordance with section 16.1-05-06.

The election inspector shall deliver such pollbooks, or cause them to be delivered, to the clerks of election in his precinct on election day prior to the opening of the polls.

16.1-06-22. COUNTY TO PROVIDE BALLOT BOXES.) The board of county commissioners, at the expense of the county, shall provide suitable ballot boxes for each election precinct in the county.

16.1-06-23. SECRETARY OF STATE TO SEND BLANKS AND ENVELOPES TO COUNTY AUDITOR TO MAKE RETURNS.) The secretary of state shall send blank forms and envelopes, for all returns of votes required to be made to his office, to each county auditor with such printed directions on the envelope as he deems necessary for the guidance of election officers in making returns according to law. The expense of furnishing such blanks and envelopes shall be paid by the state.

16.1-06-24. VOTING MACHINES - VIOLATIONS - PENALTY.) Any person who violates any of the provisions of this chapter or who tampers with or injures any voting machine to be used or being used in any election, or who prevents the correct operation of any such machine, or any unauthorized person who makes or has in his possession a key to a voting machine to be used or being used in an election shall be guilty of a class A misdemeanor.

16.1-06-25. ELECTRONIC VOTING SYSTEMS - VIOLATIONS - PENALTY.) Any person who violates any of the provisions of this chapter relating to electronic voting systems, who tampers with or injures any electronic voting system or device to be used or being used in any election, or who prevents the correct operation of any such system or device to be used or being used in any election shall be guilty of a class A misdemeanor.

SECTION 5.) Chapter 16.1-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-07-01. ABSENT VOTER - WHO MAY VOTE.) Any qualified elector of this state who, at any general, special, or primary state election, at any county election, or at any city or school district election, is absent from the city, township, or consolidated voting precinct in which he is an elector, is in the armed forces of the United States, is in the merchant marine of the United States, is physically disabled, or is a United States citizen living outside the United States who resided in this state immediately prior to his departure from the United States, may vote an absent voter's ballot at that election. A qualified elector who is a citizen of the United States and lives outside the United States may vote absentee in this state pursuant to this chapter if he does not maintain a domicile, is not registered to vote, and is not voting in any other state, territory, or possession of the United States, and possesses a valid passport or card of identity and registration issued under the authority of the secretary of state of the United States; such an elector may vote only in federal elections, which means any election held solely or in part for the purpose of electing or nominating any candidate for the office of president, vice president, presidential elector, member of the United States senate, or member of the United States house of representatives.

16.1-07-02. ELECTOR MAY VOTE BEFORE LEAVING - NO VOTING IN PERSON UPON RETURN.) Any qualified elector of this state who is present in his city, township, or consolidated voting precinct after the official ballots have been printed, and who has reason to believe that he will be absent on election day as provided in section 16.1-07-01, may vote before he leaves in the same manner as an absent voter. Any elector who casts his vote by means of an absentee ballot shall not thereafter vote in person at the same election, even if he returns to his city, township, or consolidated voting precinct on or before election day.

16.1-07-03. PREPARATION AND PRINTING OF BALLOTS.) For all general, primary, or special state elections, for all other special elections held at the same time as a general or primary election, for all county elections, and for all city and school elections, official ballots shall be prepared within the time limits provided in section 16.1-07-04. In the case of special elections wherein the election is called less than thirty or fourteen days, as the case may be, before the election day, or where certification of candidates does not take place before the thirty-day or fourteen-day limitations, the ballots for the use of absentee voters shall be made available as soon as possible. Only official ballots shall be used as absentee ballots and no indication shall be noted on such ballots that they are used by absentee voters except that the return envelope shall be marked "ballot of absentee voter". The county auditor, at the same time other absentee ballots are prepared, shall prepare, and have printed and available, ballots for use by overseas citizens qualified to vote in this state pursuant to section 16.1-07-01.

16.1-07-04. WHEN BALLOTS FURNISHED PROPER OFFICIALS.) The county auditor, or any other officer required by law to prepare any general, special, or primary state election ballots or any county election ballots, shall prepare, have printed, and deliver to the county auditor at least thirty days prior to the holding of any general, special, or primary state election, a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election. In city or school elections the auditor or clerk of the city, the clerk of the school district, or any other officer required by law to prepare city or school election ballots, shall prepare, have printed and available for distribution to the public at least twenty days prior to the holding of any city or school election, a sufficient number of absent voter ballots for the use of all voters likely to require such ballots for that election.

16.1-07-05. TIME FOR MAKING APPLICATION FOR BALLOT.) At any time within forty days next preceding an election, any qualified elector expecting to be absent on election day as provided in section 16.1-07-01 may make application to the county auditor, the auditor or clerk of the city, or the clerk of the school district, as the case may be, for an official ballot to be voted at such election. A voter may obtain an application form for an absent voter's ballot for a general, special, primary, or county election from either the county auditor or a city auditor. No auditor or clerk shall issue ballots for absentee voters on the day of the election.

16.1-07-06. APPLICATION FORM.) Application for an absent voter's ballot shall be made on a blank furnished by the proper officer of the county, city, or school district of which the applicant is an elector, or on any blank containing the required information and in substantially the following form:

I, _____, a duly qualified elector of the township of _____, or of the _____ precinct of the _____ ward and residing at _____ in the city of _____ of the county of _____ of the state of North Dakota, to my best knowledge and belief entitled to vote in such precinct at the next election, hereby make application for an official absent voter's ballot to be voted by me at such election. I understand that it is a criminal offense to make a false statement in order to obtain an absentee ballot.

I have resided in my precinct for at least thirty days.
 My phone number is _____
 Dated this _____ day of _____, 19__.

 (signature of applicant)

 (mailing address)

Witness:

_____)
 (signature of witness)

_____)
 (mailing address - telephone number)

16.1-07-07. DELIVERING APPLICATION BLANK FOR BALLOT.) The officers specified in section 16.1-07-05, upon request, shall mail an application blank for an absent voter's ballot to the voter, or they may deliver the application blank to the voter upon a personal application made at the officer's office.

16.1-07-08. DELIVERING BALLOTS - ENVELOPE ACCOMPANYING - STATEMENT ON ENVELOPE - INABILITY OF ELECTOR TO SIGN NAME.) Upon receipt of an application for an official ballot properly filled out and signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, auditor of the city, or clerk of the school district, as the case may be, shall mail to the absent voter, postage prepaid, one official ballot, or personally deliver said ballot to the applicant, only after the auditor or clerk has determined the application to be reasonable under the law. If there is more than one ballot to be voted by an elector of such precinct, one of each kind shall be included and an envelope shall be enclosed with such ballot or ballots. Such envelope shall bear upon the front thereof the name, official title, and post-office address of the officer supplying the voter with the ballot, and upon the other side a printed statement in substantially the following form:

State of _____)
) ss.
 County of _____)

I, _____, under penalty of criminal prosecution for making a false statement, do solemnly swear that I am a legal resident for voting purposes of the township of _____, or of the _____ precinct of the _____ ward in the city of _____, residing at _____ in said county, county of _____ and state of North Dakota, and entitled to vote in such precinct at the next election; that I expect to be absent from the city, township, or consolidated voting precinct of my residence on the day of holding such election or that by reason of physical disability I am unable to attend at the polling place for such election, and that I will have no opportunity to vote in person on that day. I understand that this statement will be verified, and that I cannot vote in person at my precinct in this election even if I return there on or before election day.

(signature)

If the absent voter is unable to sign his name, he shall make his mark (X) in the presence of a disinterested person. Such disinterested person shall print the name of the person marking his X below the X, and shall sign his own name following the printed name with the notation "witness to his mark". The officer issuing absent voters' ballots pursuant to this chapter shall verify a random sample of at least ten percent of the applications and statements filed with him, and shall report any violations of this chapter to the state's attorney. It shall be the duty of the officers issuing absent voters' ballots, 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 voters' ballots to all military personnel on active duty who are qualified to vote in the county, city, or school district, as the case may be, provided that the name and addresses of such military personnel have been furnished to the official responsible for such mailing.

16.1-07-09. CANVASSING OF MAILED ABSENT VOTERS' BALLOTS RECEIVED LATE.) In the case of congressional, state, county, city, or school district elections, if an envelope postmarked prior to the date of election and containing an absent voter's 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 tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at such time as the returns are canvassed. Any envelope without a postmark or with an illegible postmark and containing an absentee voter's ballot must be received by mail by the proper officer within twenty-four hours after the closing of the polls on election day in order to be canvassed and counted. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time prior to four p.m. on the day before the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding such ballot shall print the date and hour of receipt on the envelope. Upon receipt, the canvassing board shall first determine that the elector was qualified to vote in that precinct and that the elector did not previously vote in that precinct on the date of the election before allowing such ballot to be tallied.

16.1-07-10. CARE AND CUSTODY OF BALLOT.) Upon receipt of an envelope containing the absent voter's ballot, the proper officer forthwith shall enclose the same unopened, together with the written application of such absent voter, in a larger envelope which shall be sealed securely and shall be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This envelope contains an absent voter's ballot and must be opened only on election day at the polls while the same are open." Such officer shall keep the envelope safely in his office until it is delivered by him as provided in this chapter.

16.1-07-11. SUBMITTING BALLOT TO INSPECTOR OF ELECTIONS.) If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or clerk of the school district, as the case may be, prior to his delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, shall be enclosed in such package and delivered therewith to the inspector of the precinct. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, then the officer shall immediately mail the same postage prepaid to the election inspector, or he, or his deputy may personally deliver it to the inspector. Any absent voter's ballot sent to the wrong precinct by the official whose duty it is to forward such ballots to the precincts, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the precinct, shall be returned to the official by the election inspector, and shall be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be forwarded to the precinct.

16.1-07-12. OPENING BALLOT - VOTING OR REJECTING - DEPOSITING IN BALLOT BOX - PRESERVING.) At any time between the opening and closing of the polls on election day, the election judges of the relevant precinct first shall open the outer envelope and compare the signature on such application for an absent voter's ballot with the signature on the statement provided for in section 16.1-07-08. If the judges find that the statement is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at the election, they shall open the absent voter's envelope in such manner as not to destroy the statement thereon. They shall take out the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined, and after endorsing the same as other ballots are endorsed, they shall deposit the ballot in the proper ballot box and show in the pollbook of the election that the elector has voted. If the statement is found to be insufficient, or that the signatures do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote shall not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. The subsequent death of an absentee voter after having voted by absentee ballot shall not constitute grounds for rejecting such ballot.

16.1-07-13. REGISTRATION OF ABSENT VOTERS' BALLOTS ON VOTING MACHINES OR ON ELECTRONIC SYSTEMS.) Absent voters' ballots, if any, shall be registered on voting machines and electronic voting systems by the two election judges. The voting of absent voters' ballots on voting machines shall be done in secrecy by the two election judges during the voting day at times when the voting machines are not in

use by voters, or after the close of the voting day and before the machines are unlocked for tallying. The voting of absent voters' ballots on an electronic voting system shall be done in secrecy by the two election judges, acting jointly, during the voting day at times when the electronic voting devices are not in use by voters, or after the close of the voting day and before the electronic voting system ballots are tallied. The absentee electronic voting system ballots prepared pursuant to this section shall be deposited in the ballot boxes and counted as other ballots. If the electronic voting system in use so provides, the actual electronic voting system ballot may be used as the absentee ballot.

16.1-07-14. PENALTY.) Any person who violates any of the provisions of this chapter is guilty of a class A misdemeanor.

SECTION 6.) Chapter 16.1-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-08-01. DEFINITIONS.) As used in this chapter, unless the context otherwise plainly requires:

1. "Association" means any club, association, union, brotherhood, fraternity, organization, or group of any kind of two or more persons, including, but not limited to, labor unions, trade associations, professional associations, or governmental associations, which is united for any purpose, business, or object and which assesses any dues, membership fees, or license fees in any amount, or which maintains a treasury fund in any amount. Association shall not include corporations, cooperative corporations, political committees, or political parties.
2. "Candidate" means a person whose name is presented for nomination to public office at any primary election or convention, whether the person is actually nominated or not; a person whose name is printed as a candidate on an official ballot used at any election; or a person who seeks election through write-in votes.
3. "Contribution" means a gift, subscription, loan, advance, or deposit of money, except a loan of money from a bank or other lending institution made in the regular course of business, made for the purpose of influencing the nomination for election, or election, of any person to office. Contribution also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any of the above purposes, and includes funds received by a political committee which are transferred to that committee from another political committee or other source.
4. "Expenditure" means a purchase, payment, distribution, loan, advance, deposit, or gift of money, except a loan of money from a bank or other lending institution made in the

regular course of business, made for the purpose of influencing the nomination for election, or election, of any person to office. Expenditure also means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure and includes the transfer of funds by a political committee to another political committee.

5. "Person" means an individual, partnership, committee, association, corporation, cooperative corporation, or other organization or group of persons.
6. "Political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures for political purposes.
7. "Political party" means any association, committee, or organization which nominates a candidate for election to any office which may be filled by a vote of the electors of this state or any of its political subdivisions or legislative districts and whose name appears on the election ballot as the candidate of such association, committee, or organization.
8. "Political purpose" or "political purposes" means any activity undertaken in support of or in opposition to the election or nomination of a candidate whether the activity is undertaken by a candidate, a political committee, a political party, or any person.

16.1-08-02. CAMPAIGN CONTRIBUTIONS BY CORPORATIONS, COOPERATIVE CORPORATIONS, AND ASSOCIATIONS PROHIBITED - VIOLATION - PENALTY.)

1. No corporation, cooperative corporation, or association, directly or indirectly, shall make a contribution:
 - a. To aid any political party, political committee, or organization.
 - b. To aid any corporation or association organized or maintained for political purposes.
 - c. To aid any candidate for political office or for nomination to such office.
 - d. For any political purpose or the reimbursement or indemnification of any person for money or property so used.
 - e. For the influencing of any measure before the legislative assembly, except in accordance with chapter 54-05.1.

2. Nothing in this section shall be construed to prohibit the establishment, administration, and solicitation of contributions to a separate and segregated fund to be utilized for political purposes by a corporation, cooperative corporation, or association. It shall be unlawful for:
 - a. The person or persons controlling such a fund to make contributions or expenditures utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of them; or utilizing money from dues, fees, treasury funds, or other money required as a condition of membership in an association, or as a condition of employment; or utilizing money obtained in any commercial transaction.
 - b. Any person soliciting an employee or member for a contribution to such a fund to fail to inform the employee or member of the political purposes of the fund at the time of the solicitation.
 - c. Any person soliciting an employee or member for a contribution to such a fund to fail to inform the employee or member, at the time of the solicitation, of his right to refuse to contribute without any reprisal.
 - d. Any solicitation to be made in a manner that allows the corporation, cooperative corporation, or association to determine who does and who does not make a contribution in response to the solicitation.
3. If an officer, employee, agent, attorney, or other representative of a corporation, cooperative corporation, or association makes any contribution prohibited by this section out of corporate, cooperative corporation, or association funds or otherwise violates the provisions of this section, it shall be prima facie evidence of a violation by the corporation, cooperative corporation, or association.
4. A violation of the provisions of this section may be prosecuted in the county where the contribution is made, or in any county in which it has been paid or distributed.
5. It shall be a class A misdemeanor for an officer, director, stockholder, attorney, agent, or representative of any corporation, cooperative corporation, or association to violate any of the provisions of this section, or to counsel or consent to any violation. Any person who solicits or knowingly receives any contribution in violation of the provisions of this section shall be guilty of a class A misdemeanor.

6. Any officer, director, stockholder, attorney, agent, or representative who makes, counsels, or consents to the making of a contribution in violation of this section shall be liable to the company, corporation, or association for the amount so contributed.

16.1-08-03. PERSON NOT EXCUSED FROM TESTIFYING AS TO VIOLATION - PROSECUTION OR PENALTY WAIVED UPON TESTIFYING.) No person shall be excused from attending and testifying or producing any books, papers, or other documents before any court upon any investigation, proceeding, or trial for a violation of any of the provisions of this chapter, upon the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him. No person shall be prosecuted nor subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him in any criminal investigation or proceeding.

SECTION 7.) Chapter 16.1-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-09-01. DECLARATION OF POLICY.) The legislative assembly declares that public office is a public trust, and in order to continue the faith and confidence of the people of the state in that trust and in their government, the people have a right to be assured that the interest of holders of or candidates for public office present no conflict with the public trust.

16.1-09-02. STATEMENT OF INTERESTS TO BE FILED.) Every candidate for elective office shall file a statement of interests as required by this chapter. A candidate for a statewide elective office shall file the statement of interests with the secretary of state. A candidate for election as a member of the legislative assembly and for offices other than statewide shall file the statement of interests with the county auditor, or the city auditor if the candidate is running for city office, of the candidate's county or city of residence. Candidates for elective office who are required to file such statements shall do so at the time of filing a certificate of nomination, a certificate of endorsement, or a petition of nomination, pursuant to chapters 16.1-11, 16.1-12, or 40-21, as is appropriate, provided that any person who has filed a statement as the result of candidacy in a primary election need not refile prior to running in the following general election. Every person who is appointed by the governor to a state agency, board, bureau, commission, department, or occupational or professional licensing board shall file a statement of interests as required by this chapter with the secretary of state simultaneously with announcement of the appointment.

16.1-09-03. CONTENTS OF STATEMENT OF INTERESTS.) The statement of interests required to be filed under this chapter shall

apply to the candidate or appointee and his spouse and shall include:

1. An identification of the principal source of income, defined in the state income tax return as "principal occupation", of both the candidate or appointee and his spouse.
2. The name of each business or trust, not the principal source of income, in which the person making the statement, and that person's spouse, have a financial interest.
3. A list of the associations or institutions with which the person making the statement, and that person's spouse, are closely associated, or for which they serve as a director or officer, and which may be affected by legislative action, in the case of a statement submitted by a legislative candidate, or action by the candidate or appointee in his capacity as an officeholder.
4. The identity by name of all business offices, business directorships, and fiduciary relationships the person making the statement, and that person's spouse, have held in the preceding calendar year.

16.1-09-04. POWERS AND DUTIES OF THE SECRETARY OF STATE.)
The secretary of state shall:

1. Prescribe the forms for statements of interests required to be filed under this chapter and furnish such forms, on request, to persons subject to this chapter.
2. Prepare and publish guidelines setting forth recommended uniform methods of reporting for use by persons required to file statements under this chapter.
3. Adopt such rules and regulations, in the manner prescribed by chapter 28-32, as may be appropriate to effectuate the purposes of this chapter.

16.1-09-05. POWERS AND DUTIES OF THE SECRETARY OF STATE AND COUNTY AND CITY AUDITORS.) The secretary of state, or the county or city auditor, where appropriate shall:

1. Accept and file any statement submitted pursuant to this chapter.
2. Make statements filed available for public inspection and copying during regular office hours. A reasonable fee may be charged to cover the cost of copying. Proceeds from any fees charged shall be deposited in the general fund of the appropriate governmental entity.

3. Preserve statements filed under this chapter for the term of office to which the person making disclosure is elected or appointed or until a new statement is filed, and preserve statements filed pursuant to this chapter by those candidates who are not elected or appointed for a period of one year after the date of receipt.

16.1-09-06. PROCEDURE FOR ENFORCEMENT - INVESTIGATION BY ATTORNEY GENERAL OR STATE'S ATTORNEY.) Upon a complaint, signed under penalty of perjury, by any person, or upon the motion of the attorney general or a state's attorney, the attorney general or state's attorney shall investigate any alleged violation of this chapter. The investigation and its proceedings shall be confidential until a determination has been reached by the investigating officer that enough incriminating evidence exists to bring an action and such action is commenced in the appropriate district court.

16.1-09-07. EFFECT OF INTENTIONAL VIOLATION OF CHAPTER - PENALTY.) Any person who intentionally violates a provision of this chapter shall be guilty of a class B misdemeanor and his appointment, nomination, or election, as the case may be, shall be declared void. Any vacancy that may result from the intentional violation of this chapter shall be filled in the manner provided by law. This section shall not remove from office a person who is already in office and who has entered upon the discharge of his duties where such office is subject to the impeachment provisions of the North Dakota Constitution.

SECTION 8.) Chapter 16.1-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-10-01. CORRUPT PRACTICE - WHAT CONSTITUTES.) A person shall be guilty of corrupt practice within the meaning of this chapter, if he willfully engages in any of the following:

1. Expends any money for election purposes contrary to the provisions of this chapter.
2. Engages in any of the practices prohibited by section 12.1-14-02 or 12.1-14-03.
3. Is guilty of the use of state services or property for political purposes.

16.1-10-02. USE OF STATE SERVICES OR PROPERTY FOR POLITICAL PURPOSES.)

1. No person shall use any property belonging to or leased by, or any service which is provided to or carried on by, either directly or by contract, the state or any agency, department, bureau, board, or commission thereof, for any political purpose.

2. The following definitions shall be used for the purposes of this section:
- a. "Property" includes, but is not limited to, motor vehicles, telephones, typewriters, adding machines, postage or postage meters, funds of money, and buildings. However, nothing in this section shall be construed to prohibit any candidate, political party, committee, or organization from using any public building for such political meetings as may be required by law, or to prohibit such candidate, party, committee, or organization from hiring the use of any public building for any political purpose if such lease or hiring is otherwise permitted by law.
 - b. "Services" includes, but is not limited to, the use of employees during regular working hours for which such employees have not taken annual or sick leave or other compensatory leave.
 - c. "Political purpose" means any activity directly undertaken by a candidate for any office in support of his own election to such office; or aid and assistance to any candidate, political party, political committee, or organization, but shall not include activities undertaken in the performance of a duty of state office.

16.1-10-03. POLITICAL BADGE, BUTTON, OR INSIGNIA AT ELECTIONS.) No person shall, on the day of an election, buy, sell, give, or provide any political badge, button, or any insignia to be worn at or about the polls on that day. No such political badge, button, or insignia shall be worn at or about the polls on any election day.

16.1-10-04. POLITICAL ADVERTISING TO BE LABELED PAID.) No publisher of a newspaper or other periodical shall insert either in its advertising or reading columns any paid matter which is designed, or which tends, to aid, injure, or defeat any candidate, political party, organization, or measure before the people, unless it is stated therein that it is a paid advertisement.

16.1-10-05. POLITICAL ADVERTISEMENTS TO DISCLOSE NAME AND ADDRESS OF SPONSOR.) Every political advertisement, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, or constitutional amendment, and whether such advertisement shall be by newspaper, pamphlet or folder, display cards, signs, posters or billboard advertisements, or by any other public means, shall disclose at the bottom or end of same the name or names and address or addresses of the sponsors of such advertisement, and the name or names and address or addresses of the person, persons, associations, or partnerships promoting or paying for such advertisement, except however, this section shall not apply to campaign buttons. At the close of every radio or

television broadcast containing any advertising announcements or talk for or against any candidate for public office, any initiated measure, referred measure, or constitutional amendment to be voted on by the people, there shall be announced at the close of said broadcast the name or names of the person, persons, associations, or partnerships promoting or paying for such radio or television broadcast.

16.1-10-06. PENALTY.) Any person who violates the provisions of section 16.1-10-05 and who fails or neglects to disclose the name or names of the sponsors of such political advertisement, or the name or names of the persons paying for such advertisement, or who shall print, distribute, or cause to be printed or distributed, any matter described in section 16.1-10-05 which does not comply with the provisions of that section, shall be guilty of a class B misdemeanor. Any editor of a newspaper, managing officer of any printing establishment, radio station, television station, novelty concern, or poster or billboard advertising company printing or furnishing such political advertisement without disclosing the information as provided in section 16.1-10-05, shall also be guilty of a class B misdemeanor.

16.1-10-07. PUBLICATION OF FALSE INFORMATION IN POLITICAL ADVERTISEMENTS - PENALTY.) No person shall knowingly sponsor any political advertisement or news release containing deliberately calculated falsehoods, whether on behalf of or in opposition to any candidate for public office, initiated measure, referred measure, or constitutional amendment, and whether such publication shall be by radio, television, newspaper, pamphlet, folder, display cards, signs, posters or billboard advertisements, or by any other public means. Any person who shall violate the provisions of this section shall be guilty of a class A misdemeanor.

16.1-10-08. PAYING OWNER, EDITOR, PUBLISHER, OR AGENT OF NEWSPAPER TO ADVOCATE OR OPPOSE CANDIDATE EDITORIALY PROHIBITED.) No person shall pay or give anything of value to the owner, editor, publisher, or agent of any newspaper or other periodical, or radio or television station, to induce him to advocate editorially or to oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent shall accept such inducement.

16.1-10-09. ELECTIONEERING ON ELECTION DAY - PENALTY.) Any person asking, soliciting, or in any manner trying to induce or persuade, any voter on an election day to vote or refrain from voting for any candidate or the candidates or ticket of any political party or organization, or any measure submitted to the people, shall be guilty of an infraction. The display upon motor vehicles of adhesive signs which are not readily removable and which promote the candidacy of any individual, any political party, or a vote upon any measure, and political advertisements promoting the candidacy of any individual, political party, or a vote upon any measure which are displayed on fixed permanent billboards, shall not, however, be deemed a violation of this section.

16.1-10-10. CANDIDATE GUILTY OF CORRUPT PRACTICE TO VACATE NOMINATION OF OFFICE.) If any person is found guilty of any corrupt practice he shall be punished by being deprived of his government job, or his nomination or election shall be declared void, as the case may be. This section shall not remove from office a person who is already in office and who has entered upon the discharge of his duties where such office is subject to the impeachment provisions of the North Dakota Constitution.

16.1-10-11. PENALTY FOR VIOLATION OF CHAPTER.) Any person violating any provision of this chapter, for which another penalty is not specifically provided, shall be guilty of a class A misdemeanor.

SECTION 9.) Chapter 16.1-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-11-03. STATE CANDIDATE'S PETITION OR POLITICAL PARTY CERTIFICATE OF ENDORSEMENT REQUIRED TO GET NAME ON BALLOT - CONTENTS - FILING.) Every candidate for United States senator, United States representative, a state office except the office of state senator or state representative, and judges of the supreme and district courts shall, not more than sixty-six nor less than forty-six days, and before four p.m. of the forty-sixth day, prior to any primary election, present to the secretary of state either:

1. A certificate of endorsement signed by the state chairman of any legally recognized political party containing the candidate's name, post-office address, the title of the office to which he aspires, and the party which he represents; or
2. A petition containing the following:
 - a. The candidate's name, post-office address, and the title of the office to which he aspires.
 - b. The name of the party the candidate represents if the petition is for an office under party designation.
 - c. The signatures of qualified electors, the number of which shall be determined as follows:
 - (1) If the office is under party designation, the signatures of three percent of the total vote cast for the candidates of the party with which the candidate affiliates, for the same position at the last general election. However, no more than three hundred signatures shall be required.
 - (2) If there was no candidate of a party for a position at the preceding general election, at least three hundred signatures.

(3) If the office is under the no-party designation, at least three hundred signatures.

d. The mailing address and the date of signing for each signer.

If the petition or certificate of endorsement is for the office of governor or lieutenant governor, it shall contain the names and other required information of candidates for both those offices. If the petition or certificate of endorsement is mailed, it shall be in the possession of the secretary of state before four p.m. of the forty-sixth day prior to the primary election.

16.1-11-04. REFERENCE TO PARTY AFFILIATION IN PETITION AND AFFIDAVIT PROHIBITED FOR CERTAIN OFFICES.) No reference shall be made to a party ballot or to the party affiliation of a candidate in a petition and affidavit filed by or on behalf of a candidate for nomination in the primary election to an elective county office, the office of judge of the supreme court, judge of the district court, commissioner of labor, superintendent of public instruction, or tax commissioner.

16.1-11-05. FORM OF CERTIFICATE OF ENDORSEMENT.) A certificate of endorsement filed with the proper officer as provided in this Act shall be in substantially the following form:

CERTIFICATE OF ENDORSEMENT

I, _____, do certify that I am the state (district) chairman of the _____ political party of the _____ legislative district of the state of North Dakota and that _____ (insert name of endorsee), residing at _____, was duly endorsed for nomination to the office of _____ on the _____ day of _____, by the _____ political party of the _____ legislative district (if appropriate), duly convened and organized in accordance with the bylaws of the _____ political party and the laws of this state, and do hereby request _____ name be printed upon the ballot as a candidate for nomination to the office of _____ at the forthcoming primary election to be held on _____ of this year.

Dated this _____ day of _____.

(signature of state or district chairman)

16.1-11-06. APPLICANT'S NAME PLACED UPON BALLOT - AFFIDAVIT TO ACCOMPANY PETITION.) Upon receipt by the secretary of state of the petition or certificate of endorsement provided for in section 16.1-11-02 accompanied by the following affidavit, he shall place the applicant's name upon the primary election ballot in the columns

of his party as hereinafter provided. The affidavit shall be substantially as follows:

State of North Dakota))
 County of _____)) ss.

I, _____, being duly sworn, depose and say that I reside in the county of _____ and state of North Dakota; that I am a candidate for nomination to the office of _____ to be chosen at the primary election to be held on the _____, 19____, and I do hereby request that my name be printed upon the primary election ballot as provided by law, as a candidate of the _____ party for said office.

Subscribed and sworn to before me, this _____ day of _____, 19____.

 Notary Public, North Dakota

16.1-11-07. COUNTY AND LEGISLATIVE DISTRICT CANDIDATES' PETITIONS - FILING - CONTENTS.) Every candidate for a county or district office shall, not more than sixty-six nor less than forty-six days and before four p.m. of the forty-sixth day prior to any primary election, present to the county auditor of the county in which he resides either:

1. A certificate of endorsement signed by the district chairman of any legally recognized political party containing the candidate's name, post-office address, the title of the office to which he aspires, and the party which he represents; or
2. A petition containing the following:
 - a. The candidate's name, post-office address, and the title of the office to which he aspires.
 - b. The name of the party the candidate represents, only if it is a petition for an office which is under party designation.
 - c. The signatures of qualified electors, the number of which shall be determined as follows:
 - (1) If the office is under no party designation, the signatures of not less than two percent and not more than five percent of the total vote cast for the office at the most recent general election at which the office was voted upon.

- (2) If the office is under a party designation, the signatures of the same percentage as provided in paragraph (1) of the total vote cast for the candidate of the party represented for the same position at the most recent general election at which the office was voted upon.
 - (3) If there were more than one party candidate, the signatures of the same percentage as provided in paragraph (1) of the total number of votes for all party candidates divided by the number of party candidates.
 - (4) If no candidate was elected or no votes were cast for an office at any general election, the number of signers equal to the percentage as provided in paragraph (1) applied to the total average vote cast for the offices of sheriff and county auditor at the most recent general election at which those officers were elected in the petitioner's county or district. This average shall be determined by dividing by two the total vote cast for those offices.
 - (5) In no case shall more than three hundred signatures be required.
- d. The mailing address and date of signing for each signer.

If the petition or certificate of endorsement is mailed, it shall be in the possession of the county auditor before four p.m. on the forty-sixth day prior to the primary election.

16.1-11-08. COUNTY AUDITOR TO PLACE APPLICANT'S NAME ON BALLOT.) Upon receipt of the petition or certificate of endorsement provided for in section 16.1-11-07 by the county auditor and when accompanied by an affidavit as provided in section 16.1-11-06, the county auditor shall place the name of the applicant upon the primary election ballot in the party or appropriate column, as the case may be.

16.1-11-09. FILING PETITION OR CERTIFICATE OF ENDORSEMENT WHEN LEGISLATIVE DISTRICT COMPOSED OF MORE THAN ONE COUNTY.) When a legislative district is composed of more than one county, the certificate of endorsement or the petition provided for in section 16.1-11-07 shall be filed with the county auditor of the county where the candidate resides, and that county auditor shall certify to the county auditors of the other counties comprising the legislative district the names of the candidates filing the petitions or certificates.

16.1-11-10. APPLICATION BY OTHER PERSONS TO PLACE NAME ON BALLOT - PETITION - AFFIDAVIT.) An application to have a name

placed on the primary election ballot for nomination for any office designated in this chapter may be made by five qualified electors by presenting the petition required in section 16.1-11-03 or 16.1-11-07 to the proper official, and subscribing and filing an affidavit in substantially the following form:

State of North Dakota)
)
County of _____) ss.

A _____, B _____, C _____, D _____, and E _____, being duly sworn, each for himself, deposes and says that he is a qualified elector in the state of North Dakota, that he hereby makes application to have the name of _____ printed on the primary election ballot of the _____ party for the office _____, to be voted for at the primary election to be held on the _____ day of _____, 19____; that said _____ is, to the best of his knowledge, information, and belief, a _____ and eligible to hold the office of _____ under the Constitution.

Subscribed and sworn to before me this _____ day of _____, 19__.

Notary Public, North Dakota.

However, an affidavit relating to a candidate on the no-party ballot shall not contain any reference to party affiliation. When the application is received by the proper officer, he shall place the name on the primary election ballot as a party or no-party candidate, as the case may be. The petition and affidavit provided for in this section shall not be filed without the written consent of the person to be nominated endorsed thereon.

16.1-11-11. NOMINATING PETITION NOT TO BE CIRCULATED MORE THAN NINETY DAYS PRIOR TO FILING TIME.) No petition provided for in this chapter shall be circulated or signed more than ninety days previous to the time when any petition must be filed under the provisions of this chapter. Any signatures to a petition secured more than ninety days before that time shall not be counted.

16.1-11-12. FORM OF PETITION.) A petition required in this chapter may be one continuous list of names under the proper

political title or principle or there may be a number of petitions using the same title, containing the aggregate of names required.

16.1-11-13. FILLING VACANCY IN PARTY PRIMARY ELECTION BALLOT PERMISSIBLE - PETITION - AFFIDAVIT.) When the time for filing a petition or certificate of endorsement provided for in this chapter has expired, and a vacancy exists in the primary election ballot of any political party because no petition or certificate of endorsement has been filed for the nomination, the vacancy may be filled by a certificate of endorsement and affidavit or a petition and affidavit as provided in section 16.1-11-10. The certificate of endorsement and affidavit or petition and affidavit shall be filed with the proper officer at least forty-one days before the primary election and before four p.m. on the forty-first day. If the forms are mailed, they shall be in the possession of the designated officer before four p.m. on the day due.

16.1-11-14. PARTY COMMITTEES TO FILL VACANCY OCCURRING IN NOMINATION FOR PARTY OFFICE.)

1. If a vacancy occurs in any party certificate of endorsement at the primary election for any state or legislative district office, the proper state or district executive committee of the political party may fill the vacancy by filing another certificate of endorsement with the proper officer as provided in sections 16.1-11-03 and 16.1-11-07.
2. If no party endorsement has been made by certificate and a vacancy occurs in a slate of candidates seeking party nomination by petition at the primary election, the proper state or district executive committee may fill the vacancy by filing a certificate of endorsement with the proper officer as provided in sections 16.1-11-03 and 16.1-11-07.
3. If party endorsements by certificate have been made for any state or district office and a vacancy occurs in the slate of persons seeking nomination at the primary election because of the unavailability of the person who is seeking nomination by petition, that vacancy shall not be filled except by petition.
4. If a vacancy occurs in a slate of candidates after the candidates have been nominated at the primary election, the proper state or district executive committee may fill any vacancy by filing a certificate of nomination with the secretary of state. The chairman and secretary of the committee shall make and file with the secretary of state the certificate setting forth the cause of the vacancy, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and any further information as may be required to be given in an original certificate of nomination. When such a certificate is filed, the

secretary of state, in certifying the nomination to the various auditors, shall insert the name of the person who has been nominated to fill the vacancy in place of the original nominee. If the secretary of state already has forwarded his certificate, he forthwith shall certify to the auditor of the proper county or counties the name and post-office address of the person nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom the nominee is substituted. Failure to publish the name of a person substituted shall not invalidate the election.

With the exception of vacancies filled pursuant to section 16.1-12-08, vacancies to be filled according to the provisions of subsections 1, 2, or 3 of this section may be filled not later than forty-one days prior to the election, and vacancies to be filled according to the provisions of subsection 4 of this section may be filled not later than thirty-five days prior to the election.

16.1-11-15. FILLING VACANCY EXISTING ON NO-PARTY BALLOT - PETITION REQUIRED - TIME OF FILING.) If a vacancy exists on a no-party ballot for a state office or for judge of a district court, the vacancy may be filled by filing with the secretary of state, before four p.m. on the forty-first day prior to the primary election, a written petition as provided in section 16.1-11-03, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it shall be in the possession of the secretary of state before four p.m. on the forty-first day prior to the primary election. The petition for the nomination of any person to fill the vacancy shall be signed by qualified electors equal in number to at least two percent of the total vote cast for governor at the most recent general election in the state or district at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

If a vacancy exists on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor, before four p.m. of the forty-first day prior to the primary election, a written petition as provided in section 16.1-11-07, stating that the petitioner desires to become a candidate for nomination to the office for which a vacancy exists. If the petition is mailed, it shall be in the possession of the county auditor before four p.m. on the forty-first day prior to the primary election. The petition for the nomination of any person to fill the vacancy shall be signed by qualified electors equal in number to at least thirty percent of the total vote cast for governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

A vacancy in the no-party ballot shall be deemed to exist when a candidate who was qualified by filing a petition pursuant to

section 16.1-11-03 or 16.1-11-07 shall die, resign, or otherwise become disqualified to have his name printed on the ballot.

16.1-11-16. CERTIFIED LIST OF NOMINEES TRANSMITTED TO COUNTY AUDITOR BY SECRETARY OF STATE.) At least thirty-five days before any primary preceding a general election, the secretary of state shall transmit to each county auditor a certified list containing the names and post-office addresses of each person for whom nomination papers have been filed in his office and who are entitled to be voted for at the primary. A designation of the office for which each is a candidate, and if applicable, the party or principle represented by each shall be included.

16.1-11-17. COUNTY AUDITOR TO PUBLISH SAMPLE PRIMARY ELECTION BALLOT AND NOTICE OF TIME AND PLACE OF ELECTION.) The county auditor shall publish in the official county newspaper, and if no newspaper is published in the county then in a newspaper published in an adjoining county in the state, the following:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the county auditor. The form of the sample ballot shall conform in all respects to the form prescribed by the legal publications handbook under subsection 5 of section 46-01-02 for the sample primary ballot. The county auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in his county. Sample ballots with inverted columns must be printed twice in each issue of the newspaper and in such manner as to assure that the column of each political party shall be displayed once in each issue in an upright position. Absent voters' ballots shall not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county shall be listed in a separate box or category by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district.
2. The date of the primary election.
3. The hours during which the polls will be open.
4. The statement that the primary election balloting will be held in the regular polling place in each precinct.

The notice shall be published in the official county newspaper once each week for two consecutive weeks prior to the primary election.

16.1-11-18. PRIMARY ELECTION BALLOT - FORM - VOTERS TO VOTE FOR CANDIDATES OF ONLY ONE PARTY.) At the primary election there shall be only one ballot for all parties or principles. The ballot shall be in the following form:

1. The ballot shall be entitled the "consolidated primary election ballot", and the title shall be printed at both ends of the ballot so there is an upright title no matter which way the ballot is held.
2. Each party or principle having candidates at the primary election shall have a separate column on the ballot; the columns shall be separated by a solid six-point rule.
3. At the head of each column shall be printed the name of the political party or principle which it represents.
4. In each column below the party or principle title shall be printed: "You may vote for the candidates of only one party at the primary election. If you vote for candidates of more than one party, your ballot will be rejected."
5. Immediately below the warning against voting for candidates of more than one party shall be printed: "Put a crossmark (X) opposite the name of the candidate for whom you wish to vote."
6. The offices specified in section 16.1-11-21 shall be arranged in each column with the name of each office in the center of each party column at the head of the names of the aspirants for the office.
7. Immediately under the name of each office shall be printed: "Vote for _____ name (or names) only."
8. At the right of the name of each aspirant and in a column shall be printed a square for making a crossmark. No squares shall be printed at the head of the ballot.
9. The political party or principle which cast the largest vote for governor at the most recent primary election at which the office of governor was voted upon shall have the left-hand column, and the party or principle casting the next largest vote shall have the next column, and so on.

The judges and the inspector of elections shall inform each elector at the primary, before voting, that if he votes for candidates of more than one party his ballot will be rejected.

16.1-11-19. NO-PARTY PRIMARY BALLOT - CONTENTS.) There shall be a separate ballot at all primary elections which shall be entitled "no-party primary ballot". The names of aspirants for nomination to each office shall be arranged on the no-party primary ballot in separate groups in their order. In precincts in which voting machines are used, the list of offices and candidates shall be entitled "no-party primary ballot" in a manner to clearly indicate the separation of the no-party list of offices and candidates from the party list of offices and candidates. The names of all candidates for any of the offices mentioned in section

16.1-11-04 shall be placed thereon without party designation. Immediately under the name of each office shall be placed the language, "Vote for _____ name (or names) only." The number inserted shall be the number to be elected to the office at the next succeeding general election.

16.1-11-20. PREPARATION, PRINTING, DISTRIBUTING, CANVASSING, AND RETURNING OF NO-PARTY BALLOT.) The no-party ballot shall be prepared, printed, distributed, canvassed, and returned in the same manner provided for other primary election ballots.

16.1-11-21. ORDER IN WHICH NAMES OF OFFICES SHALL APPEAR ON BALLOT.) The primary election ballot for party nominations shall contain the following offices in the following order under each party column:

1. Congressional:

United States senator
representative in Congress

2. Legislative:

state senator _____ district
member of house of representatives _____ district

3. State offices:

governor and lieutenant governor
secretary of state
state auditor
state treasurer
attorney general
commissioner of insurance
commissioner of agriculture
commissioner of public service

16.1-11-22. ARRANGEMENT OF NAMES ON BALLOTS AND VOTING MACHINES.)

1. On sample ballots, the names of candidates for each office shall be arranged alphabetically according to surnames.
2. On the official ballot used at the election, including electronic voting system ballots, the names of candidates

under headings designating each office to be voted for shall be alternated in the following manner:

- a. The ballot shall first be arranged 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.
 - b. 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 in which there are the most names. The same number of ballots shall be printed after each change of position.
 - c. In making the changes of position, the printer shall take the candidate's name at the head of each office division and place it at the bottom of that division, moving the column up so the name that was second before the change is first after the change.
3. In precincts employing voting machines, the position of names which require alternating under the provisions of this section shall be alternated as follows:
- a. The names shall be alternated on voting machines so 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. There shall be a different alternation sequence for each of the following, based on the geographical area by which the office is filled:
 - (1) Offices to be filled by the electors of the state, the entire county, or any district which includes the entire county.
 - (2) Offices to be filled by the electors of districts smaller than the county, with a different rotation for each of those districts.
 - b. The precincts shall be arranged according to the total votes cast for governor at the last general election in which the office of governor was filled, starting with the precinct having the highest total votes cast and ending with the precinct having the lowest total votes cast in that election.

- c. The initial location of the names in the precinct having the highest total votes shall be determined by lot by the city or county auditor or responsible election official.
- d. 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 event shall only one name appear on any line.

16.1-11-23. PILING, CUTTING, AND BLOCKING BALLOTS.) After the ballots are printed as provided in section 16.1-11-22, and before being cut, they shall be kept in separate piles for each change of position, and then shall be repiled by taking one from each pile and placing it upon the other pile to be cut, so that every other ballot in the pile of printed sheets shall have names in different positions. After the piles are made in this manner, they shall be cut and placed in blocks as provided by the general election laws.

16.1-11-24. PREPARATION OF BALLOT.) Unless otherwise provided in this chapter, the primary election ballot shall be prepared as provided in chapter 16.1-06.

16.1-11-26. TALLY BOOKS OR SHEETS PROVIDED FOR ELECTION PRECINCTS - FORM AND CONTENTS.) Two tally books or two sets of tally sheets shall be provided for each voting precinct. The books or sheets shall contain a column for each political party or principle having candidates to be voted for at the voting precinct. Two tally books or two sets of tally sheets for candidates on the no-party ballot shall be provided for each voting precinct. The books or sheets shall be furnished by the county auditor at the same time and in the same manner as the pollbooks and ballots are furnished. The names of the candidates shall be placed on the tally books or sheets in the order in which they appear on the official sample ballot, and, as appropriate, shall have the proper party or no-party designation at the head thereof.

16.1-11-27. POLL LISTS KEPT BY CLERKS OF ELECTIONS.) The clerks of primary elections shall keep two lists of the names of all persons voting at each primary election. The clerks shall return one list and one tally sheet, which shall be a part of the records and filed with other election returns. Only two complete lists of voters shall be kept whether or not a special election is held simultaneously with the primary election.

16.1-11-28. JUDGES OF ELECTION TO MAKE STATEMENT OF PRIMARY ELECTION - CONTENTS.) The judges of a primary election in each precinct shall make a separate statement, on blanks provided for that purpose, for each political party or principle, containing the names of all persons voted for at the primary election, the number of votes cast for each candidate, and for what office. The

statement shall be subscribed by the election judges and shall be filed with the returns in the office of the county auditor.

16.1-11-29. NOMINATIONS BY STICKERS.) On both the party and the no-party ballot, a candidate may be nominated by having his name written on the ballot, or by a printed sticker being placed in a blank line left for that purpose underneath the group of candidates in each official position. Not more than one name shall be written or printed on any sticker.

16.1-11-30. VOTE REQUIRED AT PRIMARY ELECTION FOR NOMINATION.) No person shall be deemed nominated as a candidate for any office at any primary election unless he receives a number of votes equal to the number of signatures required, or which would have been required had he not had his name placed upon the ballot through a certificate of endorsement, on a petition to have a candidate's name for that office placed on the primary ballot.

16.1-11-31. VOTE REQUIRED FOR NOMINATION ON NO-PARTY BALLOT - PARTISAN NOMINATIONS PROHIBITED.) The number of persons to be nominated as candidates for any one no-party office shall be that number of persons who receive the highest number of votes and who total twice the number of available positions for the office, if that many persons are candidates for nomination. Provided, however, that no person shall be deemed nominated as a candidate for any no-party office at any primary election unless the number of votes received by him equals the number of signatures required to be obtained on a petition to have a candidate's name for the office placed on the primary ballot. No partisan nominations shall be made for any of the offices mentioned in section 16.1-11-04.

16.1-11-32. TIE VOTE DETERMINATION.) In case of a tie vote the nominee or nominees shall be determined by lot, in the presence of the candidates upon at least five days' notice to each candidate, by the canvassing board or boards concerned, at a time and place designated by the board.

16.1-11-33. PERSONS NOMINATED IN ACCORDANCE WITH PROVISIONS OF CHAPTER ELIGIBLE AS CANDIDATES IN GENERAL ELECTION.) All persons nominated in accordance with the provisions of this chapter shall be eligible as candidates to be voted for at the ensuing general election.

16.1-11-34. PRIMARY ELECTION AND BALLOT GOVERNED BY GENERAL ELECTION PROVISIONS.) Except as otherwise provided in this chapter, the primary election ballot shall be arranged, and the primary election shall be provided for, conducted, and the expenses thereof paid as in the case of a general election.

SECTION 10.) Chapter 16.1-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-12-01. CERTIFICATE OF NOMINATION - PARTY AND INDEPENDENT.) A certificate of nomination shall be either:

1. The certificate of nomination required to be executed by the state or a county canvassing board pursuant to sections 16.1-15-40 and 16.1-15-21, respectively, for party nominations.
2. The certificate of nomination by petition for independent nominations provided for by this chapter.

16.1-12-02. CERTIFICATES OF NOMINATION BY PETITION - FORM AND CONTENTS.) Certificates of nomination for nominees for an office to be filled at a general or special election, except for an office appearing on the no-party ballot, may be made as provided by this section. The names of nominees so nominated shall appear on the ballot in a single column for independent candidates. Each certificate of nomination by petition shall contain:

1. The name of the nominee.
2. The office the nominee desires to fill.
3. The post-office address of the nominee.
4. A statement in not more than five words of the party or principle which the nominee represents, but the statement shall not indicate an affiliation with or the support of any political party organized in accordance with this title.
5. Signatures of qualified electors, as defined in this title, who reside in the state, district, or political subdivision. The signatures need not be appended to one paper, and each person signing shall add his mailing address and the date of signing. The signatures on the petition shall be in the following number:
 - a. If the nomination is for an office to be filled by the electors of the entire state, there shall be not less than one thousand signatures.
 - b. If the nomination is for an office to be filled by the electors of a district less than the entire state, the number of signatures shall be ten percent of the number of votes cast in the district for governor at the last preceding general election, but in no case shall more than three hundred signatures be required.
6. If the petition is for the office of governor or lieutenant governor, it shall contain the names and other required information of candidates for both those offices.

16.1-12-03. CERTIFICATE OF NOMINATION TO CONTAIN ONLY ONE NAME - PERSON TO PARTICIPATE IN ONLY ONE NOMINATION.) No certificate of nomination provided for by this chapter, except in the case of presidential electors, shall contain the name of more

than one nominee for each office to be filled. No person shall participate directly or indirectly in the nomination of more than one person for each office to be filled, and no person shall accept a nomination to more than one office. No political party shall be entitled to more than one set of nominees on the official ballot.

16.1-12-04. CERTIFICATES OF NOMINATION - TIME AND PLACE OF FILING.)

1. The following certificates of nomination shall be filed with the secretary of state, with written notice of that filing filed with the county auditor of each county included within the district wherein the offices are to be elected:
 - a. Certificates of nomination for nominees for offices to be filled by the electors of the entire state.
 - b. Certificates of nominations for nominees for offices to be filled by the electors of any district greater than a county.
 - c. Certificates of nomination for nominees for legislative offices.
2. Certificates of nomination for nominees for county offices shall be filed with the county auditor of the respective counties in which the officers are to be elected.
3. Certificates of nomination required to be filed with the secretary of state shall, without regard to the means of delivery, be filed and in the actual possession of the secretary of state not later than four p.m. on the fortieth day prior to the general election day.
4. Certificates of nomination required to be filed with the county auditor shall, without regard to the means of delivery, be filed and in the actual possession of the county auditor not later than four p.m. on the thirty-fifth day prior to the general election day.
5. In the case of special elections called to fill vacancies, certificates of nomination shall be filed and in the actual possession of the appropriate officer, regardless of the means of delivery, not later than four p.m. on the thirty-fifth day prior to the day of election.
6. The secretary of state and the several county auditors shall keep on file for six months all certificates of nomination filed with them under this chapter, and all certificates of nomination shall be open to public inspection during regular business hours.

16.1-12-05. SECRETARY OF STATE TO CERTIFY NOMINATIONS TO COUNTY AUDITOR - DUTY OF COUNTY AUDITOR.) Not less than thirty-five days prior to any general or special election to fill any state or district office, the secretary of state shall certify to the county auditor of each county in which any elector may by law vote for candidates for the office, the name and post-office address of each person nominated for the office as shown on the certificates of nomination filed in his office. Upon receipt of that certification, the county auditor shall compare it with the written notice of filing of certificates of nomination filed with the auditor pursuant to this Act, and shall report any discrepancies to the secretary of state, who shall take corrective action prior to sending the notice of officers to be chosen at the next general election as required by section 16.1-13-03.

16.1-12-06. PERSON NOMINATED BY MORE THAN ONE PARTY - COLUMN IN WHICH NAME PLACED.) When one person has been nominated for the same office by more than one body of electors qualified to make nominations for public office, the nominee shall file with the proper officer designated in this Act, on or before the last day fixed by law for filing certificates of nomination for the office, a signed statement designating the column on the official ballot in which the nominee desires his name to appear. The column so designated must be the column allotted to one of the bodies of electors by whom the person was nominated. In the absence of a timely written designation as provided by this section, the appropriate officer shall place the person's name in the column allotted to the body of electors from which was first received notice of the person's nomination.

16.1-12-07. IF NOMINEE DECLINES - CERTIFICATE VOID.) Any person intending to decline a nomination shall do so by filing written notice of that intention with the officer with whom the certificate nominating him is filed. If the written notice is filed with the appropriate officer at least thirty-five days before the election, the nomination shall be void.

16.1-12-08. VACANCY OCCURRING ON BALLOT BEFORE ELECTION DAY BUT AFTER BALLOTS ARE PRINTED - STICKERS USED.) If a vacancy occurs before election day and after the printing of the ballots, and any person is nominated according to the provisions of this title to fill the vacancy, the officer whose duty it is to have the ballots printed and distributed shall have printed on a requisite number of stickers the name of the substitute candidate and no other name. Stickers shall be printed on the same color paper as the ballots to which they will be affixed. The officer shall send the stickers by a reliable method to the judges of election in the various precincts affected by the vacancy. The judges of election whose duty it is to distribute the ballots shall affix the stickers in the proper place on each ballot before it is given to the elector and shall cross out or otherwise obliterate the name of the original nominee causing the vacancy.

16.1-12-09. FILLING VACANCY EXISTING ON NO-PARTY BALLOT - PETITION REQUIRED - TIME OF FILING.) Whenever a vacancy shall exist on a no-party ballot for a state office or for judge of a district court, such vacancy may be filled by filing with the secretary of state, at least thirty-five days prior to the general election and before four p.m. on the thirty-fifth day, a written petition as provided in section 16.1-11-03, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If the petition is mailed, it shall be in the physical possession of the secretary of state before four p.m. on the thirty-fifth day prior to the general election. The petition for the nomination of any person to fill such vacancy shall be signed by qualified electors equal in number to at least two percent of the total vote cast for governor in the state or district, at the most recent general election at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

Whenever a vacancy shall exist on a no-party ballot in a county or district within a county, the vacancy may be filled by filing with the county auditor at least thirty-five days prior to the general election and before four p.m. of the thirty-fifth day a written petition as provided in section 16.1-11-07, stating that the petitioner desires to become a candidate for election to the office for which a vacancy exists. If such petition is mailed or otherwise delivered, it shall be in the possession of the county auditor before four p.m. on the thirty-fifth day prior to the general election. The petition for the nomination of any person to fill the vacancy shall be signed by qualified electors equal in number to at least thirty percent of the total vote cast for governor at the most recent general election in the county or district at which the office of governor was voted upon, but in no case shall more than three hundred signatures be required.

A vacancy in the no-party ballot shall be deemed to exist when a candidate nominated at the primary election shall die, resign, or otherwise become disqualified to have his name printed on the ballot at the general election.

SECTION 11.) Chapter 16.1-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-13-01. DATE OF GENERAL ELECTION.) The general election shall be held in all the election districts of this state on the first Tuesday after the first Monday in November of each even-numbered year.

16.1-13-02. OFFICERS TO BE ELECTED AT GENERAL ELECTION.) All elective state, district, and county officers, and the United States senators, and the members of the United States house of representatives, 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 vice president of the United States are to be chosen, a number of presidential electors 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.

16.1-13-03. SECRETARY OF STATE TO GIVE NOTICE TO COUNTY AUDITOR OF OFFICERS TO BE ELECTED.) Not later than the tenth day of October in each general election year, the secretary of state shall direct and cause to be delivered to the county auditor of each county a notice specifying each officer to be chosen at the next general election. The publication of the sample ballot by the county auditor shall constitute the notice of the secretary of state in regard to the offices and candidates to be voted upon at the general election.

16.1-13-04. CANDIDATES' NAMES PLACED ON OFFICIAL GENERAL ELECTION BALLOT.) The names of all candidates of each political party or principle or no-party designation, who are shown to have been nominated for the several offices in accordance with the certificates of nomination filed in his office, shall be placed by the secretary of state on the official ballot to be voted for at the next general election following.

16.1-13-05. NOTICE OF ELECTION - CONTENTS - PUBLICATION WITH SAMPLE BALLOT.) Notice of all general elections shall be published by the county auditor in the official county newspaper at the same time as, and as a part of, the publication of the sample ballot preceding such election. The notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the _____ day of November, 19__, at the polling places in the various precincts in the county of _____, an election will be held for the election of state, district, and county officers, which election will be opened at _____ a.m. and will continue open until _____ p.m. of that day with the following exceptions:

_____.

Dated this _____ day of _____, 19__

Signed _____
County Auditor

The county auditor shall publish a copy of the sample ballot of the general election once each week for two consecutive weeks prior to the election in the official county newspaper. If no newspaper is published in the county, the publication shall be in a newspaper published in an adjoining county in the state. The form of the sample ballot as ordered and arranged by the county auditor shall conform in all respects to the form prescribed by the legal publications handbook, published pursuant to subsection 5 of section 46-01-02, for the sample general election ballot. The county

auditor shall publish the sample ballot in all forms appropriate for the method or methods of voting in his county. Absentee voter ballots shall not be considered in determining which form of voting is used. Candidates from each legislative district which falls within the boundaries of the county shall be listed in a separate box or category by legislative district number to enable the voters in each legislative district to ascertain the legislative candidates in their specific district.

16.1-13-06. DEFEATED PRIMARY CANDIDATE INELIGIBLE TO HAVE NAME PRINTED ON GENERAL BALLOT.) A person who was a candidate for nomination by any party at any primary election in any year and who was defeated for the nomination shall not have his or her name printed upon the official ballot at the ensuing general election for the same office.

16.1-13-07. PREPARATION, PRINTING, DISTRIBUTING, CANVASSING, AND RETURNING OF NO-PARTY BALLOT.) The no-party ballot shall be prepared, printed, distributed, canvassed, and returned in the same manner provided for other general election ballots.

16.1-13-08. RESIGNATION OF MEMBERS OF LEGISLATIVE ASSEMBLY AFTER CERTIFICATE OF ELECTION.) Any person who receives a certificate of election as a member of the legislative assembly may resign such office although he may not have entered upon the execution of the duties thereof nor taken the requisite oath of office.

16.1-13-09. VACANCY EXISTING IN OFFICE OF MEMBER OF LEGISLATIVE ASSEMBLY - SPECIAL ELECTION TO FILL.) Whenever a vacancy in the office of a member of the legislative assembly occurs, the county auditor of the county in which such former member resides or resided shall notify the governor of the vacancy. The county auditor need not notify the governor of the resignation of a member of the legislative assembly when the resignation was made pursuant to section 44-02-02. Upon receiving such notification, the governor, if there is a session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, shall issue a writ of election directed to the auditor of each affected county commanding him to notify the several boards of election in the county or district in which the vacancy exists to hold a special election to fill such vacancy at a time designated by the governor. If there is no session of the legislative assembly between the time such vacancy occurs and the time of the holding of the next general election, the special election shall be held at the same time as the general election. If the term of office of the member whose office is vacated expires prior to the next session of the legislative assembly, no election shall be held to fill such vacancy.

16.1-13-10. VACANCY OCCURRING IN LEGISLATIVE ASSEMBLY DURING SESSION - DUTY OF GOVERNOR.) If a vacancy occurs in the office of a member of the legislative assembly while it is in session, the

governor, immediately upon receiving official notice thereof, shall proceed in the manner prescribed in section 16.1-13-09.

16.1-13-11. NOTICE OF SPECIAL ELECTION.) A notice of a special election and the copy of the sample ballot shall be issued and published in substantially the form and manner prescribed by section 16.1-13-05.

16.1-13-12. CANVASSING AND RETURNING VOTES CAST AT ELECTIONS TO FILL VACANCIES.) Votes cast at special elections shall be canvassed and returned as provided for primary and general elections, and the county auditor within eight days shall forward to the secretary of state the abstracts of the same.

16.1-13-13. SPECIAL ELECTION TO FILL VACANCIES - PARTY COMMITTEE TO CALL CONVENTION TO NOMINATE - INDIVIDUAL NOMINATIONS.) If a special election is called to fill a vacancy in any office for which a party nomination may be made, the proper party committee shall call a convention to make a party nomination for such office, and the precinct committeemen of the district shall be duly convened and shall elect the required number of delegates to such convention. Individual nominations for special elections shall be made in accordance with the provisions of chapter 16.1-12.

16.1-13-14. NOTICE OF HOLDING CONVENTION FOR SPECIAL ELECTION - MANNER OF GIVING.) Public notice of such a nominating convention shall be given at least six days before the holding of the convention by publication in the official newspaper in the county or counties in which the election will be held. Such nomination shall be made by delivering to and leaving with the officer charged with directing the printing of the ballots upon which the name is to be placed, within the time prescribed in this title, a certificate of nomination for each candidate.

16.1-13-15. BASIS OF REPRESENTATION AT CONVENTION - HOW DETERMINED.) The basis of representation of delegates to a convention, unless otherwise provided by law, shall be fixed and determined by the authorized district or state committee of each political party entitled by law to make nominations for office by delegate convention.

16.1-13-16. CERTIFICATE OF NOMINATION BY CONVENTION - CONTENTS - DELIVERY.) All nominations made by a convention as provided in this chapter shall be certified. The certificates of nomination shall be in writing and shall contain all of the following:

1. The name of each person nominated, his post-office address, and the office for which he is nominated.
2. A designation in not more than five words of the party or principle which the convention represents.

3. The signature, post-office address, and verification of the presiding officer and secretary of the convention.

The certificate as prescribed in this section shall be delivered by the secretary or president of the convention by registered or certified mail or in person, without charge, to the secretary of state or the county auditor, as the case may be.

16.1-13-17. TWO OR MORE ORGANIZATIONS FILING CERTIFICATES REPRESENTING SAME PARTY - SECRETARY OF STATE TO DETERMINE AUTHORIZED ORGANIZATION - REVIEW OF DETERMINATION.) If two or more organizations claiming or purporting to represent the same political party shall file certificates of nomination under the same party designation, or if the certificates indicate that the nominations were made by any person or organization representing the same political party, the secretary of state, within the time prescribed by law for certifying state nominations to the county auditor, shall determine from the best available sources of information which organization filing the certificates is the legally authorized representative of the party. The decision of the secretary of state in determining which organization is the legally authorized representative of the party shall be subject to review by the district court in a proper action instituted for such purpose.

16.1-13-18. ELECTION NOT TO BE HELD IN ROOM WHERE ALCOHOLIC BEVERAGES SOLD.) No election shall be held in a room in which alcoholic beverages commonly are sold.

16.1-13-19. EXAMINATION OF BALLOT BOX BEFORE OPENING OF POLLS.) Before declaring the polls open, the inspector and the election judges shall inspect the ballot box to assure that it is empty. The ballot box shall then be locked.

16.1-13-20. PRODUCING, OPENING, AND DELIVERING BALLOTS UPON OPENING OF POLLS.) Upon the opening of the polls, the inspector of election in each precinct shall produce the sealed package of official ballots and publicly open them.

16.1-13-21. DELIVERING BALLOT TO ELECTOR - STAMPING.) The inspector or one of the election judges shall deliver ballots to the qualified electors. The inspector or judge delivering the paper ballot or ballot card, ballot stub, and ballot envelope shall inform each elector that if the ballot is not stamped and initialed by an election official it will be invalidated and to protect his right to vote the elector should observe the stamping and initialing of the ballot. When an electronic voting system is used, the inspector or judge delivering the ballot card, ballot stub, and ballot envelope shall inform each elector that if the ballot stub is detached by anyone except an election judge, the ballot card and ballot envelope shall not be deposited in the ballot box, but shall be marked spoiled and placed with the other spoiled ballots. At primary elections, the inspector or judge shall also inform each elector that if he splits his ballot or votes for candidates of more than one party his ballot will be rejected. Before delivering any ballot

to an elector, the inspector or judge shall stamp once at the top of the back of the ballot the designation "official ballot" and the other words provided for in section 16.1-06-18, and also shall write his initials thereon. Failure to stamp and initial a ballot in the proper place on the ballot shall not invalidate such ballot, but a complete failure to stamp and initial a ballot shall invalidate the ballot.

16.1-13-22. PREPARATION OF BALLOT BY ELECTOR - FOLDING - DEPOSITING.) Upon receipt of a ballot, the elector, forthwith and without leaving the polling place, shall retire alone to one of the voting booths or compartments to prepare his ballot by placing a crossmark (X) or other mark which clearly shows the intention of the elector within the square opposite the name of each person for whom he wishes to vote. In the 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, the elector shall place the crossmark (X) or other mark within the square opposite the word or words expressing his wish. After preparing the ballot, the elector shall fold it so the face of the ballot is concealed and so the endorsement of the inspector or election judge stamped thereon may be seen. The elector then shall hand the ballot 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.

16.1-13-23. PREPARATION OF ELECTRONIC VOTING SYSTEM BALLOTS.) Except as provided in this section, voting procedures for electronic voting systems shall be the same as for regular paper ballot voting. After marking the ballot envelope or punching the ballot card for electronic voting systems, the voter shall place the ballot inside the ballot envelope and return it to the election judge. The judge shall remove the stub and deposit the envelope with the ballot inside the ballot box. The ballot stub shall be deposited in an envelope provided for that purpose. Ballot cards from which the ballot stub has been detached by anyone except an election judge shall not be deposited in the ballot box, but shall be marked spoiled and placed with other spoiled ballots.

16.1-13-24. ELECTOR MAY WRITE OR PASTE NAME ON BALLOT - COUNTING.) The provisions of this title shall not prevent any elector from writing or pasting on the ballot or ballot envelope the name of any person for whom he desires to vote, and such vote shall be counted the same as if printed on the ballot and marked by the elector.

16.1-13-25. NAME WRITTEN OR PASTED ON BALLOT EVIDENCE OF VOTE WITHOUT MARKING "X".) If a name has been written or pasted opposite an office to be voted for, it shall be deemed sufficient evidence that the person depositing the ballot or ballot envelope intended to vote for the person whose name is written or pasted thereon, and not for the person whose name originally was printed on the ballot,

whether or not the elector made a mark or cross opposite the written or pasted name.

16.1-13-26. DISABILITY OF ELECTOR.) Any elector who declares to the judges of election that he or she cannot read the English language, or that because of blindness or other disability is unable to mark his or her ballot, upon request, shall receive the assistance of both election judges in the marking of his or her ballot. No one assisting any elector in marking a ballot under this chapter shall give information regarding the same. No elector, other than one who is unable to read the English language or one who because of disability is unable to mark a ballot, shall divulge to anyone within the polling place the name of any candidate for whom he or she intends to vote, nor ask, nor receive the assistance of any person within the polling place to mark his or her ballot.

16.1-13-27. PENALTY FOR REQUESTING VOTER TO VOTE IN CERTAIN MANNER.) Any person chosen to assist a voter who shall request the voter he is assisting to vote for or against any person, or any issue, shall be guilty of a class B misdemeanor.

16.1-13-28. ELECTION BOOTHS OR COMPARTMENTS - NUMBER REQUIRED - EXPENSE.) The inspector of elections shall provide a sufficient number of voting booths or compartments in his polling place which shall be designed to enable the elector to mark his ballot screened from observation. The number of booths or compartments in precincts in which voting machines are not used shall not be less than one for each fifty electors or fraction thereof in the precinct. The expense of providing the booths or compartments shall be paid in the same manner as other election expenses. One voting machine shall be provided in machine precincts for each two hundred electors or fraction thereof in the precinct.

16.1-13-29. ONE PERSON TO OCCUPY BOOTH - TIME LIMIT IN BOOTH.) Not more than one person shall be permitted to occupy any one voting booth or compartment at one time except when providing lawful assistance. No person shall remain in or occupy a booth or compartment longer than necessary to prepare his ballot.

16.1-13-30. REMOVAL OF BALLOT FROM POLLING PLACE BEFORE CLOSING OF POLLS - PROHIBITED.) No person shall take or remove any ballot from the polling place before the close of the polls.

16.1-13-31. SECURING NEW BALLOT UPON SPOILING OF OTHERS.) If any elector spoils a ballot, including an electronic voting system ballot, he may obtain others successively, one at a time, not exceeding three in all, upon returning each spoiled ballot. Each ballot returned shall be canceled immediately and, together with those not distributed to the electors, shall be preserved and secured in sealed packages and returned to the county auditor from whom received.

16.1-13-32. VOTING MACHINES - ELECTION LAWS APPLY.) All provisions of law relating to the conduct of elections shall apply

as closely as possible to elections at which voting machines or electronic voting systems are used.

SECTION 12.) Chapter 16.1-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-14-01. CANVASSING VOTES FOR PRESIDENTIAL ELECTORS - TIE VOTE.) The state canvassing board in examining and making a statement of the votes for, and in determining and certifying the persons chosen as, presidential electors shall proceed in the manner prescribed in this title for the canvass of votes for state officers. The secretary of state likewise shall file and record such statement and determination. In canvassing the returns for presidential electors, the group of electors having the greatest number of votes is to be declared elected. If two or more groups of electors are found to have an equal and the greatest number of votes, the election of one group shall be determined by lot, with the drawing made by the governor in the presence of the other members of the state canvassing board.

16.1-14-02. SECRETARY OF STATE TO PREPARE CERTIFICATES OF ELECTION.) The secretary of state shall prepare certificates of election for each presidential elector chosen at the election. Each certificate shall be signed by the governor and the secretary of state and the great seal of the state shall be affixed thereto. One certificate shall be delivered to each of the electors chosen.

16.1-14-03. PROCLAMATION OF RESULT BY GOVERNOR - PUBLISHING - CERTIFICATE OF ELECTION.) Within ten days after the state canvassing board completes the canvass of the votes cast for presidential electors, as certified by the auditors of the respective counties, the governor shall declare by proclamation, to be printed in the official county newspaper printed and published at the seat of government, the names of the persons who have received the highest number of votes returned for such office. If the election of such persons has not been contested by notice of contest having been filed with the governor within ten days after the date of such proclamation, then such persons shall be deemed elected, and the governor shall transmit to each person so chosen a certificate of election.

16.1-14-04. MEETING OF PRESIDENTIAL ELECTORS.) Presidential electors shall meet at one p.m. in the office of the governor in the state capitol on the first Monday after the second Wednesday in December next following their appointments by election for the purpose of casting their ballots as members of the electoral college. The secretary of state shall notify the electors of the date of the meeting.

16.1-14-05. FILLING OF VACANCY EXISTING IN OFFICE OF PRESIDENTIAL ELECTOR.) If a vacancy exists in the office of an elector for any reason, the electors present at the meeting provided for in section 16.1-14-04 shall first proceed to fill such vacancy by ballot by a plurality of the votes. When all the electors

appear, or the vacancies have been filled as provided in this section, they shall proceed to perform the duties required of them by the Constitution and laws of the United States.

16.1-14-06. COMPENSATION OF PRESIDENTIAL ELECTORS.) The electors provided for in this chapter shall receive the same per diem and the same mileage as members of the legislative assembly.

16.1-14-07. BOARD FOR TRIAL OF CONTEST OF PRESIDENTIAL ELECTORS - HOW CONSTITUTED - OATH.) The board for the trial of contests of elections for presidential electors shall consist of the chief justice of the supreme court, who shall be president of the board, and two judges of the district court designated by the governor. If the chief justice shall be unable to attend at such trial, the next senior judge on the supreme court shall preside in place of the chief justice. The secretary of state shall be the clerk of the board, or in his absence or inability to act, the clerk of the supreme court shall be the clerk. Each member of the board, before entering upon the discharge of his duties, shall take an oath, before the secretary of state or some other officer qualified to administer oaths, that without fear, favor, affection, or hope of reward, he will, to the best of his knowledge and ability, administer justice according to law and the facts of the case.

16.1-14-08. CONTESTANT MAY APPLY TO BOARD.) A group of electors appearing, by the proclamation of the governor, to have received not less than one-fifth of the votes cast at an election for presidential electors, may apply to the board provided for in section 16.1-14-07 for a declaration of election as presidential electors.

16.1-14-09. APPLICATION TO STATE GROUNDS OF CONTEST.) The application provided for in section 16.1-14-08 shall be made by petition in writing to be filed in the office of the secretary of state within ten days from the date of the proclamation provided for in section 16.1-14-03. The petition, regardless of its mode of delivery, shall be in the possession of the secretary of state before four p.m. on the tenth day as provided in this section, and the secretary of state shall convene the board forthwith. The petition shall set forth the names of the persons whose election is contested and the ground for such contest. The petitioner, before any proceedings are had upon the petition, except the convening of the board, shall file a bond to this state in a sum and with such surety as the board shall order, conditioned for the payment of all costs incurred in the prosecution of such contest in the case the contestants shall not prevail.

16.1-14-10. NOTICE TO PERSONS CONTESTED.) Upon the filing of the petition and bond as provided in section 16.1-14-09, the board for the trial of an election contest shall order written notice of the petition to be given to the governor and to the persons whose election is contested. Notice shall also be published in a newspaper as the board shall order. Notices provided for by this section shall contain a concise statement of the facts alleged in

the petition and a designation of the time and place fixed by the board for the hearing, which shall be not less than three nor more than fifteen days from the filing of the petition.

16.1-14-11. APPEARANCE BY PARTIES TO CONTEST.) At the time fixed for the hearing, the petitioners shall appear and produce their evidence, and the persons whose election is contested may appear and produce evidence in their behalf. Any party to the contest proceedings may appear in person or by attorney, and no other person shall be entitled to be made a party to the proceedings or to be heard personally or by counsel therein. If more than one petition is pending, the board, in its discretion, may order the contests to be heard together.

16.1-14-12. HEARING - HOW CONDUCTED.) The board shall hear the contest and decide all questions of law and fact involved. The burden of proof in each case shall be upon the petitioners, and the hearing shall be confined to the grounds stated in the petition, but the board in its discretion may allow the petition to be amended. No ex parte affidavits shall be competent evidence at the hearing. No person shall be excused from testifying or from producing papers or documents at the hearing on the ground that such testimony will tend to incriminate him, but no person so testifying shall be subject to any suit or prosecution, civil or criminal, for any matter or cause in respect to which he shall be examined or to which his testimony shall relate. The board shall have the same power to compel the attendance of witnesses as the district courts of this state possess, and nothing contained in this chapter shall be held to limit the power of the board to make such regulations as to the conduct of the proceedings as it may deem proper, not inconsistent with the provisions of this chapter. The board shall have all powers necessary to the complete performance of the duties and authority conferred upon it by this chapter.

16.1-14-13. CERTIFICATION OF DETERMINATION OF BOARD.) The board shall determine in each case which of the parties to the proceedings are entitled to the office of elector, and shall cause its determination to be entered of record in a manner and form as it shall direct, and shall certify the same to the governor and secretary of state. The certified determination shall be final and conclusive that the persons stated therein are duly elected. The governor shall transmit to such persons certificates of their election, and every such certificate shall recite that it is issued pursuant to a determination under the provisions of this chapter.

16.1-14-14. FAILURE OF PETITIONERS TO APPEAR - EFFECT.) If any petitioners fail to appear and prosecute their petition against the persons who have been made respondents thereto, according to the requirements of this chapter and of any rules made by the board, the board shall determine that they have failed, and shall cause the determination to be entered of record in such manner and form as it shall direct, and forthwith shall certify the determination to the governor and secretary of state. The determination shall be a final and conclusive bar to the claim of the petitioners against such

respondents as fully and completely as if the claim had been heard and determined on its merits, and the governor shall issue certificates of election as provided in section 16.1-14-13.

16.1-14-15. COSTS - TAXATION.) The costs of an election contest under the provisions of this chapter shall be taxed under the direction of the board. If two or more cases are heard together, the costs shall be apportioned as the board shall direct. In each case in which the petitioners do not prevail, the costs shall be paid by them, and in each case in which the petitioners prevail, the costs shall be paid by the state. If the costs are required to be paid by the state, the board shall certify the costs to the state auditor, who shall issue his warrant upon the state treasurer in payment of the same.

16.1-14-16. DETERMINATION OF FINAL HEARING.) The final hearing and determination under the provisions of this chapter shall be by a majority of the board, but any single member may exercise any of the other powers given to the board by this chapter.

16.1-14-17. MILEAGE AND PER DIEM OF BOARD MEMBERS.) The members of the board trying the presidential election contest shall be compensated in the same manner as state officers pursuant to sections 44-08-04 and 54-06-09.

16.1-14-18. ELIGIBILITY OF NEW RESIDENTS TO VOTE.) Each citizen of the United States who, immediately prior to his removal to this state, was a citizen of another state and who has been a resident of the precinct for less than thirty days prior to a presidential election, is entitled to vote for presidential electors at that election, but for no other offices, if:

1. He otherwise possesses the substantive qualifications to vote in this state, except requirement of residence, and
2. He complies with the provisions of sections 16.1-14-18 to 16.1-14-28, both inclusive.

16.1-14-19. ELIGIBILITY OF FORMER RESIDENTS TO VOTE.) Each citizen of the United States who was a qualified elector in this state immediately prior to establishing residence in another state and who has not qualified for voting purposes due to the residency requirement of that state, may vote in North Dakota for president and vice president only, by applying for a separate ballot at least one day before the election in accordance with sections 16.1-14-20, 16.1-14-23, 16.1-14-24, 16.1-14-25, 16.1-14-26, and 16.1-14-27, provided the statements relative to new residents contained therein shall, for this purpose, be changed by the county auditor and inspector of elections to comply with the provisions of this section.

16.1-14-20. APPLICATION FOR PRESIDENTIAL BALLOT BY NEW RESIDENTS.) A person desiring to qualify to vote for presidential electors is not required to register but, not less than ten days in

advance of the election, shall make an application in the form of an affidavit executed in duplicate in the presence of the county auditor substantially as follows:

State of North Dakota)
County of _____) ss.

I, _____, do solemnly swear that:

- 1. I am a citizen of the United States.
2. Before becoming a resident of this state, I resided at _____ street, in the (town) (township) (city) of _____, county of _____ in the state of _____.
3. On the day of the next presidential election, I shall be at least eighteen years of age. I have been a resident of this state since the _____ day of _____, 19 ____, now residing at _____ street, in the (town) (township) (city) of _____, county of _____ in the state of North Dakota.
4. I have resided in _____ precinct for less than thirty days. I believe I am entitled under the laws of this state to vote at the presidential election to be held on the _____ day of November, 19 _____.
5. I hereby make application for a presidential election ballot. I have not voted and will not vote otherwise than by this ballot at that election.

Signed _____
(Applicant)

Subscribed and sworn to before me this _____ day of _____, 19 ____.

Signed _____
(Title and name of officer
authorized to administer
oaths)

16.1-14-21. MAILING DUPLICATE APPLICATION.) The county auditor shall immediately mail to the appropriate official of the state in which the applicant last resided the duplicate of the application.

16.1-14-22. FILING AND INDEXING INFORMATION FROM OTHER STATES.) The county auditor shall file each duplicate application or other official information received by him from another state indicating that a former resident of this state has made application to vote at a presidential election in another state and shall

maintain an alphabetical index thereof, for a period of four months after the election.

16.1-14-23. DELIVERY OF BALLOT TO APPLICANT.) If satisfied that the application is proper and that the applicant is qualified to vote at the presidential election, the county auditor shall deliver to the applicant a ballot for presidential electors no sooner than thirty days nor later than one day prior to the next presidential election.

16.1-14-24. VOTING BY NEW RESIDENTS.)

1. The applicant, upon receiving the ballot for presidential electors, shall immediately mark the ballot in the presence of the county auditor but in a manner that the official cannot know how the ballot is marked. He shall then fold the ballot in the county auditor's presence to conceal the markings, and deposit and seal it in an envelope furnished by the county auditor.
2. The voter shall enclose the envelope containing the ballot in a carrier envelope which shall be securely sealed. There shall be imprinted on the outside of the carrier envelope a statement substantially as follows:

Certification of New Resident Voter

I have qualified as a new resident voter in this state to vote for presidential electors. I have not applied nor do I intend to apply for an absent voter's ballot from the state from which I have removed. I have not voted and I will not vote otherwise than by this ballot.

Dated _____

Witness _____
County Auditor

(Signature of Voter)

The voter shall sign the certification upon the carrier envelope as set forth above, and shall then deliver the sealed carrier envelope to the county auditor, who shall keep the carrier envelope in his office until delivered by him to the inspector of elections of the precinct in which the applicant resides.

16.1-14-25. LIST OF APPLICANTS OPEN FOR PUBLIC INSPECTION.) The county auditor shall keep open to public inspection a list of all persons who have applied to vote as new residents with their names, addresses, and application dates.

16.1-14-26. DELIVERY OF DEPOSIT OF BALLOTS.)

1. The county auditor shall deliver the ballots for new residents to the inspector of elections in the manner prescribed by law for absentee ballots. The ballots shall be processed in accordance therewith.
2. The inspector of elections shall record the new resident voter's name with a notation designating him as a new resident voting for presidential electors only.

16.1-14-27. APPLICATION OF OTHER STATUTES.) Except as provided in sections 16.1-14-18 through 16.1-14-27, the provisions of law relating to absent voters' ballots apply also to the casting and counting of ballots of new residents, the furnishing of election supplies, ballots, canvassing of ballots, and making proper returns of the results of the election.

16.1-14-28. DEFINITION OF STATE.) As used in sections 16.1-14-18 through 16.1-14-27 "state" includes the District of Columbia.

SECTION 13.) Chapter 16.1-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-15-01. BALLOTS VOID AND NOT COUNTED - PART OF BALLOT MAY BE COUNTED.) In the canvass of the 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 marked so only a part of the voter's intention can be determined, the election judges 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, a ballot shall be void if the elector votes for candidates of more than one party.

16.1-15-02. BOARD OF ELECTION TO CANVASS VOTES - LOCATION - PUBLIC MAY ATTEND.) After the polls are closed, the inspector of elections and the judges shall immediately place the stamp and inepad in the manila wrapper provided by the county auditor and seal it with the seal provided by the county auditor and then they shall open the ballot boxes and count and compare the ballots with the poll clerks' lists. If the ballots compare and are equal in number with the names on the poll clerks' lists, the election board shall proceed immediately to canvass the votes. The canvass shall continue without adjournment until completed, and shall be open to the public. Except in unusual and compelling circumstances, the vote canvass shall occur at the polling place. If good and substantial reasons exist for the removal of the ballots and

election records to another location for canvass, the other location shall be in the same precinct and the removal shall be approved by the election board. In no case shall the ballots be removed to another location for tally after the ballot boxes have been opened. Upon approval of a change of location by the election board as provided in this section, the approximate time and location of the canvass shall be prominently posted on the main entrance to the polling place, the ballots and records shall be moved in the presence of the election board, and the canvass as provided in this chapter shall proceed immediately upon arrival at the alternate location.

16.1-15-03. MANNER OF CANVASSING ELECTION.) The canvass provided for in section 16.1-15-02 shall be conducted in the following manner: as each ballot is counted, the inspector and the election judges shall examine the ballot to ascertain the persons voted for, and either the inspector or one of the judges shall announce the votes disclosed by the ballot, which shall be marked in the tally books by two poll clerks of different political parties. After all of the votes are counted, the election board shall compare the count as disclosed by the poll 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 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 the election.

16.1-15-04. DUPLICATE REPORTS PREPARED BY ELECTION BOARD - TALLY OF VOTES SEPARATE FOR EACH POLITICAL PARTY.) The election board shall prepare duplicate reports of the total votes cast for each candidate or measure. The figures shall agree with the poll clerks' books and the number of ballots. The ballots shall not be sealed, nor shall the election tally books or the duplicate reports be signed, by the election board or poll clerk until the figures and counts in the poll clerks' books and in the duplicate reports and the number of ballots cast all show the same totals. The tally of the votes shall be separate for each political designation or principle and shall be returned as such by the judges and inspector of elections, who shall give the full vote for each candidate.

16.1-15-05. OATH REQUIRED OF MEMBERS OF ELECTION BOARD UPON COMPLETION OF CANVASS - CONTENTS.) At the conclusion of the canvass of the votes, each member of the election board shall sign an affidavit to the effect that the ballots have been counted and the votes canvassed as provided in this chapter, and that the returns as disclosed by the tally books of election kept by the poll clerks, and the duplicate reports, agree with the number of ballots cast and are true and correct of his own knowledge.

16.1-15-06. 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.) By twelve 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 16.1-15-04 to the county auditor. The reports, carefully sealed under cover, accompanied by both of the pollbooks provided for in section 16.1-06-15, and the wrapped and sealed stamp and inkpad, with the oaths of the inspector and poll clerks affixed thereto, shall be delivered properly to the county auditor. The person making the return shall receive compensation therefor in accordance with section 16.1-05-05. However, no compensation and no mileage shall be paid if delivery of the ballots is not made by twelve 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 shall 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.

16.1-15-07. COUNTY AUDITOR NOT TO REFUSE ELECTION RETURNS IF DELIVERED IN UNDIRECTED MANNER - INFORMALITY IN HOLDING ELECTION.) A county auditor shall not refuse any election returns because they may have been returned or delivered to him in a manner other than that directed by this chapter, nor shall he refuse to include any returns because of any informality in holding an election or in making returns thereof.

16.1-15-08. WRAPPING AND RETURNING OF BALLOTS TO COUNTY JUDGE.) After having prepared the reports and poll lists provided for in section 16.1-15-06 for delivery to the county auditor, the inspector and election judges shall cause the ballots of each kind cast at the election to be smoothly spread upon a wrapper of strong durable paper of the same width as the ballots and of sufficient strength to permit its being folded to form a complete wrapper for the ballots. The ballots and wrappers shall then be folded tightly together and the wrapper shall be pasted or glued securely at the outer end to completely envelop and hold the ballots together. Ballots which are void shall be wrapped in a separate wrapper and shall be marked "void". Ballots which are spoiled shall be separately wrapped and marked "spoiled". In folding and sealing ballots, the various classes of ballots shall be kept separate. The judges shall fold all ballots counted by them, except those which are void, and shall place them in manila wrappers, not exceeding two hundred ballots to each wrapper. Each wrapper shall be endorsed with the name or number of the precinct and the date on which the election was held. The wrappers shall be sealed securely in a manner prescribed by the secretary of state so the wrappers cannot

be opened without an obvious and permanent breaking of the seal. The ballots, together with those found void or spoiled, and together with the opened envelopes from voted absentee ballots and the unopened envelopes of absentee ballots rejected as defective, shall be returned either in person or by mail to the county judge. Ballots used with any electronic voting system shall be wrapped, sealed, and returned as provided in this section.

16.1-15-09. VOTING MACHINES - ELECTRONIC VOTING SYSTEMS - RETURNS.) Election officers shall make returns of votes cast upon voting machines and on electronic voting systems for all candidates and for any measures of questions in the same manner as now or hereafter provided by law insofar as such provisions of law are applicable. The county auditor shall designate the public place or places where electronic voting system ballots shall be delivered by the election inspector and the two election judges to be counted in the presence of the election inspector and the two election judges, and all such counting centers shall have tabulating equipment which has an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set at zero. The tabulating equipment shall also be equipped with an element which generates a printed record at the end of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate on the ballot, and the total number of votes cast for or against any measure appearing on the ballot.

If any electronic voting system ballot is damaged or defective so that it cannot be properly counted by the automatic tabulating equipment, a true duplicate copy shall be made by election officials of opposed interests and substituted for the damaged or defective ballot. All duplicate ballots shall be clearly labeled duplicate, shall bear a serial number which shall be recorded on the damaged or defective ballot, and shall be wrapped and delivered with other ballots to the county judge.

16.1-15-10. FAILURE OF AUTOMATIC TABULATING EQUIPMENT - COUNTING BY ALTERNATE METHOD.) If the automatic tabulating equipment used as part of any electronic voting system fails to operate during the ballot count at any election, the ballots shall be counted by an alternate method.

16.1-15-11. LOCKING AND EXAMINATION OF VOTING MACHINES - TALLY OF VOTING MACHINE VOTES - CERTIFICATION TO COUNTY JUDGES.) Voting machines shall remain locked for ten days next following use at an election and as much longer thereafter as necessary or advisable because of any existing or probable contest over the results of the election. They may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction. A complete record of the tally of votes from each voting machine shall be made by the inspector and the election judges at the time votes are tallied. This record shall agree in every respect with the pollbooks and the original reports of the

total votes cast for each candidate or measure. The record shall then be certified by the inspector and the election judges, and one copy shall be delivered to the county judge at the same time as the ballots are delivered to him pursuant to section 16.1-15-08. The records may be opened and all data and figures therein examined upon the order of any court of competent jurisdiction in the event of any existing or probable contest over the results of the election.

16.1-15-12. BALLOT BOXES DELIVERED TO OFFICERS FOR CUSTODY.) In organized townships or in cities, the inspector of elections, if he is not himself the officer in question, shall deliver the ballot boxes to the chairman of the board of supervisors of the township, or to the executive officer of the city, in which the election precinct is situated, as the case may be. The officer shall keep the boxes in safe custody until the next election or hand them over to his successor in office to be kept safely by him until such time. At the following general or primary election, the officers shall hand the ballot boxes over to the inspector of elections. In unorganized townships, the inspector of elections shall cause the ballot boxes to be delivered to the county auditor at the same time the ballots are returned to him.

16.1-15-13. COUNTY JUDGE TO KEEP BALLOTS FORTY-FIVE DAYS - EXCEPTION - USE OF BALLOTS AS EVIDENCE.) Immediately upon receiving the ballots as provided in section 16.1-15-08, the county judge shall give receipt therefor to the election judges and shall place the ballots properly arranged in the order of the precinct number in boxes which shall be securely locked. The boxes shall be placed in a fireproof vault and shall be kept securely for forty-five days. They shall not be opened nor inspected, except upon court order in a contested election, when it is necessary to produce them at a trial for any offense committed at an election, or to permit election officials to complete their duties. Forty-five days after the election, upon determination by the county judge that no contest is pending, the ballots shall be destroyed. If any contest of the election of any officer voted for at the election or a prosecution under the provisions of this title is pending at the expiration of such time, the ballots shall not be destroyed until the contest or prosecution is finally determined. The ballots returned to the county judge as provided in this section shall be received in evidence without introducing further foundation.

16.1-15-14. FAILURE TO COMPLY WITH FORMALITIES NOT TO INVALIDATE ELECTION - EVIDENCE OF COMPLIANCE.) Failure by election board officers to comply with any of the formalities required by this chapter as to the return of the ballots shall not invalidate any election nor cause any ballot otherwise regular to be disregarded. Any omission or irregularity in the manner of identifying or returning the ballots of any precinct may be obviated by proof under the ordinary rules of evidence.

16.1-15-15. COUNTY CANVASSING BOARD - COMPOSITION.) The county canvassing board shall be composed of the clerk of the district court, county auditor, chairman of the board of county

commissioners, and a representative of the district committee of all legislative districts which wholly or partly fall within the boundaries of the county as appointed by the district chairmen of the two political parties which received the highest number of votes cast for governor at the most recent general election at which a governor was elected.

16.1-15-16. QUALIFICATIONS OF MEMBERS OF CANVASSING BOARD - REPLACEMENTS - QUORUM.) No member of the county canvassing board who would not be eligible to serve as a member of the election board pursuant to subsection 2 of section 16.1-05-02 shall serve on the county canvassing board. If any of the members of the board other than the representatives of the two political parties are disqualified or cannot serve for any other reason, the county commissioners who would be qualified to serve on the board shall appoint alternates to serve in the place of those members of the board who are disqualified. If any of the representatives of the district committees of the two parties are disqualified or cannot serve for any other reason, the district chairmen shall appoint an alternate from their respective district committees to act as a member of the county canvassing board. A majority of the members of the board or their duly appointed alternates shall constitute a quorum and may make the canvass provided for in this chapter and certify the results thereof.

16.1-15-17. TIME OF COUNTY CANVASSING BOARD MEETING - OATH REQUIRED - RECONSIDERATION OF CANVASS.) As soon as the returns are received by the county auditor, but not later than five days after each election, the county canvassing board shall meet and, after taking the oath of office, shall proceed to open and publicly canvass the returns. After the initial meeting of the board as provided in this section, any two or more members may call a meeting of the board and upon approval of a majority of the members, the board shall recanvass the results of the election or any portion thereof and may correct any previous canvass or certification or both in regard to the election. Any correction of any previous certification of election results as provided in this section shall be immediately dispatched to the secretary of state who shall call a meeting of the state canvassing board as provided in section 16.1-15-35 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

16.1-15-18. 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 compensation in accordance with section 16.1-05-05. The compensation and mileage shall be audited, allowed, and paid by the board of county commissioners in each county.

16.1-15-19. COUNTY CANVASSING BOARD TO DISREGARD TECHNICALITIES, MISPELLING, AND ABBREVIATIONS - VOTES FROM UNESTABLISHED PRECINCTS DISREGARDED.) In canvassing the election returns, the county canvassing board shall disregard technicalities, misspelling, and the use of initial letters or abbreviations of the

name of any candidate for office, if it can be ascertained for whom the vote was intended. The board shall not count votes polled in any place except at established precincts.

16.1-15-20. COUNTY CANVASSING BOARD MAY SUBPOENA MEMBERS OF ELECTION BOARD TO CORRECT ERRORS - FAILURE TO OBEY SUBPOENA IS A CONTEMPT.) When the returns of the election board officers are made to the county canvassing board, if any provision of law relative to the duties of the election board officers has not been complied with by said officers and the provision of law is capable of correction by the election board, the county canvassing board may issue its subpoenas to the election board officers of the precinct wherein the defect occurs. The subpoenas shall require the election board officers to appear forthwith before the county canvassing board to correct any omission or mistake according to the facts. The amended or corrected returns then shall be acted upon by the board. If any election board officer, subpoenaed as provided in this section, shall neglect or refuse to obey the subpoena, the person so neglecting or refusing shall be arrested upon a bench warrant issued out of the office of the clerk of the district court in the county where the proceedings occur. The person arrested shall be brought before the county canvassing board and shall make the necessary correction. A refusal on the part of an election board officer to make a correction shall be deemed a contempt of the district court.

16.1-15-21. PRIMARY ELECTION STATEMENT PREPARED BY COUNTY CANVASSING BOARD - CONTENTS.) The county canvassing board, upon canvassing the returns of a primary election, shall prepare a statement signed by the members of the board and filed in the office of the county auditor. The statement shall contain all of the following:

1. The names of all candidates voted for at the primary election, with the number of votes received by each and for what office. The statement shall be made separately for each political party or principle.
2. The names of the persons or candidates of each political party or principle who receive the highest number of votes for the respective offices. If more than one person is required to be elected to a given office at the next ensuing general election, there shall be included in the statement the names of so many of the candidates of the party receiving the next highest number of votes for that office as there are persons to be elected to the office at said ensuing general election. The statement shall be made separately for each political party.
3. The total number of ballots cast at the primary election.

A separate statement of the votes cast for United States senator, United States representative, state officers, judges of the supreme court, judges of the district courts, and members of the legislative

assembly shall be transmitted to the secretary of state as provided in this chapter.

16.1-15-22. COUNTY AUDITOR TO TRANSMIT ABSTRACT OF VOTES TO SECRETARY OF STATE AFTER PRIMARY ELECTION.) The county auditor of each county, under his official seal, shall return to the secretary of state by registered or certified mail within eight days after the day of any primary election, a certified abstract, under separate political designation or principle, or no-party designation, as the case may be, of the total number of votes cast in his county and the votes cast for every candidate for nomination for United States senator, United States representative, state officers, judges of the supreme court, judges of the district court, and members of the legislative assembly. The county auditor also shall file with the secretary of state a certificate showing the names and addresses of the persons nominated under the several political designations and principles in his county. The certified abstract and the certificate of nomination to be mailed under the provisions of this section shall be in the possession of the secretary of state before four p.m. on the eighth day after the primary election.

16.1-15-23. NOTICE OF NOMINATION GIVEN CANDIDATE FOR COUNTY OFFICE BY COUNTY AUDITOR - PUBLICATION OF FINDINGS OF CANVASSING BOARD.) Upon the completion of the canvass of the returns of a primary election by the county canvassing board, the county auditor shall mail or deliver in person to each candidate nominated for any county office a certificate of his nomination and notice that his name will be placed on the official ballot. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the county auditor shall not prepare or deliver the certificate of nomination until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. Nomination notices for other than county offices shall be given by the secretary of state pursuant to section 16.1-15-40. The county auditor shall cause a copy of the findings of the canvassing board to be published in the official newspaper of the county.

16.1-15-24. ABSTRACTS OF VOTES OF GENERAL ELECTION MADE BY COUNTY CANVASSING BOARD - CONTENTS.) The county canvassing board, when canvassing the returns of a general election, shall make abstracts of votes from the certified reports of the inspectors of elections in the following manner:

1. The abstract of votes for United States senator, United States representative, all state officers, judges of the district courts, all initiated or referred measures, and constitutional amendments, shall be on one sheet.
2. The abstract of votes for members of the legislative assembly shall be on one sheet.
3. The abstract of votes for county officers shall be on one sheet.

16.1-15-25. COUNTY AUDITOR TO FORWARD ABSTRACT OF VOTES OF GENERAL ELECTION TO SECRETARY OF STATE - CONTENTS - ABSTRACT FOR PRESIDENTIAL ELECTORS.) Within eight days and before four p.m. on the eighth day following any general election, the county auditor of each county, under his official seal, shall return to the secretary of state a certified abstract of the votes cast in his county at such election for each candidate for state and congressional offices, judges of the district courts, candidates for the legislative assembly, and for amendments to the Constitution and other measures. In presidential years, the county auditor shall make a separate certified abstract of the votes cast for electors for president and vice president of the United States. The separate abstract for presidential electors shall be sealed, endorsed "presidential election returns", and shall be transmitted by registered or certified mail to the secretary of state. At the time the county auditor transmits the certified abstract of the votes cast in his county, he shall file with the secretary of state a certificate showing the names and addresses of the persons who were elected to the various county offices in his county.

16.1-15-26. MEMORANDUM OF DATE OF RECEIVING RETURNS IN SECRETARY OF STATE'S OFFICE.) A memorandum of the date of reception of all returns of votes in the secretary of state's office shall be made on the envelope containing the returns.

16.1-15-27. ABSTRACT OF VOTES - SECRETARY OF STATE TO RECORD - FAILURE OF COUNTY AUDITOR TO SEND - MESSENGER DISPATCHED.) Upon receipt of the certified abstract of votes from the county auditors as provided in section 16.1-15-25, the secretary of state shall record the result of the election by counties and shall file and carefully preserve the certified statements received from the county auditors. If no certified statement is received by the secretary of state from the county auditor of any county prior to the time specified for the meeting of the state canvassing board, the secretary of state shall dispatch a special messenger to obtain the statement at the expense of the county. Upon demand, the county auditor shall make and deliver the required statement to the special messenger who shall deliver it to the secretary of state to be recorded and filed as provided in this section. The messenger shall receive the same mileage expense as other state officers and employees. The state treasurer shall present a bill for the amount audited against the county failing to send returns as provided in this section, and the bill shall be audited by the board of county commissioners of the county and paid by the county treasurer to the state treasurer.

16.1-15-28. CERTIFICATE OF ELECTION FOR OFFICERS ELECTED IN COUNTY AT GENERAL ELECTION.) Immediately after the canvass of the general election returns by the county canvassing board, the county auditor shall prepare a certificate of election for each of the persons having the highest number of votes for county offices, and shall deliver the certificate to the person entitled thereto on his making application to the county auditor therefor. If the election results indicate that any candidate is entitled to demand a recount

pursuant to subsection 1 of section 16.1-16-01, the county auditor shall not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later.

16.1-15-29. DETERMINING TIE VOTE IN COUNTY OFFICES.) If the requisite number of county officers are not elected because two or more persons have equal and the highest number of votes for one and the same office, the county auditor shall give notice to the persons to appear at his office at a time appointed by him. The persons then shall publicly decide by lot which of them shall be declared elected. The county auditor shall prepare and deliver to the person elected an election certificate as provided in this chapter. If a demand for a recount is timely made, this section shall apply only if that recount results in a tie vote. No person who has assented to the determination of an election according to this section may thereafter demand a recount of that election.

16.1-15-30. DETERMINING TIE VOTE FOR LEGISLATIVE ASSEMBLY.) If the requisite number of persons are not elected to the state senate or house of representatives because two or more persons have equal and the highest number of votes for one and the same office, the county auditor, if the legislative district in question is within one county, shall, by certified mail, notify the persons with equal and the highest number of votes to appear in his office at a time fixed by him. The time fixed shall not be more than ten days from the date the tie is determined by the county auditor. On the date fixed, the persons notified to appear shall publicly decide by lot which of them shall be declared elected, and the county auditor shall certify the results to the secretary of state who shall prepare and deliver to the person elected a certificate of election as provided in this chapter. If the legislative district in question is within the boundaries of more than one county, the county auditor of the county which cast the greater number of votes for the office of governor at the last election at which a governor was elected shall proceed in accordance with this section. If a demand for a recount is timely made, this section shall apply only if that recount results in a tie vote. No person who has assented to the determination of an election according to this section may thereafter demand a recount of that election.

16.1-15-31. COUNTY AUDITOR TO MAKE CERTIFICATE FOR PAYMENT OF ELECTION OFFICIALS - PAYMENT.) Upon receipt of the returns of any election, the county auditor shall prepare his certificate stating the compensation to which the inspectors, judges, and clerks of election shall be entitled for their services. He shall deliver the certificate to the board of county commissioners at its next session and the board shall order the compensation to be paid out of the county treasury.

16.1-15-32. COUNTY AUDITOR TO PUBLISH RETURNS OF ELECTION.) The county auditor shall cause to be published in tabular form in the official county newspaper the vote by precincts for each officer and each proposition voted for at any primary, special, or general

election. The publication shall be paid for at a rate not to exceed the rate paid for publishing the proceedings of the board of county commissioners.

16.1-15-33. STATE CANVASSING BOARD - MEMBERSHIP - OATH - QUORUM - COMPENSATION.) The clerk of the supreme court, the secretary of state, the state treasurer, and the chairman, or his designee, of the state committee of the two political parties which cast the highest vote for governor at the last general election at which a governor was elected shall constitute the state canvassing board. The duties of the state canvassing board are ministerial, mandatory, and nondiscretionary, and consist of canvassing the results received from the various counties, computing the final results, and certifying the results on the basis of the canvass. After taking the oath required of civil officers, the board shall proceed to canvass publicly the election returns made by the county auditors. Three members of the board shall constitute a quorum and may make the canvass provided for in this chapter and certify to the result thereof. If less than a quorum attend on the day appointed for a meeting of the board, the members attending may summon other state officers until there is a sufficient number to constitute a quorum. Any other state officer, upon being notified by the members of the board, shall attend without delay and act as a member of the board. Members of the board shall be compensated only for their expenses incurred in attending meetings in accordance with sections 44-08-04 and 54-06-09. The compensation shall be paid from the appropriation to the secretary of state.

16.1-15-34. MEMBER OF STATE CANVASSING BOARD - WHEN DISQUALIFIED.) When a member of the state canvassing board is a candidate for any office for which he canvasses the votes, the governor shall designate some other state officer to act in his stead at the session of the board while the votes given for that member are being canvassed.

16.1-15-35. MEETING OF STATE CANVASSING BOARD.) Not later than sixteen days next following a primary, general, or special election, the state canvassing board shall meet at the office of the secretary of state for the purpose of canvassing and ascertaining the result of the election. The secretary of state shall notify the members of the board of the date of the meeting.

16.1-15-36. RETURNS TO BE CANVASSED BY STATE CANVASSING BOARD.) The state canvassing board, in canvassing to ascertain the result of any election, shall canvass only the regular returns made by the county canvassing board as provided in this chapter.

16.1-15-37. EXAMINATION OF ABSTRACTS BY STATE CANVASSING BOARD - MESSENGER DISPATCHES TO COUNTY WHEN ERROR DISCOVERED.) After the state canvassing board is formed, it shall examine the certified abstracts of the county canvassing boards and if it shall appear that:

1. Any material mistake has been made in the computation of votes cast for any person; or
2. The county canvassing board in any county has failed to canvass the votes or any part thereof cast in any precinct in its county,

the board may dispatch a messenger to the county auditor of the county, at the expense of the county, with the board's requirement in writing to the county auditor to certify the fact concerning the mistake or the reason why the votes were not canvassed. The county auditor, to whom the requirement is delivered, shall make a true and full answer thereto under his hand and official seal and shall deliver the answer with all convenient dispatch to the secretary of state.

16.1-15-38. ADJOURNMENT OF STATE CANVASSING BOARD.) The state canvassing board may adjourn from day to day, not exceeding three days in all, except that the board may adjourn for the time necessary to await the return of a messenger dispatched as provided in section 16.1-15-37.

16.1-15-39. DISAGREEMENTS IN CANVASSING RETURNS BY CANVASSING BOARD - DISREGARDING TECHNICALITIES, MISSPELLED WORDS, AND ABBREVIATIONS.) In canvassing the returns, a majority of the members of the state canvassing board shall decide all matters of disagreement. The board shall disregard all technicalities, misspelling, the use of initial letters, and the abbreviations of the names of candidates, if it can be ascertained from the returns for whom the votes were intended.

16.1-15-40. STATEMENT PREPARED BY STATE CANVASSING BOARD FOR PRIMARY ELECTION - CONTENTS - SIGNING - CANDIDATE NOTIFIED OF NOMINATION.) The state canvassing board shall prepare the statement required by subsections 1, 2, and 3 of section 16.1-15-21, for primary elections. The certificate shall be signed by the members of the board and filed in the office of the secretary of state. Upon completion of the canvass, the secretary of state shall mail to each candidate nominated a notice of his nomination stating that his name will be placed upon the official ballot to be voted for at the ensuing general election. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the secretary of state shall not prepare or deliver the notice of nomination until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall file a copy of the findings of the board and shall publish those findings in a newspaper printed in Burleigh County.

16.1-15-41. STATEMENTS OF GENERAL OR SPECIAL ELECTION PREPARED BY STATE CANVASSING BOARD - CONTENTS.) Upon receiving the certified abstracts on file with the secretary of state, the state canvassing board shall proceed publicly to examine and make statements of the whole number of votes cast at any general or

special election for all state or district offices. The statements shall show the names of the persons for whom the votes were cast for the offices and the whole number of votes for each, distinguishing the several districts and counties in which they were cast.

16.1-15-42. CERTIFICATE OF RESULT OF GENERAL OR SPECIAL ELECTION BY STATE CANVASSING BOARD - SECRETARY OF STATE TO RECEIVE.) The statements provided for in section 16.1-15-41 shall be certified by the members of the state canvassing board, who shall subscribe their names to the statements. The board then shall determine what persons have been duly elected to the offices and shall prepare and subscribe on each statement a certificate of that determination and shall deliver the same to the secretary of state. The candidate or candidates to be elected for each office receiving the highest number of votes shall be duly elected to the office. No person who was entitled to have his name appear on the primary election ballot, but whose name was not placed on the primary election ballot, shall be elected to a no-party office as a write-in candidate unless that person receives a number of votes equal to or more than the number of signatures which would have been required to have his name placed on the primary election ballot.

16.1-15-43. WHEN SPECIAL ELECTION ORDERED.) If there is no choice for a district office, other than member of the legislative assembly, or a state office because any two or more persons have equal and the highest number of votes, the governor, by proclamation, shall order a new election.

16.1-15-44. SECRETARY OF STATE TO RECORD STATEMENT OF GENERAL OR SPECIAL ELECTION, PREPARE CERTIFICATES OF ELECTION, PUBLISH STATEMENT.) After receiving each certified statement and determination made by the state canvassing board, the secretary of state shall record the same in his office and shall prepare and transmit to each of the persons declared to be elected, a certificate of election as provided in this chapter. If the election results indicate that any candidate is entitled to demand a recount pursuant to subsection 1 of section 16.1-16-01, the secretary of state shall not prepare or deliver the certificate of election until the time to demand a recount has expired, or the recount results have been determined and the winner declared, whichever is later. The secretary of state shall cause a copy of the certified statement and determination to be published in the official newspaper of Burleigh County.

16.1-15-45. FORM OF CERTIFICATE OF ELECTION FOR STATE OFFICERS - SIGNATURES.) A certificate of election shall be prepared by the secretary of state for each person elected to a state or a district office. The certificate, in substance, shall be in the following form:

At an election held on the _____ day of _____, 19____, _____ was elected to the office of _____ of this state for the term of _____ years from the _____ day of _____

in the year _____ (or, if to fill a vacancy, for the residue of the term ending on the _____ day of _____, 19____), and until his successor is duly elected and qualified. Given at Bismarck this _____ day of _____, 19____.

The certificate shall be signed by the governor and the secretary of state, and shall have the great seal of the state affixed thereto, and shall be attested by at least one of the other members of the state canvassing board.

16.1-15-46. MEMBERS OF LEGISLATIVE ASSEMBLY TO RECEIVE CERTIFICATES OF ELECTION.) At the time election certificates are issued to state and district officers, the secretary of state shall issue certificates of election to all members of the legislative assembly.

16.1-15-47. CERTIFICATE OF ELECTION TO MEMBER OF CONGRESS - SIGNING - DELIVERING.) The certificate of election to a member of Congress shall be signed by the governor with the great seal affixed and shall be countersigned by the secretary of state. The governor shall cause the certificate to be delivered to the person elected.

16.1-15-48. CANVASSING RETURNS OF CONSTITUTIONAL AMENDMENT OR OTHER PROPOSITION - CERTIFIED STATEMENT OF RESULT - CONTENTS.) For the purpose of canvassing and ascertaining the result of the votes cast at any election upon any proposed amendment to the Constitution, or any other proposition submitted to a vote of the people, the state canvassing board shall proceed to examine the statements received by the secretary of state from the county auditors to ascertain and determine the result. The board shall certify a statement of the whole number of votes cast for and the whole number of votes cast against an amendment or proposition, and it shall determine whether the amendment or proposition has been approved and ratified by a majority of the electors voting thereon, and a certificate of that determination shall be prepared and subscribed on the statement.

16.1-15-49. CERTIFIED STATEMENT AND DETERMINATION OF RESULTS OF CONSTITUTIONAL AMENDMENTS AND PROPOSITIONS RECORDED BY SECRETARY OF STATE - PUBLISHING.) The certified statement and determination provided for in section 16.1-15-48 shall be recorded by the secretary of state. If it appears that a constitutional amendment or other proposition has been approved, ratified, or adopted, the secretary of state shall make a record thereof and shall cause that record to be bound in the volume containing the original enrolled laws passed at the next succeeding session of the legislative assembly, and shall cause the record to be published with those laws.

SECTION 14.) Chapter 16.1-16 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-16-01. ELECTION RECOUNTS.) A recount of any primary, special, or general election for nomination or election to a congressional, state, district, legislative, or county office, or for the approval or disapproval of any measure or question submitted to the electors of this state or one of its counties shall be conducted as follows:

1. The demand for a recount may be made by any of the following:
 - a. Any person who 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.
 - b. Any person who failed to be elected in a general or special election by less than one-half of one percent of the highest vote cast for a candidate for that office.
 - c. Any person who files a petition signed by at least five electors, when a question or measure submitted to the electors has been decided by a margin not exceeding one-fourth of one percent of the total vote cast for and against the question at any election.
2. The recount demand must be made within ten days after the canvass of the votes by the county canvassing board in the case of county elections, and by the state canvassing board in the case of congressional, state, district, or legislative elections. The demand shall be in writing, shall recite one of the conditions in subsection 1 as a basis for the recount, and shall be filed with:
 - a. The secretary of state when the recount is for a congressional, state, district, or legislative office or a question submitted to the electors of the entire state.
 - b. The county auditor when the recount is for a county office or a question submitted to the electors of a county.
3. When the secretary of state receives a timely recount demand and finds it to be in the proper form, he shall immediately notify all the county auditors to conduct a recount as provided in this section. The secretary of state shall fix the date of statewide recounts. The date shall be within ten days after receipt of the recount demand. The county auditor shall determine the validity of recount demands filed with him and shall fix the date for recounts limited to his county. The date shall be within ten days after receipt of the recount demand. In all recount proceedings, the county auditor shall send

notice of the date, place, and time of the recount to all candidates and petitioners involved by certified mail.

4. Recounts shall be conducted by the county auditor who may employ up to four county electors to assist in the recount. The county auditor shall review all paper, machine, electronic voting system and absentee ballots, whether or not the ballots were counted at the precinct or the county canvass, to determine which ballots were cast and counted according to the law. The county auditor shall check the precinct count and the count of the county canvassing board. If the county auditor files a recount demand, he shall be disqualified from acting thereon, and the clerk of the district court of the county shall perform the duties required of the county auditor by this section.
5. The persons entitled to participate at the recount are:
 - a. Each candidate involved in the recount, either personally or by a representative.
 - b. An elector favoring each side of a question if the recount involves a question or proposition submitted to a vote of the electorate.

The persons allowed to participate may challenge the acceptance or exclusion of any ballot. The person challenging a ballot must state the reason for the challenge based upon the law, and the county auditor shall count the challenged ballot as he deems proper and shall then set the ballot aside with a notation that it was challenged and how it was counted. At the conclusion of the recount, the county auditor shall submit all challenged ballots to the recount board for decision. The recount board shall be composed of the state's attorney of the county, the chairman of the board of county commissioners, and the clerk of the district court of the county. No person shall serve on the recount board if he would not be qualified to serve on the election board pursuant to subsection 2 of section 16.1-05-02. If any of the members of the recount board are disqualified or cannot serve for any other reason, the members of the county commission who would be qualified to serve on the board shall appoint disinterested electors of the county to serve as alternates. The recount board shall review all challenged ballots, and on majority vote shall decide how they shall be counted. The decision of the recount board is final, subject to the right to contest the election as provided in this chapter.

6. The county auditor shall certify the results of the recount no later than fifteen days after the filing of the recount demand. The recount result shall become the

official result of the election in the county. The county auditor shall prepare a corrected abstract of the votes. In a recount limited to the county, if the corrected abstract shows no change in the outcome of the election, no further action shall be taken. If the corrected abstract changes the outcome of the election, the county auditor shall issue certificates of nomination or election accordingly, and shall certify the new result of a question submitted to the electorate.

7. In congressional, statewide, district, or legislative recounts, the county auditor shall, no later than fifteen days after the filing of the recount demand, send by certified mail a certified copy of the corrected abstract to the secretary of state. The secretary of state shall immediately assemble the state canvassing board, who shall canvass the corrected abstracts and certify the election results. The secretary of state shall issue certificates of election or nomination or record the approval or disapproval of a question submitted to the electorate accordingly.
8. The expenses incurred in a recount of a county election shall be paid by the county on a warrant by the county auditor. The expenses incurred in a recount of a congressional, state, or legislative election shall be paid by the state from the general fund, upon approval by the secretary of state of a statement of expenses received from the county auditors.
9. 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.

16.1-16-02. WHO MAY CONTEST ELECTION.) A defeated candidate or ten qualified electors may contest the nomination or election of any person or the approval or rejection of any question or proposition submitted to a vote of the electorate, pursuant to sections 2 through 9 of this Act. In a county election to change the county seat or to change the boundaries of the county, the complaint shall be filed against the board of county commissioners, who shall appear and defend the contest action.

16.1-16-03. COMMENCEMENT OF ACTION - PARTIES - STATUS OF CONTESTEE.) An action to contest an election shall be commenced by service of a summons and verified complaint. The party instituting the action shall be known as the contestant, and the party against whom the action is instituted shall be known as the contestee. In a contest of an election, the person holding the certificate of election shall take possession and discharge the duties of the office until the contest action is finally decided.

16.1-16-04. TIME FOR COMMENCEMENT OF ACTION.) Any action to contest an election shall be commenced and the complaint shall be filed in the district court of the contestee's county of residence within five days after final certification of a recount by the appropriate canvassing board, or within fourteen days after the final certification by the appropriate canvassing board if no recount is demanded, except as provided in section 16.1-16-10. However, if the grounds for the action is the illegal payment of money or other valuable thing subsequent to the filing of any statement of expenses required by this title, or if the contestee does not or cannot meet the qualifications to hold the office as required by law, the action may be commenced at any time. The contestee shall serve and file his answer within fourteen days after service of the contest summons and complaint.

16.1-16-05. GROUNDS FOR ELECTION CONTEST.) An election contest may be commenced for any of the following causes:

1. If the contestee does not or cannot meet the qualifications to hold the office as required by law.
2. Because of illegal votes or erroneous or fraudulent voting, count, canvass, or recount of votes.

16.1-16-06. ELECTION CONTEST TO BE TRIED AS CIVIL ACTION - PRECEDENCE ON COURT CALENDAR.) Unless otherwise specifically provided in this chapter, election contest actions shall be tried as civil actions to the court without a jury. The district court shall set the hearing on the contest action not more than ten days after the filing of the contest answer. Election contests shall take precedence over regular court business so elections are determined as soon as practicable. The district court judge shall order a special term of the court if no term is in progress when the election contest complaint is filed.

16.1-16-07. CONTEST INVOLVING IRREGULARITY OF BALLOTS - PRESERVATION OF BALLOTS.) Either the contestant or the contestee, within the time provided by this title for the preservation of ballots, may give notice by certified mail to the county judge of any county where he desires the ballots preserved, that an election contest is pending in a designated court. Thereupon, it is the duty of the county judge to preserve all the paper ballots, electronic voting system ballots, and voting machine records until the contest has been finally determined.

16.1-16-08. JUDGMENT IN ELECTION CONTEST ACTION.)

1. The judge in an election contest action shall pronounce judgment on which candidate was elected or nominated and whether any question or proposition was approved or rejected.
2. The appropriate officer shall issue a certificate to the person declared elected or nominated in accordance with

the judgment. Any certificate of nomination or election previously issued that is in conflict with the judgment shall be annulled by the court's judgment.

3. If the court declares that the election resulted in a tie, the election shall be determined by law.
4. If the court declares that no one was elected or nominated and sets aside the election, the office shall be deemed vacant and any certificate of election or nomination previously issued shall be annulled. The vacancy shall be filled according to law. This subsection shall not apply if an incumbent is in office and is entitled to serve until his successor is duly elected and qualified, in which event the incumbent may only be removed by impeachment.
5. In the discretion of the court, court costs may be awarded on the following bases:
 - a. If the contest action is dismissed for insufficient evidence or want of prosecution, or if the court confirms the election results, judgment for costs shall be for the contestee and against the contestant.
 - b. If an election is annulled for errors or malfeasance of any election official during any part of the election procedure, the costs shall be a charge against the state or political subdivision in which the election was held.
 - c. When an election is annulled on any other ground or when the contestant is declared elected, judgment for costs shall be for the contestant and against the contestee.
6. Nothing in this chapter shall be construed to authorize a nomination or election to be set aside because of illegal votes unless either of the following is shown, that:
 - a. The contestee had knowledge of or connived in the illegal votes.
 - b. If the number of illegal votes is taken from the contestee, it would reduce the number of his legal votes below the number of votes cast for some other person for the same nomination or election, after deducting any illegal votes from the other person.

16.1-16-09. APPEAL OF ELECTION CONTEST JUDGMENT.) An appeal of the judgment in an election contest action may be had by filing a notice of appeal with the clerk of the trial court within ten days of the date of the service of notice of entry of the judgment. Unless otherwise specifically provided by this chapter, appeals of

election contest actions shall be conducted in the manner provided by law or rule for civil appeals from the district court. Election contest appeals shall take precedence over regular court business so election results can be determined as soon as practicable. An appeal may be brought on for hearing before the supreme court at any time upon ten days' notice by either party and shall be determined in a summary manner.

16.1-16-10. LEGISLATIVE CONTEST OF ELECTION.) Legislative election contests shall be determined pursuant to sections 10 through 17 of this Act. Any person intending to contest, before either house of the legislative assembly, the election of a member of the legislative assembly shall serve on that member a statement of contest, which shall specify the grounds for the contest. The statement shall be served on the member and a copy filed with the secretary of state within five days after a recount is completed, and within ten days after the canvass is completed if no recount is demanded.

16.1-16-11. ANSWER TO LEGISLATIVE STATEMENT OF CONTEST.) The member whose election to the legislative assembly is contested shall serve his answer on the party contesting and file a copy of the answer with the secretary of state within ten days after the service of the statement of contest. Any allegations in the statement of contest that are not denied in the answer shall be deemed admitted.

16.1-16-12. DEPOSITIONS - SUBPOENAS - TIME LIMITS.) Depositions taken to preserve testimony and gather evidence in legislative election contests shall be taken as provided by law or rule for taking depositions in civil actions in this state. Subpoenas may be issued to compel attendance and the production of books, papers, or records as provided by law or rule for the issuance of subpoenas in civil actions in this state. Any person refusing or neglecting to attend and testify or produce books, papers, or records in obedience to a subpoena, without good cause shown, shall be guilty of a class A misdemeanor. No depositions shall be taken by either party until the answer is served on the party contesting.

16.1-16-13. PRESERVATION OF BALLOTS.) Either party to a legislative election contest may secure the preservation of ballots and records as provided in section 16.1-16-07.

16.1-16-14. TESTIMONY AND RECORDS FILED WITH SECRETARY OF STATE - SECRETARY OF STATE TO DELIVER TO PRESIDING OFFICER.) The officer before whom any deposition is taken in a legislative election contest shall transmit the records of the testimony of witnesses, all books, papers, and records produced, a copy of the notice to take the deposition and proof of service thereof, and a copy of the subpoena, if one was issued, to the secretary of state. Those records shall be certified by the officer before whom the deposition was taken. The secretary of state shall deliver the statement of contest, the answer, and all records received by him pursuant to this section to the presiding officer of the house of

the legislature in which the election contest is pending, on or before the second day of the organizational session of the legislature.

16.1-16-15. DETERMINATION OF CONTEST - CERTIFICATE OF ELECTION.) The legislative election contest shall be heard and decided as provided by the legislative assembly. The secretary of state shall issue a certificate of election to the person declared elected, and any certificate of election previously issued in conflict with the decision in the contest shall be annulled.

16.1-16-16. FEES OF OFFICERS AND WITNESSES.) All fees of officers and witnesses in a legislative election contest heard by a house of the legislature shall be paid by the party at whose instance the service or attendance was performed. The fees charged and paid shall be in the same amount as the fees for similar services in civil actions in courts of record in this state.

16.1-16-17. PAYMENT FOR PROSECUTING OR DEFENDING LEGISLATIVE ELECTION CONTEST PROHIBITED.) No payment shall be made by the legislative assembly to either party to a legislative election contest heard by a house of the legislature for expenses incurred in prosecuting or defending the contest.

SECTION 15.) Section 16.1-06-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-06-07. ARRANGEMENT OF NAMES ON BALLOT FOR PRESIDENTIAL ELECTORS.) The ballot provided for in section 16.1-06-05 shall be arranged as follows: The names of the candidates of the party casting the highest number of votes in the state for members of Congress at the last preceding general election shall be arranged in the first or left-hand column of such ballot; of the party casting the next highest number of votes in the second column; of the party casting the next highest number of votes in the third column; and of such other party as the secretary of state may direct in the fourth and successive columns. In presidential election years the names of presidential electors presented in one certificate of nomination shall be arranged in a group enclosed in brackets to the right and opposite the center of which shall be printed in bold type the surname of the presidential candidate represented. To the right and in a line with such surname, near the margin, shall be placed a single square, and a mark within such square shall be designated a vote for all the electors, and such group shall be placed at the head of the column under the party designated or represented in such certificate.

SECTION 16.) Section 16.1-06-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-06-07. ARRANGEMENT OF NAMES ON BALLOT FOR PRESIDENTIAL ELECTORS.) The ballot provided for in section 16.1-06-05 shall be arranged as follows:

1. Initially, the names of the candidate of the party casting the highest number of votes in the state for members of Congress at the last preceding general election shall be arranged in the first or left-hand column of such ballot; of the party casting the next highest number of votes in the second column; of the party casting the next highest number of votes in the third column; and of such other party as the secretary of state may direct in the fourth and successive columns.
2. In printing each set of official ballots for the various election precincts, one-half of the ballots shall be printed with the political party columns arranged as prescribed by subsection 1 of this section, and the other half of the ballots shall be printed by interchanging only the first two political party columns.
3. After the ballots are printed as prescribed in subsection 2 of this section, they shall be kept in separate piles and then repiled by taking one ballot from each pile and placing it upon the new pile so that every other ballot in the new pile has the first two political party columns in different positions. This repiling for political party column rotation shall be done in conjunction with the required rotation of names within the political party columns. After the repiling is completed, the ballots shall be cut and packaged for the various election precincts.
4. In presidential election years the names of presidential electors presented in one certificate of nomination shall be arranged in a group enclosed in brackets to the right and opposite the center of which shall be printed in bold type the surname of the presidential candidate represented. To the right and in a line with such surname, near the margin, shall be placed a single square, and a mark within such square shall be designated a vote for all the electors, and such group shall be placed at the head of the column under the party designated or represented in such certificate.
5. In precincts in which voting machines are used, the rotation of political party columns required by this section shall be performed in the same manner as provided for the primary election ballot.

SECTION 17. EFFECTIVE DATES.) The provisions of section 15 of this Act shall be effective from July 1, 1979, through June 30, 1981. The provisions of section 16 of this Act shall be effective on July 1, 1981.

SECTION 18. REPEAL.) Chapters 16-01, 16-03, 16-05, 16-06, 16-08, 16-09, 16-10, 16-11, 16-12, 16-13, 16-14, 16-15, 16-16, 16-18, 16-20, 16-21, 16-22, and sections 16-04-02.1, 16-04-03,

16-04-05, 16-04-06, 16-04-07, 16-04-08, 16-04-09, 16-04-10,
16-04-12, 16-04-15.1, 16-04-15.2, 16-04-18, 16-04-19, 16-04-25,
16-04-26, 16-04-27, 16-04-28, 16-04-29, 16-04-30, 16-04-31,
16-04-32, 16-04-33, 16-04-34, 16-04-35, 16-04-36, 16-07-01,
16-07-02, 16-07-03, 16-07-04, 16-07-05, 16-07-06, 16-07-07,
16-07-08, 16-07-10, and 16-07-12 of the North Dakota Century Code
and chapter 16-21.1 and sections 16-04-02, 16-04-04, 16-04-13,
16-04-16, 16-04-17, 16-04-21, and 16-07-09 of the 1977 Supplement to
the North Dakota Century Code are hereby repealed.

Filed April 3, 1979

NOTE: This bill was vetoed by the Governor and subsequently approved by a two-thirds majority of the members of the House of Representatives and the Senate.

CHAPTER 272

HOUSE BILL NO. 1494
(Retzer)

POLL HOURS IN PRECINCTS

AN ACT to amend and reenact section 16-01-02 of the North Dakota Century Code, relating to the hours polls are required to be open on election days; or, in the alternative, to amend and reenact section 16.1-01-03 of the North Dakota Century Code as created by section 1 of House Bill No. 1138, as approved by the forty-sixth legislative assembly, relating to the hours polls are required to be open on election days.

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

SECTION 1. AMENDMENT.) If House Bill No. 1138 is not approved by the forty-sixth legislative assembly, then section 16-01-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-01-02. OPENING AND CLOSING OF POLLS.) The polls at all primary, general, and special elections shall be opened at nine ~~o'clock~~ a.m. or at such earlier hour, but not earlier than seven ~~o'clock~~ a.m., that may be designated for any precinct by resolution of the governing body of the city or township in which such precinct is located, except that in precincts in which seventy-five or fewer votes were cast in the last general election, the governing body may direct that the polls be opened at twelve noon. They shall remain open continuously until seven ~~o'clock~~ p.m., or such later hour not exceeding nine ~~o'clock~~ p.m., as may be designated for any precinct by resolution of the governing body of the city or township in which the precinct is located. Twenty minutes prior to the hour of closing the polls, the inspector shall proclaim to the electors outside the number of minutes before the polls will be closed.

SECTION 2. AMENDMENT.) Section 16.1-01-03 of the North Dakota Century Code as created by section 1 of House Bill No. 1138, as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

16.1-01-03. OPENING AND CLOSING OF THE POLLS.) The polls at all primary, general, and special elections shall be opened at nine

a.m. or at such earlier hour, but not earlier than seven a.m., that may be designated for any precinct by resolution of the governing body of the city or township in which such precinct is located, except that in precincts in which seventy-five or fewer votes were cast in the last general election, the governing body may direct that the polls be opened at twelve noon. They shall remain open continuously until seven p.m. or such later hour, not later than nine p.m., as may be designated for a precinct by resolution of the governing body of the city or township in which the precinct is located. All electors standing in line to vote at the time the polls are set to close shall be allowed to vote, but electors arriving after closing time shall not be allowed to vote. The election officers present shall be responsible for determining who arrived in time to vote, and they shall establish appropriate procedures for making that determination. The polling hours for precincts located in unorganized townships shall be established by the county commission of the county in which the unorganized township is located, in accordance with this section. All determinations required to be made pursuant to this section relating to polling hours shall be made, and the county auditor notified of them, no later than thirty days prior to an election.

Approved March 15, 1979

CHAPTER 273

HOUSE BILL NO. 1168
 (Committee on Judiciary)
 (At the request of the Secretary of State)

PETITION SUFFICIENCY

AN ACT to amend and reenact section 16-01-11.1 of the North Dakota Century Code, relating to the passing of the sufficiency of petitions by the secretary of state; or, in the alternative, to amend and reenact section 16.1-01-10 of the North Dakota Century Code as created by section 1 of House Bill No. 1138, as approved by the forty-sixth legislative assembly, relating to the passing of the sufficiency of petitions by the secretary of state.

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

SECTION 1. AMENDMENT.) If House Bill No. 1138 is not approved by the forty-sixth legislative assembly, then section 16-01-11.1 of the North Dakota Century Code is hereby amended and reenacted 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 shall conduct a representative random sampling of the signatures contained in such petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the secretary of state to be invalid shall not be counted. If the secretary of state, in the course of determining the sufficiency of a petition pursuant to this section and the ~~constitution~~ 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 questionnaire provided for in this section shall not be introduced in any criminal action whatsoever.~~

SECTION 2. AMENDMENT.) Section 16.1-01-10 of the North Dakota Century Code as created by section 1 of House Bill No. 1138, as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

16.1-01-10. SECRETARY OF STATE TO PASS UPON SUFFICIENCY OF PETITIONS - METHOD - TIME LIMIT.) The secretary of state shall have a reasonable period, not to exceed thirty-five days, in which to pass upon the sufficiency of any petition mentioned in section 16.1-01-09. ~~The form and style of the verification procedure shall be determined by the~~ secretary of state shall conduct a representative random sampling of the signatures contained in such petitions by the use of questionnaires, postcards, telephone calls, personal interviews, or other accepted information gathering techniques, or any combinations thereof, to determine the validity of the signatures. Signatures determined by the secretary of state to be invalid shall not be counted, and all violations of law discovered by the secretary of state shall be reported to the attorney general for prosecution.

Approved April 3, 1979

CHAPTER 274

HOUSE BILL NO. 1471
(Kretschmar, Stenehjem, Wentz)

POLITICAL PARTY ORGANIZATION

AN ACT to provide for political party organization; and to repeal sections 16-17-01, 16-17-02, 16-17-03, 16-17-04, 16-17-05, 16-17-05.1, 16-17-06, 16-17-07, 16-17-08, 16-17-09, 16-17-10, 16-17-10.1, 16-17-11, 16-17-12, 16-17-13, 16-17-14, 16-17-15, 16-17-16, 16-17-17, 16-17-18, 16-17-18.2, 16-17-19, and 16-17-20 of the North Dakota Century Code, relating to party committee organization.

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

SECTION 1. PRECINCT CAUCUS TO ELECT PRECINCT COMMITTEEMEN -
TIME AND MANNER OF HOLDING - CAUCUS CALL - NOTICE.)

1. On or before May fifteenth following the last preceding general election, a party caucus shall be held in every election precinct in the manner provided in sections 16.1-03-01 through 16.1-03-04.
2. The legislative district chairman of each party shall issue the call for the precinct caucus at least twenty days before the time set for holding the caucus and the call shall contain the following:
 - a. Name of party.
 - b. Precinct number or name.
 - c. Date of caucus.
 - d. Place of caucus.
 - e. Hours of caucus.
 - f. A statement of the business to be conducted, including the election of precinct committeemen and such other persons as may be provided by state law and party rules.

- g. The name of the district chairman issuing the call.
3. The district chairman shall provide ten days published notice in the official newspaper in circulation within each precinct in the district. The notices shall contain that information set forth in subsection 2 of this section. The district chairman may include the information required by this section for all precincts in the district in one notice for publishing purposes.

SECTION 2. WHO MAY PARTICIPATE IN AND VOTE AT CAUCUS.)

1. Only those persons who are qualified electors pursuant to section 16.1-01-04 may vote or be elected as committeemen or officers at the precinct caucus.
2. Only those persons who either voted or affiliated with the party at the last general election or intend to vote or affiliate with the party at the next general election, may vote at the precinct caucus.
3. In case the right of a person to participate at the caucus is challenged, the question of his right to participate shall be decided by a vote of the whole caucus. A person so challenged may not vote on the question of his right to participate in the caucus, and a two-thirds vote of the whole caucus shall be required to exclude a person from participation.
4. No person may vote or participate at more than one precinct caucus in any one year.

SECTION 3. CAUCUS BUSINESS AND ELECTIONS - POLITICAL PARTIES ENTITLED TO ELECT COMMITTEEMEN.)

1. Each precinct caucus shall elect a chairman, committeemen as provided in subsection 3 of this section, and other officers as may be provided by party rules. The caucus may also discuss party policies, candidates, and any other business as prescribed by party rules.
2. No organization, political or otherwise, shall be entitled to elect a precinct committeeman at its precinct caucus unless:
- a. The organization nominated and had printed on the ballot at the last preceding presidential election the names of a set of presidential electors pledged to the election of the party's candidates for president and vice president; and
- b. The candidates provided for in subdivision a of this subsection received at least five percent of the total

vote cast for presidential electors within this state at that election.

3. Each political party in each voting precinct of this state, otherwise qualifying under subsection 2 of this section, shall be entitled to elect one precinct committeeman for each two hundred fifty votes, or major fraction thereof, cast for the party's presidential electors in the precinct in the last presidential election. Each precinct shall be entitled to at least one precinct committeeman for each party which qualifies under subsection 2 of this section. Each precinct committeeman shall be an elector of his precinct and shall be elected for a two-year term.
4. All questions concerning the manner in which a caucus is conducted or called that are not covered by state law shall be governed by Robert's Rules of Order (revised) unless otherwise governed by party rules.

SECTION 4. CANDIDATES ELECTED AT CAUCUS - TIE VOTE - CANVASSING VOTE.) The candidate, or if more than one precinct committeeman is to be elected, the candidates, receiving the highest number of votes shall be declared elected. If no person shall be nominated for or elected as precinct committeeman, the vacancy shall be filled by appointment of a resident from the precinct by the district executive committee of the party. In case of a tie vote, the caucus chairman immediately shall decide the winner by drawing lots. Upon completion of the caucus or vote, the caucus chairman, or persons appointed by him, shall proceed to count and canvass the votes cast for precinct committeemen and ascertain who was elected. The caucus chairman shall notify the county auditor of the number of votes cast for each candidate for precinct committeeman and the names of those elected.

SECTION 5. VACANCIES IN OFFICE OF PRECINCT COMMITTEEMAN - FILLING.) A vacancy in the office of precinct committeeman, which occurs after the organization of the district committee, shall be filled by appointment from the precinct by the district executive committee of the party. Notice of the appointment shall be given to the county auditor.

SECTION 6. DISTRICT COMMITTEE OF POLITICAL PARTY - HOW CONSTITUTED.) The precinct committeeman of a party, selected as provided in this chapter, together with that party's nominees for and the members of the legislative assembly, and the officers of the district committee as provided hereinafter, shall constitute the district committee of the party. The district committee, upon a majority vote of its members, may appoint any former member of the legislative assembly as an ex officio and voting member of the district committee. The district committee of a party shall be organized to coincide with the geographical boundary lines of state senatorial districts. In no event shall any person be allowed more than one vote.

SECTION 7. MEETING OF DISTRICT COMMITTEE - ORGANIZATION.) In every odd-numbered year, the district committee of each party shall meet within fifteen days after the precinct caucus provided for in section 16.1-03-01. The day, hour, and site shall be set by the existing district committee chairman. The district committee shall organize by:

1. Selecting a chairman, vice chairman, vice chairwoman, secretary, and treasurer chosen by the district committee. The officers selected need not be precinct committeemen; however, all the officers shall be voting members of the district committee.
2. Adopting rules and modes of procedure not in conflict with law.
3. Filling any vacancies in the office of precinct committeeman pursuant to section 16.1-03-05.
4. Selecting an executive committee consisting of from five to fifteen persons chosen from the district committee. The chairman, vice chairman, vice chairwoman, treasurer, and secretary of the district committee shall be members and the officers of the executive committee. The five to fifteen person membership limitation shall include the officers of the executive committee and that party's nominees for and members of the legislative assembly.

The newly elected chairman shall notify the county auditor of the names of the party officers selected. If the office of chairman becomes vacant, the vice chairman shall hold the office until the next regular election for the office or until a new chairman is selected by the district committee for the balance of the term, whichever shall first occur.

SECTION 8. STATE COMMITTEE - MEMBERSHIP.) The state committee of each party shall consist of the chairman of each of the district committees of the party.

SECTION 9. PROXIES PERMISSIBLE.) Proxies are permissible at all meetings held pursuant to the provisions of this chapter, but all persons exercising proxies shall be residents of the precinct or district which the person giving the proxy represents.

SECTION 10. MEMBER OF COMMITTEE TO BE QUALIFIED ELECTOR - TERM OF MEMBER.) Each member of any committee provided for in this chapter shall be a qualified elector and shall retain his office until his successor is chosen.

SECTION 11. STATE COMMITTEE - MEETINGS - ORGANIZATION - VACANCIES.) The state committee shall meet on or before July first of each odd-numbered year. The committee shall organize by selecting a chairman, vice chairman, secretary, and treasurer and by adopting rules and modes of procedure. The officers elected need

not be members of the committee, but they shall become voting members of the committee after their election. These officers, together with the national committeeman, national committeewoman, a representative of state elected officials who are members of that party, the party's floor leaders in the house of representatives and senate and four district chairmen to be selected by the state committee, shall constitute the executive committee of the state committee. If a vacancy occurs in the office of committee treasurer, the committee chairman may appoint a person to serve as acting treasurer. The vacancy shall be permanently filled for the balance of the term by a majority vote of the state committee at the first committee meeting following the occurrence of the vacancy. A vacancy in an office of the state committee, other than a party district chairman, shall be filled upon a majority vote of the state committee.

SECTION 12. MEETING OF DISTRICT COMMITTEE TO ELECT DELEGATES TO STATE PARTY CONVENTION - OPTIONAL PRECINCT CAUCUS - PROXIES.) Prior to the second Monday in June in each presidential election year and upon the call of the chairman, the district committee of each state senatorial district shall meet at a place designated by the chairman to elect delegates to a state party convention to be held as provided in this chapter. If the bylaws of the state senatorial district so provide, precinct committeemen may call a precinct caucus prior to the district meeting to elect additional delegates to attend the district meeting. One delegate to the state convention shall be elected for each three hundred votes, or major fraction thereof, cast in the district at the last preceding presidential election for the candidates for presidential electors of the party, but every district shall be entitled to at least one delegate. Delegates shall be electors of their district. If any delegate shall be unable to attend the convention, he shall designate in writing an alternate from the list of alternates selected at the district convention to attend and represent and act for him.

SECTION 13. WHEN STATE PARTY CONVENTION HELD.) The state party conventions shall be held in each presidential election year at a place and time designated by the party state committee.

SECTION 14. DUTIES OF STATE PARTY CONVENTION.) The state party convention provided for in this chapter shall:

1. Nominate the legal number of candidates for its party for the offices of presidential electors.
2. Elect a national committeeman and a national committeewoman.
3. Elect the required number of delegates to the national party convention and a like number of alternates.
4. Conduct other business as shall come before the convention.

The candidate or candidates for nomination or election shall be declared nominated or elected pursuant to the rules of the party involved, and the chairman and secretary of the convention shall issue certificates of nomination or election. If any delegate to the national convention is unable to attend that convention, he shall designate, in writing, one of the alternates to attend and represent and act for him. The names of the candidates nominated for presidential electors shall be certified by the chairman and secretary of the convention to the secretary of state to be placed upon the general election ballot as provided by law.

SECTION 15. FILLING VACANCY OCCURRING IN OFFICE OF NATIONAL COMMITTEEMAN OR COMMITTEEWOMAN.) Should a vacancy occur in the office of national committeeman, or committeewoman, the state committee shall fill the vacancy.

SECTION 16. POLITICAL PARTY REORGANIZATION AFTER APPORTIONMENT BY NONLEGISLATIVE DIRECTION.) If apportionment of the legislative assembly is accomplished by means other than action by the legislative assembly and the apportionment becomes effective after the organization of political parties as provided in this chapter and before the primary or the general election, the secretary of state shall establish a timetable for the reorganization of the parties as rapidly as possible before the ensuing election. When the timetable is established, the secretary of state shall notify all the county auditors of the timetable and of the details of the legislative apportionment as it affects each county. Each county auditor shall publish notice in the official county newspaper, which notice shall contain:

1. A statement that legislative apportionment has occurred.
2. A description and a map of the new legislative districts and the precincts as established by the governing bodies of the counties and cities in the county, pursuant to section 16.1-04-01.
3. The date, time, and places of the precinct caucuses and district committee meetings determined by the secretary of state and the county auditor to be necessary according to the new districts and precincts established.

The political parties, in the newly established precincts and districts, shall then proceed to reorganize as closely as possible in conformance with this chapter and in conformance with the timetable established by the secretary of state.

SECTION 17. UNFAIR AND CORRUPT ELECTION PRACTICES APPLICABLE TO CHAPTER.) The provisions of chapter 16.1-10, relating to unfair and corrupt election practices, are applicable to all elections and conventions provided for in this chapter.

SECTION 18. REPEAL.) Sections 16-17-01, 16-17-02, 16-17-03, 16-17-04, 16-17-05, 16-17-05.1, 16-17-06, 16-17-07, 16-17-08, 16-17-09, 16-17-10, 16-17-10.1, 16-17-11, 16-17-12, 16-17-13, 16-17-14, 16-17-15, 16-17-16, 16-17-17, 16-17-18, 16-17-18.2, 16-17-19, and 16-17-20 of the North Dakota Century Code are hereby repealed.

Approved March 21, 1979

CHAPTER 275

SENATE BILL NO. 2212
(Holmberg, Wenstrom)

BALLOT NUMBERING OF MEASURES

AN ACT to amend and reenact section 16-11-07 of the North Dakota Century Code, relating to the ballot order of measures to be submitted to the electors; or, in the alternative, to amend and reenact section 16.1-06-09 of the North Dakota Century Code, as created by section 4 of House Bill No. 1138, as approved by the forty-sixth legislative assembly, relating to the ballot order of measures to be submitted to the electors.

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

SECTION 1. AMENDMENT.) If House Bill No. 1138 is not approved by the forty-sixth legislative assembly, then section 16-11-07 of 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 the 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~~ placed 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. After all the measures have been placed within the appropriate group or classification, all measures shall be numbered consecutively, without regard to the various groups or classifications.

SECTION 2. AMENDMENT.) Section 16.1-06-09 of the North Dakota Century Code as created by section 4 of House Bill No. 1138, as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

16.1-06-09. 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 or measures, initiated measures, and referred measures, duly certified to the county auditor by the secretary of state, or any other question or measure to be voted on, except the election of public officers at any primary, general, or special election including officers subject to a recall petition, 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 measure, initiated measure, 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 measure, initiated measure, 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 measure, initiated measure, 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 the 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 placed 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. After all the measures have been placed within the appropriate group or classification, all measures shall be numbered consecutively, without regard to the various groups or classifications.

Approved March 8, 1979

CHAPTER 276

SENATE BILL NO. 2340
(Holmberg, Farrington)

PRESIDENTIAL PREFERENCE AND JUNE PRIMARY

AN ACT to provide for presidential preference primary elections in presidential election years; and to amend and reenact sections 16-04-01, 16-04-11, and 16-04-20, relating to the primary election date, notice to county auditors of the offices to be filled at the primary, and filing petitions to obtain a separate column on the primary election ballot; or, in the alternative, to create and enact sections 16.1-11-01, 16.1-11-02, and 16.1-11-25 of the North Dakota Century Code, relating to the primary election date, notifying the county auditors of the offices to be filled at the primary, and filing petitions to obtain a separate column on the primary ballot; and to repeal sections 16-04-01, 16-04-11, and 16-04-20 of the North Dakota Century Code, as described above, if House Bill No. 1138 is approved by the forty-sixth legislative assembly.

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

SECTION 1. PRESIDENTIAL PREFERENCE PRIMARY - TIME FOR HOLDING.) In presidential election years, there shall be conducted a presidential preference primary concurrently with the statewide primary.

SECTION 2. POLITICAL PARTIES AUTHORIZED TO CONDUCT PRESIDENTIAL PREFERENCE PRIMARY.) Every political party entitled to a separate column on the primary election ballot shall also be entitled to conduct a presidential preference primary as part of its primary election.

SECTION 3. PRESIDENTIAL PREFERENCE PRIMARY AN ADDITIONAL ELECTION - OBLIGATIONS OF DELEGATES.) The presidential preference primary provided for by this Act shall be in addition to all other elections held on the date of the primary. The delegates selected by political parties shall be bound to cast their first ballots at the party national convention in such a manner that each candidate at the party's presidential preference primary receives a proportion of the total votes cast by the delegates equal to the proportion

received by that candidate of the total votes cast for all candidates for president of that party at the primary.

SECTION 4. PRESIDENTIAL PREFERENCE PRIMARY BALLOTS.) Paper ballots for presidential preference primary elections shall be combined with the primary election ballot, with each party's candidates in the presidential preference primary listed in the same columns as other candidates of that party. Machine or other voting system ballots shall be prepared so as to place each party's candidates in the presidential preference primary with other candidates of that party, and shall allow for voting for only one of the candidates put forth by one party. Ballots shall conform in form and style to other ballots as prescribed by the secretary of state.

SECTION 5. PRESIDENTIAL CANDIDATES ON BALLOT - FILING TIME.) Presidential candidates, representing parties qualified to conduct a presidential preference primary, desiring to be on the presidential preference primary ballot shall file an affidavit, and either a certificate of endorsement signed by the chairman of the party's state committee, or a petition in the same form and with the same number of signatures as a candidate for state office. The certificate and affidavit, or petition and affidavit, shall be filed with the secretary of state within the same time limits as state office candidates, and for the purposes of the presidential preference primary only, political parties may file certificates for more than one presidential candidate. The secretary of state shall certify the names to the county auditors for ballot preparation.

SECTION 6. COUNTING AND CANVASSING OF VOTES IN PRESIDENTIAL PREFERENCE PRIMARY.) The votes cast in presidential preference primaries shall be counted and canvassed as other votes, and after preparation of statements by the state canvassing board, the secretary of state shall certify the number of votes cast for each party candidate to the state chairman of each political party conducting a presidential preference primary.

SECTION 7. AMENDMENT.) If House Bill No. 1138 is not approved by the forty-sixth legislative assembly, then section 16-04-01 of 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~~ second Tuesday in ~~September~~ June of every general election 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 shall be held 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 in the years of their regular election: member of the United States house of representatives, county officers, state officers, 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 8. AMENDMENT.) If House Bill No. 1138 is not approved by the forty-sixth legislative assembly, then section 16-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-11. SECRETARY OF STATE TO GIVE NOTICE TO COUNTY AUDITOR OF OFFICERS TO BE NOMINATED.) Between the first day of ~~June~~ March and the first day of ~~July~~ April in each primary election year, the secretary of state shall ~~direct and~~ cause to be delivered to the county auditor of each county a notice specifying all the several ~~the several~~ officers to be nominated in ~~such~~ that county at the next primary election. The publication of the sample ballot by the county auditor shall constitute the notice of the secretary of state in regard to the officers and candidates to be voted upon at the primary election.

SECTION 9. AMENDMENT.) If House Bill No. 1138 is not approved by the forty-sixth legislative assembly, then section 16-04-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16-04-20. SEPARATE COLUMN ON PRIMARY ELECTION BALLOT REQUIRED FOR EACH POLITICAL PARTY.) The following political parties shall be provided with separate columns on primary election ballots:

1. The ~~Republican~~ republican party;
2. The ~~Democrat~~ democrat party;
3. Any party which cast five percent of the total votes cast for governor at the last general election; and
4. Any other party, if a petition signed by fifteen thousand or more electors of this state is filed with the secretary of state before four ~~o'clock~~ p.m. on ~~June~~ March first of any primary election year, asking that a column be provided for such party, naming it, and stating the platform principles thereof. If such petition is mailed it shall be in the possession of the secretary of state before four ~~o'clock~~ p.m. on ~~June~~ March first. Candidates of such party shall be entitled to the same rights and privileges as those of other parties.

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.

SECTION 10.) If House Bill No. 1138 is approved by the forty-sixth legislative assembly, then section 16.1-11-01 of the North

Dakota Century Code is hereby created and enacted to read as follows:

16.1-11-01. PRIMARY ELECTION - WHEN HELD - NOMINATION OF CANDIDATES - NOMINATION FOR SPECIAL ELECTIONS.) On the second Tuesday in June of every general election year, a primary election shall be held for the nomination of candidates for the following offices in the years of their regular election: member of the United States house of representatives, county officers, state officers, 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 11.) If House Bill No. 1138 is approved by the forty-sixth legislative assembly, then section 16.1-11-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-11-02. SECRETARY OF STATE TO GIVE NOTICE TO COUNTY AUDITOR OF OFFICERS TO BE NOMINATED.) Between the first day of March and the first day of April in each primary election year, the secretary of state shall cause to be delivered to the county auditor of each county a notice specifying all the officers to be nominated in that county at the next primary election.

SECTION 12.) If House Bill No. 1138 is approved by the forty-sixth legislative assembly, then section 16.1-11-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-11-25. SEPARATE COLUMN ON PRIMARY ELECTION BALLOT REQUIRED FOR EACH POLITICAL PARTY.) The following political parties shall be provided with separate columns on primary election ballots:

1. The republican party.
2. The democrat party.
3. Any party which cast five percent of the total votes cast for governor at the last general election.
4. Any other party, if a petition signed by fifteen thousand or more electors of this state is filed with the secretary of state before four p.m. on March first of any primary election year, asking that a column be provided for the party, naming it, and stating the platform principles thereof. If the petition is mailed, it shall be in the possession of the secretary of state before four p.m. on March first. Candidates of the party shall be entitled to the same rights and privileges as those of other parties.

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.

SECTION 13. REPEAL.) If House Bill No. 1138 is approved by the forty-sixth legislative assembly, then sections 16-04-01, 16-04-11, and 16-04-20 of the North Dakota Century Code are hereby repealed.

Filed April 3, 1979

NOTE: This bill was vetoed by the Governor and subsequently approved by a two-thirds majority of the members of the Senate and the House of Representatives.

CHAPTER 277

HOUSE BILL NO. 1569
(Winkjer)

FILLING UNITED STATES SENATE VACANCY

AN ACT to create and enact section 16.1-13-08 of the North Dakota Century Code, relating to the filling of a vacancy in the office of United States senator; and to repeal section 16-07-07 of the North Dakota Century Code, relating to the filling of a vacancy in the office of United States senator; and providing an effective date.

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

SECTION 1.) Section 16.1-13-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

16.1-13-08. FILLING VACANCY IN OFFICE OF UNITED STATES SENATOR.) When a vacancy occurs in the office of United States senator from this state, the governor, by appointment, may fill the vacancy temporarily, but any person so appointed shall serve only until the vacancy is filled by election as follows:

1. If the vacancy occurs during a calendar year in which there is a regularly scheduled statewide election and at least ninety days prior to the general election in that year, the vacancy shall be filled at the next statewide election; however, if there is not at least a ninety-day period between the date of the vacancy and the date of the next statewide election, the vacancy shall be filled at the general election.
2. If the vacancy occurs during a calendar year in which there is not a statewide election regularly scheduled or during a calendar year in which such an election is scheduled but less than ninety days prior to the general election, the governor shall issue a writ of election which shall designate a time for holding a special election to fill the vacancy, which election must be held within ninety days of the occurrence of the vacancy.

SECTION 2. REPEAL.) Section 16-07-07 of the North Dakota Century Code is hereby repealed.

SECTION 3. EFFECTIVE DATE.) The provision of this Act shall be effective for vacancies occurring on or after January 1, 1981.

Approved April 12, 1979

FIRES

CHAPTER 278

HOUSE BILL NO. 1500
(Swiontek, Stenehjem)

INFORMATION DISCLOSURE TO FIRE MARSHAL

AN ACT to create and enact a new section to chapter 18-01 of the North Dakota Century Code, relating to the disclosure of information by insurance companies to the state fire marshal.

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

SECTION 1.) A new section to chapter 18-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

DISCLOSURE OF INFORMATION - IMMUNITY - CONFIDENTIALITY.)

1. The state fire marshal may, in writing, require an insurance company at interest to release to him any or all relevant information or evidence deemed important which the company may have in its possession, relating to a fire loss when arson is suspected. This requirement shall be in addition to the information required to be reported by an insurance company under the provisions of section 18-01-05.
2. Relevant information may include, but is not limited to:
 - a. Pertinent insurance policy information relevant to a fire loss under investigation and any application for such a policy.
 - b. Policy premium payment records which are available.
 - c. History of previous claims made by the insured.
 - d. Material relating to the investigation of the loss, including statements of any person, proof of loss, and any other evidence relevant to the investigation.
3. When an insurance company has reason to believe that a fire loss in which it has an interest may be of other than

accidental cause, then, for the purpose of having such fire loss investigated by the state fire marshal, the company may, in writing, notify the state fire marshal and provide him with any or all material developed from the company's inquiry into the fire loss.

4. Any insurance company providing information to the state fire marshal pursuant to the provisions of this section shall have the right to request and receive relevant information from the state fire marshal within a reasonable time not to exceed thirty days.
5. Any insurance company, person acting in its behalf, or authorized agency, that releases information pursuant to the provisions of this section, whether written or oral, shall be immune from any liability arising out of the release of such information.
6. For the purposes of this section, "immune" shall mean that neither a civil action nor a criminal prosecution may arise from any action taken pursuant to the provisions of this section where actual malice, on the part of the insurance company, person acting in its behalf, or authorized agency, against the insured is not present.
7. The state fire marshal and any insurance company that receive any information furnished pursuant to the provisions of this section shall hold the information in confidence until such time as its release is required pursuant to a criminal or civil proceeding.

Approved March 18, 1979

CHAPTER 279

SENATE BILL NO. 2099
(Redlin)

INSURANCE PREMIUM TAX DISTRIBUTION

AN ACT to amend and reenact section 18-04-04 and section 18-04-05 of the North Dakota Century Code, relating to distribution of insurance premium tax to cities, rural fire departments, and rural fire protection districts.

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

SECTION 1. AMENDMENT.) Section 18-04-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-04. INSURANCE COMPANIES TO REPORT FIRE, ALLIED LINES, HOMEOWNER'S MULTIPLE PERIL, FARMOWNER'S MULTIPLE PERIL, AND COMMERCIAL MULTIPLE PERIL INSURANCE PREMIUM COLLECTIONS - FORM FURNISHED BY COMMISSIONER OF INSURANCE.) The commissioner of insurance, when he forwards to an insurance company which is issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance in this state the form to be used in submitting its annual statement, shall forward a form containing the names of all cities and all rural fire protection districts or rural fire departments entitled to benefits under the provisions of this chapter. Every insurance company issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance within this state shall complete such form by showing thereon the amount of all premiums received by it upon such policies issued on property within the corporate limits of each city shown on such form and on property within the boundaries of each rural fire protection district shown on such form or property within the boundaries of each rural fire department as certified by the state fire marshal during the year ending on the preceding thirty-first day of December, and shall file the same as a part of its annual statement.

SECTION 2. AMENDMENT.) Section 18-04-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-04-05. AMOUNT DUE CITIES, RURAL FIRE PROTECTION DISTRICTS, 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, certified rural fire departments, 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 insurance companies issuing policies for fire, allied lines, homeowner's multiple peril, farmowners's multiple peril, and commercial multiple peril insurance on property in such cities.
2. To each city fire department performing service outside of its incorporated limits, the sum of one hundred dollars. To each rural fire department not certified by the state fire marshal, the sum of two hundred dollars per year.
3. To each rural fire ~~department--ex~~ protection district organized within the provisions of this title or rural fire department certified by the state fire marshal, the sum of two hundred dollars per year plus two and one-fourth percent of the fire, allied lines, homeowner's multiple peril, and commercial multiple peril insurance premiums paid in any city, whether incorporated or not, and encompassed in a fire district two hundred dollars plus a sum equal to two and one-fourth percent of the premiums received by insurance companies issuing policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, and commercial multiple peril insurance on property within the boundaries of such rural fire protection districts or property served by certified rural fire departments.

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.

Approved March 27, 1979

CHAPTER 280

HOUSE BILL NO. 1046
(Legislative Council)
(Interim Committee on Corrections and Penology)

FIRE INSPECTION OF STATE BUILDINGS

AN ACT to provide for annual fire inspection of all state institutions and buildings.

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

SECTION 1. ANNUAL FIRE INSPECTION OF STATE BUILDINGS AND INSTITUTIONS.) An annual fire inspection shall be performed at each state institution and building. The state fire marshal shall annually inspect the state penitentiary, the state farm, the state industrial school, the state hospital, and the San Haven state hospital. The annual inspection of all other state institutions and buildings shall be made by the fire department of the city or fire protection district in which the institution or building is located, at the direction of the officer in charge of the institution or building, who shall prepare a report based upon the findings of the fire inspection. The report, which shall contain specifications of any violations, shall be submitted to the responsible board, agency, or commission and a copy of the report shall be submitted to the state fire marshal.

If the report indicates that any violations can be corrected within the current budget of the responsible board, agency, or commission, action to correct the violations, unless good cause can be demonstrated to the attorney general, shall be initiated within thirty days of receipt of the report by the responsible board, agency, or commission.

For purposes of this section, a "fire inspection" is a procedure performed in accordance with standards set forth in the uniform building code, the code of the building officials and code administrators (BOCA), or the code of the national fire protection association (NFPA).

Approved April 7, 1979

CHAPTER 281

HOUSE BILL NO. 1518
(I. Jacobson, Schindler)

RURAL FIRE PROTECTION DISTRICT BOARD MEMBERSHIP

AN ACT to amend and reenact section 18-10-04 of the North Dakota Century Code, relating to organization of board of directors for rural fire protection districts.

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

SECTION 1. AMENDMENT.) Section 18-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-04. ORGANIZATION - BOARD OF DIRECTORS.)

1. At the time and place fixed by the county auditor for the public meeting as provided in section 18-10-03, the electors who are owners of any interest in real or personal property assessed for taxation in the district and who are residing within the boundaries of the district shall have the opportunity to decide by majority vote of those present whether the organization of the district shall be completed. Permanent organization shall be effected by the election of a board of directors consisting of not less than five residents of the district, at least one of whom shall reside in and represent each township if the district includes more than one township. If the district is composed of more than seven townships, the board may elect to have only seven members, but no more than one member may be from any township.
2. The board of directors shall meet as soon after the organizational meeting as possible to elect a president, a vice president, and a secretary-treasurer. All directors and officers shall be elected for two years and hold office until their successors have been elected and qualified, except that at the first election the vice president shall be elected as provided in this section for a one-year term, and one-half, or as close to one-half as possible depending upon the total number of directors, of the directors elected at the first election following the effective date of this section shall be selected by lot in the presence of a majority of such directors to serve one-year terms. All officers shall serve without pay.

Approved March 3, 1979

CHAPTER 282

HOUSE BILL NO. 1524
(F. Larson)

RURAL FIRE PROTECTION DISTRICT BONDS

AN ACT to create and enact a new subsection to section 21-03-06 of the North Dakota Century Code, relating to permissible purposes for issuing rural fire protection district bonds; and to amend and reenact subsection 7 of section 18-10-06, sections 18-10-08 and 18-10-14, and subsection 1 of section 21-03-01 of the North Dakota Century Code, relating to the authority of rural fire protection districts to issue bonds.

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

SECTION 1. AMENDMENT.) Subsection 7 of section 18-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. To incur indebtedness on behalf of the district in accordance with chapter 21-03, or, with respect to this chapter, within the limits prescribed by section 18-10-08, and to authorize the issuance of evidences of such indebtedness as permitted by chapter 21-03, or, with respect to this chapter, as 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.

SECTION 2. AMENDMENT.) Section 18-10-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-08. INDEBTEDNESS OF DISTRICT LIMITED.) No district shall become indebted for an amount that may not be payable from ninety percent of twenty times the current annual maximum tax levy as authorized by section 18-10-07. Within the limits herein authorized, the district shall have power to borrow money and to issue appropriate evidence of indebtedness thereof. No evidence of indebtedness 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 evidence of indebtedness issued under the provisions of this chapter shall be sold for less than ninety-eight percent of par value plus accrued interest, if any interest has accrued as of the date of delivery thereof. The provisions of this section shall not limit the authority of the district to incur indebtedness and issue bonds in accordance with chapter 21-03.

SECTION 3. AMENDMENT.) Section 18-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-14. RATE OF TAX FIXED.) The rate of tax for functions pursuant to this chapter shall not exceed for the purchase of rural firefighting equipment in rural fire districts which may be organized upon petition of sixty percent of the freeholders, comprising an area of one or more townships, or for the purpose of assisting and contributing to the purchase and upkeep of firefighting equipment in adjoining cities not more than five mills per dollar valuation upon the property in such rural fire district. The provisions of this section shall not limit the authority of the district to issue bonds and levy taxes for their payment in accordance with chapter 21-03.

SECTION 4. AMENDMENT.) Subsection 1 of section 21-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Municipality" shall mean a county, city, township, public school district, park district, ~~or~~ recreation service district, or rural fire protection district empowered to borrow money and issue written obligations to repay the same out of public funds or revenue.

SECTION 5.) A new subsection to section 21-03-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

By any rural fire protection district for the purchase of such firefighting equipment, ambulances, or other emergency vehicles, or the acquisition, construction and equipping of such real property and improvements thereto, as shall be necessary and proper to carry out the general fire protection program of the district.

Approved March 12, 1979

CHAPTER 283

HOUSE BILL NO. 1148
(Schindler, Langley, Leibhan, Meyer)

FIRE PROTECTION CONTRACTS

AN ACT to amend and reenact section 18-10-10 of the North Dakota Century Code, relating to rural fire protection districts entering into contracts with other rural fire protection districts or state and local government agencies and requiring federal, state, and local agencies to reimburse the districts for fire protection services.

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

SECTION 1. AMENDMENT.) Section 18-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-10-10. RURAL FIRE DEPARTMENT MAY ENTER INTO CONTRACT - POWER OF STATE AND LOCAL GOVERNMENT AGENCIES TO MAKE CONTRACT - REIMBURSEMENT.) 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. Any rural fire protection district, or two or more districts operating in conjunction pursuant to this section, 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. State and local government agencies shall have the power to contract for fire protection service or fire protection cooperation. Federal, state, and local government agencies shall reimburse rural fire protection districts for fire protection services provided on real property owned by such agencies. Reimbursement shall be on a reasonable annual fee based on the agency's acreage within the rural fire protection district, but in no event shall such fee be an amount greater than if such property had been subject to property tax levies.

Approved March 3, 1979

CHAPTER 284

SENATE BILL NO. 2319
 (Senators Peterson, Hanson)
 (Representative Kloubec)

ALTERNATE FIREMEN'S RELIEF ASSOCIATIONS

AN ACT to amend and reenact section 18-11-07, subsection 2 of section 18-11-15, and section 18-11-18 of the North Dakota Century Code, relating to officers of an alternate firemen's relief association, service pensions for association members, and proportional decrease in benefits for association members.

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

SECTION 1. AMENDMENT.) Section 18-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

18-11-07. OFFICERS.) The officers of the association shall be a president and a vice president, both of whom shall be elected from among members of the board of trustees, a secretary-treasurer, a board of trustees and a finance committee. All such officers shall be elected in the manner and for the terms prescribed in its articles of incorporation and bylaws. The board of trustees shall manage the affairs of the association. The secretary-treasurer shall furnish a corporate bond to the association for the faithful performance of his duties in an amount to be determined by the association. The premium on the bond shall be paid by the association. The secretary-treasurer may be paid ~~a salary not to exceed two dollars per member--annually~~ an annual salary not to exceed one-half of one percent of the current monthly salary of a first-class fireman for each member account.

SECTION 2. 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 retirement age of fifty years, shall have the right to retire from the department without forfeiting his right to a service pension. Such person The association, in its bylaws, may establish a retirement age of not less than

fifty years, at which time the service pension shall become payable. Such retirement age may be established for all firemen or classes of firemen by birth dates. A person who has served twenty years or more and who is separated from service, shall, upon application, be placed on the deferred pension roll of the association, and after he has reached the retirement 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 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. If at any time the association's actuary certifies that the balance of the association's fund, together with future contributions by active members and contributions by the state, or the city, or both, and earnings thereon, will be inadequate to provide future prescribed benefits for active and inactive members and their beneficiaries, the board of trustees of the association, by majority vote, may proportionately decrease the benefits provided for in sections 18-11-15, 18-11-16, and 18-11-17 by a total sum not to exceed twenty percent thereof, and not more than two percent in any one calendar year, subject to the following conditions:

1. In no event shall the benefit, payable in any calendar year, be less than the benefit paid in the previous calendar year, except to the extent that the reduction is attributable to a reduction in the salary of a first-class fireman upon which the benefit is computed.

2. The decrease in benefits authorized by this section shall not exceed the lesser of twenty percent of the benefits or so much thereof as is certified by the association's actuary to be necessary, from time to time. The duration of the decrease shall not extend beyond the period recommended by the association's actuary.
3. When the balance of the association's state fund, together with future contributions by active members, and contributions by the state, or the city, or both, and earnings thereon, are sufficient to provide future prescribed benefits for active and inactive members and their beneficiaries, benefits shall again be paid as prescribed by sections 18-11-15, 18-11-16, and 18-11-17.

Approved March 15, 1979

FOOD AND DRUGS

CHAPTER 285

SENATE BILL NO. 2379
(Christensen)

GENERIC DRUG DISPENSATION

AN ACT to create and enact three new subsections to section 19-02.1-14.1 of the North Dakota Century Code, relating to the selecting and dispensing of generic name drug products, the liability of pharmacists, manufacturing standards and practices; and to amend and reenact subsections 1 and 2 of section 19-02.1-14.1 of the North Dakota Century Code, relating to definitions and the labeling of prescription drugs.

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

SECTION 1. AMENDMENT.) Subsections 1 and 2 of section 19-02.1-14.1 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

19-02.1-14.1. DEFINITIONS - LABEL OF PRESCRIPTION DRUGS -
SELECTING AND DISPENSING GENERIC NAME DRUGS.)

1. As used in this section, unless the subject matter or context otherwise requires:
 - a. "Brand name" means the registered trademark name given to a drug or medicine by its manufacturer, labeler, or distributor.
 - b. "Generic name" means the established name or official chemical name of the drug, drug product, or medicine.
 - c. "Therapeutically equivalent" means a generic name drug product that would elicit the same therapeutic response from the same person as a brand name drug product.
2. Drugs or medicines dispensed pursuant to a prescription shall bear a label permanently affixed to the immediate container in which the drug or medicine is dispensed and which is received by the purchaser. The label shall bear

the brand name or the generic name and strength of the drug or medicine, except when the physician or other health care provider authorized by law to prescribe drugs or medicine has notified the pharmacist that the appearance of the name on the label would be alarming to or detrimental to the well-being of the purchaser of the prescription.

SECTION 2.) Three new subsections to section 19-02.1-14.1 of the North Dakota Century Code are hereby created and enacted to read as follows:

The form for a written prescription shall have two signature lines at opposite ends of the bottom of the form. Under the line on the right side shall be clearly printed the words "dispense as written". Under the line on the left side shall be clearly printed the words "substitution permitted". The physician shall communicate his instructions to the pharmacist by signing the appropriate line. If an oral prescription for a brand name drug product is given to a pharmacist, the practitioner shall instruct the pharmacist as to whether the drug must be dispensed as prescribed or whether a therapeutically equivalent generic name drug product may be substituted in its place. The pharmacist shall note the instructions on the file copy of the prescription. The pharmacist shall not substitute a generic name drug product unless its price to the purchaser is less than the price of the prescribed drug product. The pharmacist shall inform the person receiving the drug when a prescription for a brand name drug product does not require that the prescribed drug be dispensed and of the person's right to refuse a generic name drug product selected by the pharmacist. The pharmacy file copy of every prescription shall include the brand name, if any, or the name of the manufacturer, packer, or distributor of the generic name drug dispensed. A pharmacist who selects and dispenses a therapeutically equivalent generic name drug product shall assume no greater liability for selecting the dispensed drug product than would be incurred in filling a prescription for a drug product prescribed by its generic name.

In the case of a prescription for which a maximum allowable cost program for purposes of reimbursement has been established under title XIX of the Federal Social Security Act, the following shall also apply:

- a. If the practitioner has signed the appropriate line of a prescription instructing the pharmacist to dispense as written, the words "brand necessary" must also be written on the prescription in the practitioner's own handwriting. The pharmacist may dispense a

therapeutically equivalent generic name drug product if this handwritten instruction does not appear on the prescription.

- b. If the pharmacist is instructed orally to dispense a brand name drug as prescribed, the pharmacist shall reduce the prescription to writing and shall note the instructions on the file copy of the prescription. The prescription shall then be signed by the practitioner on the appropriate line and the words "brand necessary" must also be written on the prescription in the practitioner's own handwriting.

A pharmacist may not select and dispense a generic name drug product for a prescribed drug product unless it has been manufactured with the following minimum manufacturing standards and practices by a manufacturer who:

- a. Marks capsules and tablets with identification code or monogram.
- b. Labels products with their expiration date.
- c. Provides reasonable services to accept return goods that have reached their expiration date.
- d. Provides the pharmacist with information from which it can be determined whether a drug product is therapeutically equivalent.
- e. Maintains recall capabilities for unsafe or defective drugs.

Approved March 27, 1979

CHAPTER 286

SENATE BILL NO. 2294
(Lee)

PRESCRIPTION DRUG DISPENSATION

AN ACT to amend and reenact subsection 1 of section 19-02.1-15 of the North Dakota Century Code, relating to drugs limited to dispensing on prescription.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 19-02.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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~~ one year 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 and filed by the pharmacist ~~on a new prescription blank, and shall be signed within seventy-two hours by the practitioner who issued the same.~~

Approved March 13, 1979

CHAPTER 287

SENATE BILL NO. 2052
(Legislative Council)
(Interim Committee on Criminal Justice System)

HASHISH AND MARIJUANA

AN ACT to create and enact a new subsection to section 19-03.1-01 of the North Dakota Century Code, relating to the definition of hashish; and to amend and reenact subsection 14 of section 19-03.1-01, subdivisions k through u of subsection 4 of section 19-03.1-05, and section 19-03.1-23 of the North Dakota Century Code, relating to the definition of marijuana, to the inclusion of hashish as a schedule I controlled substance, and providing penalties for possession of marijuana and hashish.

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

SECTION 1.) A new subsection to section 19-03.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Hashish" means the resin extracted from any part of the plant Cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.

SECTION 2. AMENDMENT.) Subsection 14 of section 19-03.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. "Marijuana" means all parts of the plant Cannabis whether growing or not; the seeds thereof; ~~the resin extracted from any part of the plant~~ the resinous product of the combustion of the plant Cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, or 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.

* SECTION 3. AMENDMENT.) Subdivisions k through u of subsection 4 of section 19-03.1-05 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

k. Hashish.

- ~~k~~ l. Ibogaine. (Some trade and other names: 7-Ethyl-6, 6B,7,8,9,10,12, 13-octahydro-2-methoxy-6,9-methano-5 H-pyrido (1, 2,:1,2) azepino (5,4-b) indole;tabernanthe iboga.)
- ~~l~~ m. Lysergic acid diethylamide.
- ~~m~~ n. Marijuana.
- ~~n~~ o. Mescaline.
- ~~o~~ p. Peyote.
- ~~p~~ q. N-ethyl-3-piperidyl benzilate.
- ~~q~~ r. N-methyl-3-piperidyl benzilate.
- ~~r~~ s. Psilocybin.
- ~~s~~ t. Psilocyn.
- ~~t~~ u. Tetrahydrocannabinols.
- ~~u~~ v. Thiophene Analog of Phencyclidine. (Some trade or other names: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP.)

** SECTION 4. AMENDMENT.) Section 19-03.1-23 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-23. PROHIBITED ACTS A - PENALTIES.)

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance, provided that any person whose conduct is in violation of sections ~~12-44-25~~, 12-44-28, 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection with respect to:
- a. a A controlled substance classified in schedules I or II which is a narcotic drug, is guilty of a class A felony~~r~~.

* NOTE: Subdivisions k through u of subsection 4 of section 19-03.1-05 were also amended by section 1 of House Bill No. 1635, chapter 288.

** NOTE: Section 19-03.1-23 was also amended by section 29 of House Bill No. 1073, chapter 187, and by section 28 of House Bill No. 1044, chapter 172.

- b. ~~any~~ Any other controlled substance classified in schedule I, II, or III, is guilty of a class B felony~~._~~
 - c. a A substance classified in schedule IV, is guilty of a class C felony~~._~~
 - d. a A substance classified in schedule V, is guilty of a class A misdemeanor.
2. Except as authorized by this chapter, it is unlawful for any person to create, deliver, or possess with intent to deliver, a counterfeit substance, provided that any person whose conduct is in violation of sections ~~12-44-25~~, 12-44-28, 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. a A counterfeit substance classified in schedule I or II which is a narcotic drug, is guilty of a class A felony~~._~~
 - b. ~~any~~ Any other counterfeit substance classified in schedules I, II, or III, is guilty of a class B felony~~._~~
 - c. a A counterfeit substance classified in schedule IV, is guilty of a class C felony~~._~~
 - d. a A counterfeit substance classified in schedule V, is guilty of a class A misdemeanor.
3. It is unlawful for any person 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 chapter, provided that any person whose conduct is in violation of sections ~~12-44-25~~, 12-44-28, 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection is guilty of a class C felony; except that any person who violates this subsection regarding possession of one-half ounce [14.175 grams] to one ounce [28.35 grams] of marijuana, shall be guilty of a class A misdemeanor; and any person, except a person operating a motor vehicle, who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana shall be guilty of a class B misdemeanor. Any person who violates this subsection regarding possession of less than one-half ounce [14.175 grams] of marijuana while operating a motor vehicle shall be guilty of a class A misdemeanor.

4. Notwithstanding the provisions of section 19-03.1-30, whenever a person pleads guilty or is found guilty of a first offense regarding possession of one ounce [28.35 grams] or less of marijuana and a judgment of guilt is entered, a court, upon motion, shall expunge that conviction from the record if the person is not subsequently convicted within two years of a further violation of chapter 19-03.1 and has not been convicted of any other criminal offense.

Filed April 3, 1979

NOTE: This bill was vetoed by the Governor and subsequently approved by a two-thirds majority of the members of the Senate and the House of Representatives.

CHAPTER 288

HOUSE BILL NO. 1635
(Stenehjem)

CONTROLLED SUBSTANCES ACT SCHEDULES

AN ACT to amend and reenact subsection 4 of section 19-03.1-05, subsection 5 of section 19-03.1-07, subsection 3 of section 19-03.1-09, section 19-03.1-11 and subsection 2 of section 19-03.1-13 of the North Dakota Century Code, relating to the schedules of controlled substances under the Uniform Controlled Substances Act.

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

* SECTION 1. AMENDMENT.) Subsection 4 of section 19-03.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. 4-bromo-2, 5-dimethoxyamphetamine. (Some trade or other names: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; 4-bromo-2, 5-DMA.)
 - b. 2, 5-dimethoxyamphetamine. (Some trade or other names: 2, 5-dimethoxy-a-methylphenethylamine; 2, 5-DMA.)
 - c. 4-methoxyamphetamine. (Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA.)
 - d. 5-methoxy-3, 4-methylenedioxyamphetamine.
 - e. 4-methyl-2, 5-dimethoxyamphetamine. (Some trade and other names: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP".)

* NOTE: Subdivisions k through u of subsection 4 of section 19-03.1-05 were also amended by section 3 of Senate Bill No. 2052, chapter 287.

- f. 3, 4-methylenedioxy amphetamine.
- g. 3, 4, 5-trimethoxy amphetamine.
- h. Bufotenine. (Some trade and other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.)
- i. Diethyltryptamine. (Some trade and other names: N,N-Diethyltryptamine; DET.)
- j. Dimethyltryptamine. (Some trade and other names: DMT.)
- k. Ethyl amine analog of phencyclidine. (Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.)
- ~~k~~ l. Ibogaine. (Some trade and other names: 7-Ethyl-6, 6B,7,8,9,10, 12, 13-octahydro-2-methoxy-6,9-methano-5 H-pyrido (1, 2,: 1,2) azepino (5,4-b) indole; tabernanthe iboga.)
- ~~l~~ m. Lysergic acid diethylamide.
- ~~m~~ n. Marijuana.
- ~~n~~ o. Mescaline.
- ~~e~~ p. Peyote.
- ~~p~~ q. N-ethyl-3-piperidyl benzilate.
- ~~q~~ r. N-methyl-3-piperidyl benzilate.
- ~~r~~ s. Psilocybin.
- ~~s~~ t. Psilocyn.
- u. Pyrrrolidine analog of phencyclidine. (Some trade or other names: 1-(1-phenylcyclohexyl) pyrrolidine, PCPy, PHP.)
- ~~t~~ v. Tetrahydrocannabinols.
- ~~u~~ w. Thiophene Analog of Phencyclidine. (Some trade or other names: 1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP.)

SECTION 2. AMENDMENT.) Subsection 5 of section 19-03.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Amobarbital.
 - b. Methaqualone.
 - c. Pentobarbital.
 - d. ~~Secobarbital~~ Phencyclidine.
 - e. Phencyclidine immediate precursors:
 - (1) 1-phenylcyclohexylamine.
 - (2) 1-piperidinocyclohexanecarbonitrile (PCC).
 - f. Secobarbital.

SECTION 3. AMENDMENT.) Subsection 3 of section 19-03.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
- a. Any compound, mixture, or preparation containing:
 - (1) Amobarbital;
 - (2) Secobarbital;
 - (3) Pentobarbital;or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
 - b. Any suppository dosage form containing:
 - (1) Amobarbital;
 - (2) Secobarbital;
 - (3) Pentobarbital;

or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

- c. 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.
- d. Chlorhexadol.
- e. Glutethimide.
- f. Lysergic acid.
- g. Lysergic acid amide.
- h. Methyprylon.

~~h--Phencylidine-~~

- ~~j~~ i. Sulfondiethylmethane.
- ~~k~~ j. Sulfonethylmethane.
- ~~l~~ k. Sulfonmethane.

SECTION 4. AMENDMENT.) Section 19-03.1-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-11. 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. Chlordiazepoxide, but not including Librax (chlordiazepoxide hydrochloride and clindinium bromide) or Menrium (chlordiazepoxide and water soluble esterified estrogens).
 - e. Clonazepam.

- f. Clorazepate.
 - g. Diazepam.
 - h. Ethchlorvynol.
 - i. Ethinamate.
 - j. Flurazepam.
 - k. Mebutamate.
 - l. Methohexital.
 - m. Meprobamate.
 - n. Methylphenobarbital.
 - o. Oxazepam.
 - p. Paraldehyde.
 - q. Petrichloral.
 - r. Phenobarbital.
3. Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:
- a. Fenfluramine.
4. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Diethylpropion.
 - b. Phentermine.
 - c. Pemoline (including organometallic complexes and chelates thereof).
5. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound,

mixture, or preparation which contains any quantity of the following substances, including its salts:

- a. Dextropropoxyphene (Alpha- (+) - 4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).
- b. Pentazocine.

6. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, 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 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

6- 7. The state laboratories department may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter 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 5. AMENDMENT.) Subsection 2 of section 19-03.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 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.
 - f. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

Approved March 3, 1979

CHAPTER 289

HOUSE BILL NO. 1601
(Stenehjem)

CONTROLLED SUBSTANCES REGULATION

AN ACT to amend and reenact subsection 2 of section 19-03.1-32 and subsection 2 of section 19-03.1-35 of the North Dakota Century Code, relating to search warrants for controlled substances, and the state laboratories department's regulatory functions under the Uniform Controlled Substances Act.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 19-03.1-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.

SECTION 2. AMENDMENT.) Subsection 2 of section 19-03.1-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Results, information, and evidence received from the bureau relating to regulatory functions of this chapter, including results of inspections conducted by it may be relied and acted upon by the state ~~health~~ laboratories department in the exercise of its regulatory functions under this chapter.

Approved March 8, 1979

CHAPTER 290

HOUSE BILL NO. 1049
(Legislative Council)
(Interim Committee on Criminal Justice System)

DRUG CONVEYANCE FORFEITURE

AN ACT to amend and reenact section 19-03.1-36 of the North Dakota Century Code, relating to the forfeiture of conveyances used to illegally transport controlled substances, raw materials, products, and equipment; for the seizure of such conveyances by law enforcement agencies; and allowing for the sale of conveyances and the deposit of remainder proceeds in the state, county, or city general fund.

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

SECTION 1. AMENDMENT.) Section 19-03.1-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-36. FORFEITURES.)

1. The following are subject to forfeiture:
 - a. ~~all~~ All controlled substances which have been ~~manufactured~~ manufactured, distributed, dispensed, or acquired in violation of this chapter.
 - b. ~~all~~ 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 chapter.
 - c. ~~all~~ All property which is used, or intended for use, as a container for property described in subdivision a or b.
 - d. ~~all~~ 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~~ 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 chapter~~;~~.
 - (2) ~~no~~ 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 A conveyance is not subject to forfeiture for a violation of subsection 3 of section 19-03.1-23~~;~~ and.
 - (4) a 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~~ All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.
2. Property subject to forfeiture under this chapter, except conveyances, may be seized by the state laboratories department upon process issued by any district court having jurisdiction over the property. A conveyance subject to forfeiture under this chapter may be seized by a state, county, or city law enforcement agency upon process issued by any district court having jurisdiction over the conveyance. Seizure without process may be made if:
- a. ~~the~~ The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant~~;~~.
 - b. ~~the~~ 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 chapter~~;~~.
 - c. ~~the~~ The state laboratories department or a law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety~~;~~-or.

- d. ~~the~~ The state laboratories department or a law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.
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 or a law enforcement agency 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 chapter, the state laboratories department or a law enforcement agency may:
 - a. ~~place~~ Place the property under seal.
 - b. ~~remove~~ Remove the property to a place designated by it.
 - c. ~~require~~ Require the attorney general to take custody of the property and remove it to an appropriate location for disposition in accordance with law.
 5. A district court shall order a seized conveyance to be forfeited upon conviction of the person arrested, upon a guilty plea, or upon the failure of a law enforcement agency to locate and arrest after one month the person who used the conveyance subject to forfeiture. When property is forfeited under this chapter the state laboratories department or a law enforcement agency may:
 - a. ~~retain~~ Retain it for official use.
 - b. ~~sell~~ 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, with any remaining proceeds to be deposited in the appropriate state, county, or city general fund. When two or more law enforcement agencies are involved in seizing a conveyance, the remaining proceeds may be divided proportionately.
 - c. ~~require~~ Require the attorney general to take custody of property and remove it for disposition in accordance with law.
 - d. ~~forward~~ 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 chapter 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 chapter, 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.

Approved March 3, 1979

CHAPTER 291

SENATE BILL NO. 2315
(Solberg, Albers)

OLEOMARGARINE PROVISIONS REPEALED

AN ACT to repeal chapter 19-05 of the North Dakota Century Code, relating to oleomargarine.

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

SECTION 1. REPEAL.) Chapter 19-05 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

GAME AND FISH

CHAPTER 293

HOUSE BILL NO. 1133
(Committee on Natural Resources)
(At the request of the Game and Fish Department)

DEFINITION OF WATERFOWL

AN ACT to amend and reenact subsection 37 of section 20.1-01-02 of the North Dakota Century Code, relating to the definition of "waterfowl".

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

SECTION 1. AMENDMENT.) Subsection 37 of section 20.1-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37. "Waterfowl" shall include all varieties of geese, brant, swans, ducks, ~~exanes~~, rails, and coots.

Approved March 3, 1979

CHAPTER 294

HOUSE BILL NO. 1141
(Opedahl)

HUNTING WITH MOTOR-DRIVEN VEHICLES

AN ACT to amend and reenact section 20.1-01-07 of the North Dakota Century Code, relating to the use of motor vehicles in hunting big or small game other than waterfowl.

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

SECTION 1. AMENDMENT.) Section 20.1-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-07. HUNTING BIG GAME OR SMALL GAME OTHER THAN WATERFOWL WITH MOTOR VEHICLES PROHIBITED - EXCEPTION - MOTOR VEHICLE USE IN TRANSPORTING BIG GAME RESTRICTED.)

- 1- Except as provided in subsection 11 of section 20.1-02-05, no person, while hunting big game, ~~state-wide,~~ or small game, other than waterfowl, ~~in these counties specified in subsection 2,~~ shall statewide, may use a motor-driven vehicle on any other than an established road or trail, unless he has reduced a big game animal to possession and cannot easily retrieve said big game animal, in which case a motor-driven vehicle may be used to retrieve the big game animal, provided that after such retrieval, such motor-driven vehicle is again returned to the established road or trail along the same route it originally departed. For purposes of safety and allowing normal travel, a motor-driven vehicle may be parked on the roadside or directly adjacent to said road or trail. No person, while hunting big game, ~~state-wide,~~ or small game, ~~other than waterfowl, in these counties specified in subsection 2,~~ shall statewide, may drive or attempt to drive, run or attempt to run, molest or attempt to molest, flush or attempt to flush, or harass or attempt to harass any such game with the use or aid of any motor-driven vehicle. No person, while hunting big game ~~state-wide,~~ or small game, other than waterfowl, ~~in these counties specified in subsection 2,~~ shall statewide, may drive through any

retired cropland, brush area, slough area, timber area, open prairie, or unharvested or harvested cropland, except upon an established road or trail.

~~2. The prohibitions relating to the hunting of small game specified in subsection 1 shall apply to the counties of Adams, Billings, Bowman, Dunn, Golden, Valley, Grant, Hettinger, McKenzie, Mercer, Merton, Oliver, Sioux, Slope, and Stark.~~

Approved March 3, 1979

CHAPTER 295

HOUSE BILL NO. 1235
(Lipsiea)

RACCOON HUNTING WITH AN ARTIFICIAL LIGHT

AN ACT to amend and reenact section 20.1-01-08 of the North Dakota Century Code, relating to the hunting of raccoons with an artificial light.

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

SECTION 1. AMENDMENT.) Section 20.1-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-08. HUNTING WITH ARTIFICIAL LIGHT PROHIBITED - EXCEPTION - USE OF DOGS.) It shall be unlawful for any person to pursue, shoot, kill, take or attempt to take any wildlife between sunset of one day and sunrise of the next, with the aid of a spotlight or any other artificial light. This section does not make it unlawful for any person to use a lantern, spotlight, or other artificial light to assist him in pursuing and shooting on his premises any coyote, fox, skunk, mink, raccoon, weasel, owl, rabbit, or other predatory animal or bird, attacking and attempting to destroy such person's poultry, livestock, or other property. ~~It is permissible to use a flashlight of not more than two cells in the aggregate of three volts while taking raccoon during the open season on such animal.~~ It is permissible to use an artificial light of not more than two cells in the aggregate of four volts while hunting afoot for raccoon during the open season on such animal. A red or amber filter must be placed on any artificial light used in the hunting of raccoon, except when taking a raccoon treed or at bay.

Approved March 3, 1979

CHAPTER 296

HOUSE BILL NO. 1451
(Timm, Kermott, Maixner, Schindler, Walsh)

HARASSING WILD GAME FROM SNOWMOBILE

AN ACT to amend and reenact section 20.1-01-11 of the North Dakota Century Code, relating to hunting and harassing game from aircraft, snowmobiles and motor vehicles.

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

SECTION 1. AMENDMENT.) Section 20.1-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-01-11. HUNTING AND HARASSING GAME FROM AIRCRAFT, SNOWMOBILES AND MOTOR VEHICLES PROHIBITED.) Except as provided in this title, or when necessary for the protection of life or property except as provided in section 20.1-02-05, no person operating or controlling the operation of any aircraft or motor vehicle in this state shall intentionally kill, chase, or harass any wild animal or wild bird, protected or unprotected. No person, while operating a snowmobile in this state, shall intentionally kill, chase, flush, or harass any wild animal or wild bird, protected or unprotected.

Approved March 3, 1979

CHAPTER 297

HOUSE BILL NO. 1341
(Hanson)

GAME BIRD HUNTING

AN ACT to create and enact a new section to chapter 20.1-01 of the North Dakota Century Code, relating to hunting birds on utility lines and providing a penalty; and to amend and reenact subsection 6 of section 20.1-01-02 of the North Dakota Century Code, relating to the definition of game birds to include mourning doves.

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

SECTION 1.) A new section to chapter 20.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

HUNTING ON UTILITY LINES PROHIBITED - PENALTY.) No person may hunt birds resting on utility lines or fixtures adjacent to such lines. Any person violating this section shall be guilty of a class B misdemeanor.

SECTION 2. AMENDMENT.) Subsection 6 of section 20.1-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Game birds" shall include all varieties of geese, brant, swans, ducks, plovers, snipes, woodcocks, grouse, sagehens, pheasants, Hungarian partridges, quails, partridges, cranes, rails, coots, and wild turkeys, and mourning doves.

Approved March 5, 1979

CHAPTER 298

HOUSE BILL NO. 1143
(Gerl)

DISPOSITION OF INJURED ANIMALS

AN ACT to provide for the disposition of animals injured or killed by being struck by a motor vehicle.

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

SECTION 1. DISPOSITION OF ANIMALS INJURED OR KILLED BY MOTOR VEHICLE - FEE.) Whenever any big game or furbearing animal is injured or killed by being struck by a motor vehicle on a public highway or roadway, the driver of the motor vehicle may notify the department of the location of the animal. When notified as provided in this section, the department shall arrange for the disposition of the animal.

Provided, however, that upon payment of a two dollar fee to the department, the driver of the motor vehicle may arrange for the disposition or processing of the animal. Any authorized representative of the department shall give a receipt, in the form prescribed by the commissioner, to the driver making payment pursuant to this section. That receipt shall serve as authorization to possess or dispose of the animal.

Approved March 3, 1979

CHAPTER 299

HOUSE BILL NO. 1197
(Gackle, Berg, Kermott, Weber)

HABITAT IMPROVEMENT PROGRAM

AN ACT to create and enact two new subsections to section 20.1-02-05 of the North Dakota Century Code, relating to the establishment of a special game and fish department private land habitat improvement fund and the establishment of a habitat improvement program.

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

SECTION 1.) Two new subsections to section 20.1-02-05 of the North Dakota Century Code are hereby created and enacted to read as follows:

Provide for the funding of a private lands habitat improvement program with moneys derived from the interest earned on the game and fish fund. The state treasurer shall place the interest money in a special fund called the "game and fish department private land habitat improvement fund".

Carry out a private land habitat improvement program by:

- a. Entering into cost-sharing agreements with landowners or agencies working on private land to help defray all or a portion of their share of certain federally sponsored conservation practices considered beneficial to fish and wildlife.
- b. Annual leasing and development of fish and wildlife habitat or sport fishing areas on private land.
- c. Carrying out practices which will alleviate depredations caused by big game animals.

Approved March 24, 1979

CHAPTER 300

SENATE BILL NO. 2375
(Jones)

POWERS OF GAME AND FISH PERSONNEL

AN ACT to create and enact a new section to chapter 20.1-02 of the North Dakota Century Code, relating to the powers of the state game and fish commissioner, deputy commissioner, chief game wardens or district game wardens.

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

SECTION 1.) A new section to chapter 20.1-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

ADDITIONAL POWERS OF COMMISSIONER, DEPUTY COMMISSIONER, CHIEF GAME WARDENS OR DISTRICT GAME WARDENS.) The commissioner, deputy commissioner, chief game wardens or district game wardens shall have the power of a peace officer in the following circumstances:

1. To enforce state laws, rules, and regulations on any game refuge, game management area or other land or water owned, leased or managed by the department.
2. When responding to requests from other law enforcement agencies or officers for aid and assistance. For the purposes of this subsection, such a request from a law enforcement agency or officer shall mean only a request for assistance as to a particular and singular violation or suspicion of violation of law, and shall not constitute a continuous request for assistance outside the purview of enforcement of the provisions of this title.
3. The powers and duties hereby conferred shall be supplemental to other powers and duties conferred upon the commissioner, deputy commissioner, chief game wardens or district game wardens and shall not constitute an obligation beyond the regular course of duty of those officers.

This section shall not be construed to limit the powers or duties of any peace officer within this state.

Approved March 8, 1979

CHAPTER 301

SENATE BILL NO. 2080
(Legislative Council)
(Interim Committee on State and Federal Government)

GAME AND FISH ADVISORY BOARD

AN ACT to amend and reenact sections 20.1-02-23, 20.1-02-24, and 20.1-02-25 of the North Dakota Century Code, relating to the membership, compensation, meetings, and duties of the state game and fish advisory board.

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

SECTION 1. AMENDMENT.) Section 20.1-02-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-23. ADVISORY GAME AND FISH BOARD - APPOINTMENT - QUALIFICATIONS - TERM.) There is hereby created a state game and fish advisory board consisting of ~~six~~ eight members, one from each ~~judicial--district--of--this--state~~ of the following districts, appointed by the governor:

1. District one shall consist of the counties of Divide, McKenzie, and Williams.
2. District two shall consist of the counties of Bottineau, Burke, McHenry, Mountrail, Pierce, Renville, and Ward.
3. District three shall consist of the counties of Benson, Cavalier, Eddy, Ramsey, Rolette, and Towner.
4. District four shall consist of the counties of Grand Forks, Nelson, Pembina, and Walsh.
5. District five shall consist of the counties of Cass, Ransom, Richland, Sargent, Steele, and Traill.
6. District six shall consist of the counties of Barnes, Dickey, Foster, Griggs, LaMoure, Logan, McIntosh, Stutsman, and Wells.

7. District seven shall consist of the counties of Burleigh, Emmons, Grant, Kidder, McLean, Mercer, Morton, Oliver, Sheridan, and Sioux.
8. District eight shall consist of the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope, and Stark.

Not less than ~~three~~ four members shall be bona fide farmers or ranchers. Appointments shall be for a term of ~~six~~ four years from the first day of July of the year of expiration of the basic term, and until a successor has been appointed and qualified. Vacancies occurring other than by the expiration of an appointive term shall be filled by appointment for the remainder of the term only. No member of the board may serve longer than two full terms. The members of the advisory board shall be subject to removal by the governor for cause only. The advisory board shall select from their members a chairman, vice chairman, and secretary who shall serve in such positions until June thirtieth of the year next following their selection.

SECTION 2. AMENDMENT.) Section 20.1-02-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-24. COMPENSATION.) Each member of the advisory board shall be paid a per diem of ~~ten~~ fifty dollars for each day of service in going to, attending, and returning from the meetings required by section 20.1-02-25 to be held in his respective district and the meetings of the advisory board. Each member shall be reimbursed for necessary and actual expenses at the rates and in the manner provided by law for other state officers. Such compensation and expenses shall be paid out of department appropriations.

SECTION 3. AMENDMENT.) Section 20.1-02-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-25. MEETINGS AND DUTIES.) Each board member shall hold a public meeting at least twice each fiscal year in his respective district to make their presentations and to determine the needs and the opinions of those interested in such activities. The board shall meet at least twice each fiscal year, ~~once in August and once in April. Four members shall constitute a quorum.~~ The board has the authority to advise the commissioner regarding any policy of hunting, fishing, and trapping regulations, and may make general recommendations concerning the operation of the department and its programs which the commissioner may carry out. The board shall forward copies of its recommendations to the governor. This section does not limit or restrict the powers, duties, and authority of the governor in the issuance of orders and proclamations as provided in chapter 20.1-08.

Approved March 7, 1979

CHAPTER 302

SENATE BILL NO. 2146
(Wright)

FROG LICENSE

AN ACT to create and enact a new section to chapter 20.1-03 and three new subsections to section 20.1-03-12 of the North Dakota Century Code, relating to frog licenses and frog license fees; and to amend and reenact subsection 31 of section 20.1-03-12 and section 20.1-06-17 of the North Dakota Century Code, relating to resident frog license fees and regulations governing commercial frogging.

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

SECTION 1.) A new section to chapter 20.1-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

WHEN LICENSE TO TAKE FROGS NOT REQUIRED OF RESIDENTS.)
Subject to the provisions of this title:

1. Any resident, or any member of his family residing customarily with him, may take frogs for sale during the open season without a license upon land owned or leased by him for agricultural purposes.
2. Residents under the age of fifteen may take frogs without a resident frog license.
3. Any person may take and possess a maximum of twenty-four frogs without a frog license if he has a fishing license or is otherwise legally entitled to fish in the state.
4. Any licensed bait vendor may take, buy, sell or ship within the state frogs for angling purposes without a frog license.

SECTION 2. AMENDMENT.) Subsection 31 of section 20.1-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

31. For a resident commercial frog license, fifty dollars.

SECTION 3.) Three new subsections to section 20.1-03-12 of the North Dakota Century Code are hereby created and enacted to read as follows:

For a nonresident commercial frog license, two hundred dollars.

For a resident frog license, three dollars.

For a resident husband and wife frog license, five dollars.

SECTION 4. AMENDMENT.) Section 20.1-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-06-17. FROGS - SEASON FOR TAKING - REGULATIONS.) ~~No person shall willfully take, catch, or kill any frog, except for angling purposes or biological classroom study within North Dakota, unless he first obtains a commercial frog license from the commissioner.~~ No person shall engage in the taking of frogs for sale for human consumption or scientific purposes without obtaining a frog license from the commissioner. No person shall buy, job, take on consignment or ship frogs without obtaining the appropriate resident or nonresident commercial frog license. The commissioner shall designate the form of such licenses, the areas in which the license is valid, and any other restrictions. The commissioner shall issue regulations relating to the manner of taking, shipping, buying, or selling and may require reports from each licensee at such time and of containing such information as deemed necessary. Except as provided in subsection 3 of section 1 of this Act, it is unlawful to take frogs on private land without written permission of the owner or operator of the land.

Approved March 8, 1979

CHAPTER 303

HOUSE BILL NO. 1326
(Representatives Berg, Mertens)
(Senators Jones, Smykowski)

NONRESIDENT WATERFOWL LICENSE

AN ACT to amend and reenact section 20.1-03-07.1 of the North Dakota Century Code, relating to authorization for nonresidents to hunt waterfowl in specified hunting zones.

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

SECTION 1. AMENDMENT.) Section 20.1-03-07.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-03-07.1. NONRESIDENT WATERFOWL HUNTING LICENSE REQUIRED.) A nonresident shall not hunt waterfowl unless he first obtains a nonresident waterfowl hunting license, in addition to a nonresident small game hunting license. The nonresident waterfowl hunting license shall entitle the nonresident to hunt waterfowl for any ~~consecutive ten-day~~ period of ten consecutive days or any two periods of five consecutive days each and in specified waterfowl hunting zones. A license authorizing two five-day hunting periods may allow hunting in a different zone during each period. The governor, in his proclamation, shall specify various waterfowl hunting zones for which nonresident waterfowl hunting licenses will be available, and may specify the number of licenses which may be issued in each zone and the manner in which they are to be issued. A nonresident shall be entitled to purchase only one nonresident waterfowl hunting license per year.

Approved March 24, 1979

CHAPTER 304

SENATE BILL NO. 2132
(Committee on Natural Resources)
(At the request of the Game and Fish Department)

MINIMUM AGE FOR BIG GAME HUNTING LICENSE

AN ACT to amend and reenact subsection 1 of section 20.1-03-11 of the North Dakota Century Code, relating to the age a person must be before he may apply for a big game hunting license.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 20.1-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. No person shall hunt, kill, take, or attempt to take any big game without having the appropriate big game hunting license and a locking seal bearing a number corresponding to the number of the big game hunting license or stamp. The locking seal shall be issued as an integral part of the big game hunting license. ~~A big game hunting license shall not be sold to, or purchased for, any person under the age of fourteen years~~ No person may apply for or be issued a big game hunting license if that person's fourteenth birthday does not occur on or before the opening date of the respective big game hunting season. This age limitation does not apply to applicants for big game licenses for hunting by bow and arrow. Each violation of this section shall be a distinct and separate offense.

Approved March 8, 1979

CHAPTER 305

SENATE BILL NO. 2451
(Smykowski)

NONRESIDENT FUR BUYER LICENSE FEE
INCREASED

AN ACT to amend and reenact subsection 16 of section 20.1-03-12 of the North Dakota Century Code, relating to the license fee required of a nonresident fur buyer.

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

SECTION 1. AMENDMENT.) Subsection 16 of section 20.1-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

16. For a license to a nonresident buyer or shipper of green furs, or his agent, ~~one~~ five hundred dollars.

Approved March 23, 1979

CHAPTER 306

HOUSE BILL NO. 1320
(Berg)

FISHHOUSE LICENSES

AN ACT to amend and reenact subsection 26 of section 20.1-03-12 and section 20.1-06-07 of the North Dakota Century Code, relating to the fee and effective period for fishhouse licenses.

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

SECTION 1. AMENDMENT.) Subsection 26 of section 20.1-03-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26. For a license to erect, have, and maintain on the ice in this state a fishhouse used or to be used to protect one while ice fishing or a dark house used or to be used for spearfishing, ~~one dollar~~ five dollars for each unit.

SECTION 2. AMENDMENT.) Section 20.1-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-06-07. FISHHOUSES - LICENSE - REMOVAL.) No person, except as provided in section 20.1-06-05, shall erect, have, or maintain on the ice in any waters of this state, a fishhouse used or to be used while ice fishing, or a dark house used or to be used for spearfishing, without first obtaining a separate license for each ~~such~~ unit used. Licenses shall be issued by the commissioner, for the period ~~between--December--fifteenth--and--the--end--of--the--winter--fishing--season--as--established--by--the--governor's--proclamation--or--by--executive--order--of--the--commissioner,--upon--payment--of--the--appropriate--license--fee~~ of five winter fishing seasons, including the season commencing in the year of purchase. Fishhouse licenses are not transferable and must be relicensed for a five-year period by the new owner of the fishhouse. Licenses shall be subject to the rules ~~and--regulations~~ the commissioner may adopt governing the construction, maintenance, and use of such units. The outside of each licensed unit shall have inscribed on it, in readily distinguishable characters at least six inches [15.24 centimeters] high, the license number and the owner's name. Each unit shall be

removed from the ice within five days after the close of the ~~period~~
~~for--which--the--license--was--issued~~ winter fishing season as
established by the governor's proclamation. Failure to remove a
unit shall be deemed an abandonment and the commissioner is
authorized to remove or destroy such abandoned units.

Approved March 3, 1979

CHAPTER 307

HOUSE BILL NO. 1152
(Committee on Natural Resources)
(At the request of the Game and Fish Department)

KILLING OF DOGS PURSUING BIG GAME

AN ACT to create and enact a new section to chapter 20.1-05 of the North Dakota Century Code, relating to the killing of dogs pursuing or killing big game; and declaring an emergency.

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

SECTION 1.) A new section to chapter 20.1-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

UNATTENDED DOGS HARASSING OR KILLING BIG GAME ANIMALS.) Any district game warden may kill any unattended dog harassing or killing big game. No action for damages shall be maintained against the person for the killing.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 3, 1979

CHAPTER 308

HOUSE BILL NO. 1445
(Richie)

OUTBOARD MOTOR POSSESSION AND SALE

AN ACT to create and enact two new sections to chapter 20.1-13 of the North Dakota Century Code, relating to possession and sale of outboard motors without serial numbers; and providing penalties.

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

SECTION 1.) A new section to chapter 20.1-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

OUTBOARD MOTOR - SERIAL NUMBER REMOVED - PENALTY.) No person may possess, repair, or sell an outboard motor, acquired after January 1, 1980, from which the serial number has been removed. Any person violating this section shall be guilty of an infraction.

SECTION 2.) A new section to chapter 20.1-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

MANUFACTURE AND SALE OF OUTBOARD MOTORS.) No outboard motor manufactured after January 1, 1980, shall be sold or offered for commercial sale by a dealer in this state unless the motor shall have permanently engraved thereon by the manufacturer an identifying serial number. The serial mark shall be of a permanent nature so as to prevent or discourage the removal, defacing, alteration, or destruction thereof. Any person violating this section shall be guilty of an infraction.

Approved March 3, 1979

CHAPTER 292

HOUSE BILL NO. 1508
(Marsden, Freborg, Mushik)

DISCRETIONARY PUBLICATION OF INFORMATION

AN ACT to amend and reenact sections 19-13.1-13 and 19-20.1-11 of the North Dakota Century Code, allowing the state laboratories department to publish certain information at its discretion.

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

SECTION 1. AMENDMENT.) Section 19-13.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-13. PUBLICATIONS.) The department ~~shall~~ may publish ~~at least annually~~, in such forms as it may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as it may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state as compared with the analyses guaranteed in the registration and on the label, ~~provided, however, that~~. However, the information concerning production and use of commercial feeds shall not disclose the operations of any person.

SECTION 2. AMENDMENT.) Section 19-20.1-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-11. PUBLICATIONS.) The department ~~shall~~ may publish ~~at least annually and~~ in such forms as it may deem proper:

1. Information concerning the distribution of commercial fertilizers and soil amendments.
2. Results of analyses based on official samples of commercial fertilizers and soil amendments distributed within the state as compared with the analyses guaranteed under sections 19-20.1-03 and 19-20.1-04.

Approved March 7, 1979

GOVERNMENTAL FINANCE

CHAPTER 309

HOUSE BILL NO. 1578
(Gunsch)

CERTIFICATES OF INDEBTEDNESS

AN ACT to amend and reenact sections 21-02-02, 21-02-03, 21-02-06, 21-02-07, 21-02-08, and 21-02-10 of the North Dakota Century Code, to allow political subdivisions to borrow against funds due them under federal contracts.

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

SECTION 1. 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 proceeds to be received under currently existing contracts with the bureau of Indian affairs and 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, plus funds to be received under currently existing bureau of Indian affairs contracts. 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 and from funds received under bureau of Indian affairs contracts currently existing. However, a certificate of indebtedness shall be the general obligation of the issuing taxing district.

SECTION 2. AMENDMENT.) Section 21-02-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-03. CERTIFICATE OF COUNTY AUDITOR - CERTIFICATE OF INDEBTEDNESS - WHEN INCONTESTABLE.) A tax shall be deemed to have been levied when it has been voted by the tax levying board and certified to the county auditor. Each certificate of indebtedness shall bear the certificate of the county auditor to the effect that it, together with all other outstanding certificates, is within the amount of uncollected taxes which have been levied lawfully in the then present year, plus uncollected taxes of the four preceding years plus amounts to be received under currently existing bureau of Indian affairs contracts. Such certificate of indebtedness shall possess no validity unless it bears such certificate of the county auditor. The county auditor shall make such certificate according to the facts. When so executed with the prescribed certificate signed by the county auditor, a certificate of indebtedness shall be fully negotiable and shall be incontestable, except upon the ground of fraud on the part of the holder or original payee or connivance between the holder or the original payee and an officer or officers of the taxing district concerned. In the hands of a holder in due course, the execution of a certificate of indebtedness by the proper officials shall be conclusive evidence that the issuance thereof was duly authorized by the governing board of the taxing district.

SECTION 3. AMENDMENT.) Section 21-02-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-06. CERTIFYING AMOUNT OF UNCOLLECTED TAXES AND MONEYS UNDER FEDERAL CONTRACTS.) The county auditor at any time, upon request of the officers of any taxing district, shall certify to them the amount of uncollected taxes remaining upon the tax lists to the credit of such district and the amount still owed to the county under currently existing bureau of Indian affairs contracts on the last day of the preceding month, and annually shall certify such information to the clerk of each township on February fifteenth, to the auditor of each city on September tenth, and to the clerk of each school board on June tenth. The county auditor also shall certify to the clerk, auditor, or secretary of each such taxing district monthly, at the time of making the monthly apportionment of funds, the amount of cash collections apportioned for that month to such taxing district and the amount derived from levies of each tax year.

SECTION 4. AMENDMENT.) Section 21-02-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-07. TAXES AND FEDERAL CONTRACT MONEYS CONSTITUTE SPECIAL FUND TO PAY CERTIFICATES.) When any taxing district has issued certificates of indebtedness pursuant to the terms of this chapter, the county auditor shall set aside all money from bureau of Indian affairs contracts and taxes collected from levies for the respective years against which such certificates have been issued, except those for sinking and interest funds thereafter accruing to the credit of such district. The same shall be held by the county treasurer in a special fund to be used only for the purpose of retiring such certificates of indebtedness and paying interest thereon until sufficient funds shall have been accumulated from the bureau of Indian affairs contract moneys, or collection of levies of any year or years against which certificates of indebtedness have been issued to retire the certificates of that year.

SECTION 5. AMENDMENT.) Section 21-02-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-08. PERCENTAGE OF CURRENT TAXES USED TO PAY DELINQUENT CERTIFICATES OF INDEBTEDNESS.) If sufficient taxes funds are not collected under currently existing bureau of Indian affairs contracts or from levies against which certificates of indebtedness are issued to retire such certificates, both principal and interest, within two months after their due date, there shall be set aside from current tax collections not less than ten percent nor more than thirty percent of the amount of such collections until such past due certificates have been paid. Within one month after the due date of a certificate of indebtedness, the governing board of the issuing taxing district shall transmit to the county auditor its duly authenticated resolution directing the percentage of tax collections which shall be retained by the county treasurer to retire such certificate within the foregoing limitations. If such resolution is not received within two months after the due date of such certificate, the county auditor shall retain thirty percent of such collections.

SECTION 6. AMENDMENT.) Section 21-02-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-02-10. MUNICIPALITIES HAVING POPULATION OVER FOUR THOUSAND EXEMPT FROM CERTAIN PROVISIONS.) Any city, school district, or park district having a population of over four thousand may issue certificates of indebtedness in any amount not in excess of uncollected taxes of the current year, plus uncollected taxes of prior years standing to the credit of the district, plus amounts still owed it under currently existing bureau of Indian affairs contracts, in such form and manner and subject to such terms and conditions as the governing board may prescribe, and need not comply with nor conform to any of the other provisions of this chapter pertaining to the issuance of certificates of indebtedness unless such board shall choose to avail itself of such provisions.

Approved March 15, 1979

CHAPTER 310

HOUSE BILL NO. 1572
(Winkjer)FLOOD CONTROL LAND LEASE MONEY
DISTRIBUTION

AN ACT to amend and reenact section 21-06-10 of the North Dakota Century Code, relating to distribution of moneys received for flood control lands.

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

SECTION 1. AMENDMENT.) Section 21-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-06-10. MONEYS RECEIVED THROUGH LEASING OF LANDS ACQUIRED BY UNITED STATES FOR FLOOD CONTROL DISTRIBUTED TO COUNTIES FOR SCHOOLS AND ROADS.) The funds so received, as in said Public Law 79-526 [60 Stat. 642; 33 U.S.C. 701c-3] set forth, by any county in this state, the treasurer of the state of North Dakota shall pay over to the county or counties entitled thereto as in said public law set forth. The first one-half of such funds shall be distributed to the school districts which have lost land subject to taxation by reason of the acquisition of lands by the United States on the basis of the proportionate amount of such lands acquired by the United States. If all of the land in any such district shall have been acquired by the United States the share of such funds assignable to such district shall be paid into, and disbursed in the manner provided by law for the county tuition fund. ~~The remaining half next quarter~~ of such funds shall be paid to such counties for road purposes to be expended as the county commissioners shall determine. The final quarter of such funds shall be distributed to the organized townships, if any, within each county for road purposes to be expended as the township supervisors shall determine. This amount shall be allocated among the various organized townships which have lost lands subject to taxation by reason of the acquisition of such lands by the United States on the basis of the proportionate amount of such lands within that county. If any area of a county does not lie within an organized township, a portion of the final quarter of such funds shall be allocated to the county on the basis of the proportionate amount of such lands within that county. This section shall apply to all funds heretofore received or to be received by the counties entitled thereto.

Approved March 3, 1979

HEALTH AND SAFETY

CHAPTER 311

HOUSE BILL NO. 1113
(Committee on State and Federal Government)
(At the request of the Health Department)

BIRTH REGISTRATION

AN ACT to amend and reenact section 23-02.1-13 of the North Dakota Century Code, relating to the registration of births.

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

SECTION 1. AMENDMENT.) Section 23-02.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-02.1-13. BIRTH REGISTRATION.)

1. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs within seven days after such birth and shall be registered by such registrar if it has been completed and filed in accordance with this section; provided, that when a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child is first removed from the conveyance.
2. When a birth occurs in an institution, the person in charge of the institution or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within six days after the birth.
3. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:
 - a. The physician in attendance at or immediately after the birth, or in the absence of such a person,

- b. Any other person in attendance at or immediately after the birth, or in the absence of such a person,
- c. The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.
4. ~~a. If the mother was married either at the time of conception or birth and indicates that her husband at that time is the natural father of the child, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction in which case the name of the father as determined by the court shall be entered.~~
- ~~b. If the mother was married either at the time of conception or birth and indicates that her husband at that time is not the natural father of the child, the name of the father of the child and the name of the husband will not be entered on the certificate of birth without the written consent of the mother and the person to be named as father or unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.~~
- ~~c. If the mother was not married either at the time of conception or birth, the name of the father shall not be entered on the certificate of birth without the written consent of the mother and the person to be named as father or unless a determination of paternity has been made by a court of competent jurisdiction, in which case the name of the father as determined by the court shall be entered.~~
- ~~d. If the mother was not married either at the time of conception or the time of birth, the child's surname shall be shown on the birth certificate as the legal surname of the mother at the time of birth unless an affidavit or an acknowledgment of paternity signed by both parents is received stating the surname to be that of the father.~~
- ~~e. In the case of a child born out of wedlock, the certificate shall be filed directly with the state registrar.~~
4. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the

- marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of such man shall be entered on the certificate as the father of the child unless the presumption of paternity has been rebutted by a court decree.
5. If the child is not born during the marriage of the mother, or within three hundred days after any such marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father shall not be entered on the birth certificate unless:
 - a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (1) He has acknowledged his paternity of the child in writing filed with the state registrar,
 - (2) With his consent, he is named as the child's father on the child's birth certificate, or
 - (3) He is obligated to support the child under a written voluntary promise or by court order.
 - b. While the child is under the age of majority, he received the child into his home and openly holds out the child as his natural child; or
 - c. He acknowledges his paternity of the child in a writing filed with the state registrar which shall promptly inform the mother of the filing of the acknowledgement, and she does not dispute the acknowledgement within a reasonable time after being informed thereof, in a writing filed with the state registrar.
 6. If, in accordance with subsections 4 and 5 hereof, the name of the father of the child is not entered on the certificate of birth, the child's surname shall be shown on the birth certificate as the legal surname of the mother at the time of birth unless an affidavit or an acknowledgement of paternity signed by both parents is received stating the surname to be that of the father.
 7. In the case of a child born out of wedlock, the certificate shall be filed directly with the state registrar.

Approved March 3, 1979

CHAPTER 312

HOUSE BILL NO. 1330
(Representative G. Larson)
(Senator Melland)

BURIAL OF DECEASED PERSONS

AN ACT to amend and reenact subsection 4 of section 23-06-03 of the North Dakota Century Code, relating to duty and cost of burial by the county social service board.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 23-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. If the deceased ~~left--no--husband--wife--or--kindred answering-the-foregoing--description~~ is survived by no person described by subsection 1 or 2 and did not leave sufficient means sufficiently to defray his funeral expenses, including the cost of a casket, the county social service board of the county in which the deceased had residence for poor relief purposes or if ~~such~~ residence cannot be established, then the county social service board of the county in which the death occurs, shall employ some person to arrange for and supervise the burial. The cost of ~~such~~ the burial shall be paid by the county social service board, subject to the following:
 - a. The sum of ~~four~~ five hundred dollars shall be allowed for personal property and burial services furnished by a funeral director or funeral home.
 - b. The reasonable costs of transporting the body to the place of burial, but not exceeding one hundred dollars.
 - c. The cost of the grave box or vault, not to exceed the sum of one hundred ~~twenty~~ fifty dollars, provided that a grave box or vault is required by the cemetery before a burial may be made.

- d. The cost of a grave space, not to exceed the sum of ~~fifty~~ seventy-five dollars.
- e. Any grave opening and closing expenses, not to exceed the sum of ~~seventy-five~~ one hundred dollars.

Payment for services rendered or personal property furnished under subdivisions a, b, and c shall be made to the funeral home or funeral director furnishing the same, while payment for a grave space, services rendered, or personal property furnished under subdivisions d and e shall be made to the cemetery furnishing the same.

Approved March 3, 1979

CHAPTER 313

HOUSE BILL NO. 1389
(Olson, Kretschmar)

ANATOMICAL GIFT EXECUTION

AN ACT to amend and reenact subsection 4 of section 23-06.1-04 of the North Dakota Century Code, relating to the manner of executing anatomical gifts.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 23-06.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Notwithstanding subsection 2 of section 23-06.1-07, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose or, in the case of a gift of eyes, he may employ or authorize an embalmer licensed by the state board of embalmers who has successfully completed a course in eye enucleation conducted by the department of ophthalmology of any accredited college of medicine, which college has been approved by the state board of medical examiners, who may enucleate eyes for the gift after certification of death by a physician. The gift may be made by a relative or other person in the order of priority stated in subsection 2 of section 23-06.1-02. A licensed embalmer acting in accordance with the provisions of this subsection shall have no liability, civil or criminal, for the eye enucleation.

Approved March 8, 1979

CHAPTER 314

HOUSE BILL NO. 1509
(Eagles)

CHILD INOCULATIONS

AN ACT to amend and reenact section 23-07-17.1 of the North Dakota Century Code, relating to inoculations required before admission to school and providing exemptions; and to repeal section 23-14-02 of the North Dakota Century Code, relating to compulsory vaccination or inoculation.

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

SECTION 1. AMENDMENT.) Section 23-07-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07-17.1. INOCULATION REQUIRED BEFORE ADMISSION TO SCHOOL.)

1. No child shall be admitted to any public, private, or parochial elementary school, or day care center, child care facility, head start program, or nursery school operating in North Dakota unless such child's parent or guardian presents to the ~~school~~ institution authorities a certification from a licensed physician or authorized representative of the state department of health that such child has received immunization against diphtheria, pertussis, tetanus, measles (~~rubeola~~), rubella (German measles), mumps, and poliomyelitis.
2. A child may enter ~~school~~ an institution upon submitting written proof from a licensed physician or authorized representative of the state department of health stating that he has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.
3. ~~The immunizations required, and the procedure for their administration, as prescribed by the state department of~~

health, shall conform to recognized standard medical practices in the state. The state department of health shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section. Any minor child, through his parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by his parent or guardian whose beliefs are opposed to such immunization. The minor child shall then be exempt from the provisions of this section.

4. The list of diseases in subsection 1 may be revised through regulations by the state department of health upon the development of a nationally recognized effective vaccine against a disease. The enforcement of subsections 1, 2, and 3 shall be the responsibility of the designated institution authority.
5. Any minor child, through his parents or guardian, may submit to the school authorities a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child and the minor child shall then be exempt from the provisions of this section. The immunizations required, and the procedure for their administration, as prescribed by the state department of health, shall conform to recognized standard medical practices in the state. The state department of health shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.
6. Before any child is immunized the school authorities shall notify the parent or guardian of their right to refuse such immunization. When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this Act, the exemptions from immunization against such disease shall not be recognized and children not immunized shall be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the state department of health.

SECTION 2. REPEAL.) Section 23-14-02 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

CHAPTER 315

SENATE BILL NO. 2113
(Committee on State and Federal Government)
(At the request of the Health Department)

TUBERCULAR TREATMENT

AN ACT to provide for responsibility of inpatient and outpatient care to persons afflicted or suspected of being afflicted with tuberculosis; to create and enact a new section to chapter 25-04 of the North Dakota Century Code, relating to biennial reports and assistant superintendent at the San Haven state hospital; to amend and reenact subsection 5 of section 25-01-01 and sections 25-04-01 and 25-04-03 of the North Dakota Century Code, concerning the Grafton state school, and the San Haven state hospital and the powers and duties of the assistant superintendent; to repeal subsection 6 of section 25-01-01 and chapter 25-05 of the North Dakota Century Code, relating to the state sanitorium and to the care of tubercular persons.

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

SECTION 1. DECLARATION OF LEGISLATIVE INTENT.) It is hereby declared that it is the intent of the legislative assembly, as follows: It is the policy of the state of North Dakota to treat persons having tuberculosis in a communicable and contagious stage as dangerous to the health and welfare of the citizens of the state. It is also the policy of the state to declare that all cases of tuberculosis in a communicable or contagious stage should be treated in a licensed hospital, or at home if such home treatment is approved by the state health officer under the guidelines of the state health council. To this end, it is declared that isolation provisions to achieve treatment of such communicable or contagious tuberculous persons should be accomplished to the fullest extent regardless of such person's ability to pay. It is further declared that such persons with communicable or contagious tuberculosis shall be given full opportunity to enter treatment voluntarily and to seek treatment from physicians and hospitals of their own choice at their own expense. In order to prevent effectively the spread of this disease it is necessary that the state:

1. Further the discovery, care, supervision and treatment of persons having tuberculosis in a communicable or contagious stage.
2. Encourage the use of all available public and private facilities to that end.
3. Regard this tuberculosis program as one of public health and one to be dealt with according to public health requirements rather than those of indigency.

SECTION 2. 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 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, test, 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 3. STATE HAS PRIOR CLAIM ON PATIENT BENEFITS.) Notwithstanding any provision contained in this Act, the state of North Dakota shall have prior claim on benefits for the care and treatment of tuberculosis, including diagnosis, tests, studies, and analyses, accruing to patients for whom care and treatment is provided by the state of North Dakota under entitlement by the federal government, medical or hospital insurance contracts, workmen's compensation or the medical care and disability provisions of programs under the supervision of the social service board of North Dakota.

SECTION 4. STATE HEALTH OFFICER - DESIGNEE - RESPONSIBILITY.) The state health officer or his designee, under the guidelines of the state health council, is responsible for the inpatient and outpatient care of persons afflicted or suspected of being afflicted with tuberculosis in a contagious state. If the state health officer determines that suspected or actual tuberculous patients may be adequately cared for on an inpatient basis by contract basis with general hospitals, authority for contracting with such hospitals is granted to the state health officer. In addition, the state health officer is authorized to establish and maintain the necessary outpatient clinics for diagnostic workup and evaluation on all suspected or actual tuberculous patients in the state. The state health officer shall pay the contract fee to general hospitals and provide funds to the outpatient evaluation clinics from funds to be appropriated for this purpose by the legislative assembly. The

state's claim on patient benefits as provided in section 3 shall apply insofar as applicable to tuberculous patients in general hospitals and for services rendered in outpatient clinics. The state health officer or his designee, under the guidelines of the state health council, shall have the power to:

1. Do any act necessary and proper in the performance of the functions imposed upon the state health officer by the provisions of this chapter.
2. Issue temporary orders and compel obedience thereto.
3. Administer oaths.

SECTION 5. REPORTS - TEMPORARY ORDERS FOR THE CUSTODY OF PERSONS.) Upon a report to or receipt of information by the state health officer or any physician in the state that any person is afflicted with tuberculosis and as a source of infection endangers other persons, a report shall be made to the state health officer. Upon the receipt of such information by the state health officer, an investigation shall be made and if the state health officer is convinced that an active case of infectious tuberculosis in a communicable and contagious stage which endangers other persons exists, the state health officer shall request such person to voluntarily seek appropriate care and treatment. If the person refuses to accept voluntary care and treatment, the state health officer, under the guidelines of the state health council, is authorized to issue a temporary order for care and treatment as is determined by the state health officer. If the state health officer's temporary order is ignored, the state health officer may issue an order directing the sheriff or any constable of the county where the alleged tubercular person resides to compel the attendance of the alleged tubercular person and may provide for suitable housing and care of the person until a hearing is held pursuant to section 8 of this Act.

Prior to issuing a temporary order pursuant to this section, the state health officer or his designee, under the guidelines of the state health council, shall hear all relevant testimony for or against the temporary order and the examination and hearing on the order shall be in the presence of the alleged tubercular person. The alleged tubercular person and any relative may resist the order and the parties may be represented by counsel.

SECTION 6. PHYSICIAN'S EXAMINATION - FINDINGS - ORDER.) The state health officer, under the guidelines of the state health council, may appoint a practicing physician to make a personal examination of the alleged tubercular person and to make such thorough investigation of his condition as will enable the state health officer to determine whether or not such person has active, infectious tuberculosis in a communicable and contagious stage and is dangerous to the public health. As soon as practical after the return of the physician's statement to the state health officer, the state health officer shall conclude his investigation and make his

determination. If the state health officer finds that the alleged tubercular person does not have active, infectious tuberculosis and is not dangerous to public health he shall make an order dismissing the case. If the state health officer, under the guidelines of the state health council, finds that the person does have active, infectious tuberculosis and is dangerous to public health he shall issue his temporary order which shall:

1. State his findings that such person does have active, infectious tuberculosis and is dangerous to public health; and
2. Authorize the medical facility specified in the temporary order to receive and keep such person in its facility for necessary and appropriate care, treatment, quarantine, and isolation until a hearing is held pursuant to section 8 of this Act.

SECTION 7. SHERIFF'S EXECUTION OF STATE HEALTH OFFICER'S TEMPORARY ORDER.) The temporary order of the state health officer, in duplicate, together with the findings of the physician and the findings of the state health officer shall be delivered to the sheriff who shall execute the same by conveying the person named therein to the medical facility specified in the order and delivering him together with the findings of the physician and the state health officer's findings and the duplicate of the order to the person in charge of such medical facility. The person in charge, over his official signature, shall acknowledge the delivery on the original order and the sheriff shall return the order to the state health officer. Return to the state health officer may be by certified mail. The sheriff shall be allowed reasonable travel expenses, paid by the county, in the same manner and at the same rate as the expenses of other county officials are paid.

SECTION 8. HEARING - ORDER.) Unless waived by the alleged tubercular person, a hearing shall be held by a law-trained county justice or a judge of a county court of increased jurisdiction of the county in which the alleged tubercular person resides within one hundred twenty hours, exclusive of weekends and holidays, after the date of the state health officer's temporary order. The court may consider all relevant evidence, including the results of a physical examination made pursuant to section 6 of this Act, and the state health officer and the alleged tubercular person shall be afforded an opportunity to testify, to present and cross-examine witnesses, and to be represented by counsel. Upon the request of the state health officer, the state's attorney of the county wherein the hearing is held shall represent the state health officer without additional compensation.

If, upon completion of the hearing, the court finds that the allegation that the person has active, infectious tuberculosis in a communicable and contagious stage has not been sustained by clear and convincing evidence, the court shall dismiss the case and order that the alleged tubercular be discharged if he had been in custody

prior to the hearing. If the court finds that the allegation has been sustained by clear and convincing evidence, the court shall issue an order which shall:

1. State its findings that the person does have active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health; and
2. Authorize the medical facility specified in the order to receive and keep such person in its facility for necessary and appropriate care, treatment, quarantine, and isolation for so long as the disease remains in a communicable and contagious stage and the danger to public health exists.

SECTION 9. APPEAL TO DISTRICT COURT - HABEAS CORPUS - HEARING.) An appeal from an order of the county justice or judge of a county court with increased jurisdiction authorizing a specified medical facility to receive a person for care, treatment, quarantine and isolation may be taken to the district court of the county. In such a proceeding, the state's attorney of the county wherein the appeal is taken, without additional compensation, shall represent the state health officer. The clerk of court of the county in which the appeal is taken shall notify the state's attorney of the filing of such appeal. The hearing shall be limited to a review of the procedures, findings, and conclusions of the lower court. All persons placed in the custody of the state health officer under the provisions of this chapter for care, treatment, quarantine and isolation shall be entitled to the benefit of the writ of habeas corpus and a determination as to whether a person in such custody has active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health shall be made at the hearing. If the court shall decide that the person does have active, infectious tuberculosis and is dangerous to public health, such decision shall not preclude a subsequent application for a writ or the issuing of a writ upon a subsequent application, if it shall be alleged that such person shall have been restored to health.

SECTION 10. DISCHARGE - RELEASE.) All orders of the state health officer or of a county justice or judge of a county court with increased jurisdiction authorizing the reception and retention in custody for care, treatment, quarantine and isolation of persons having active and infectious tuberculosis endangering public health shall be effective only during the continuation of such condition and any person who is cured or who no longer has tuberculosis in a communicable and contagious stage shall be discharged immediately from custody. Such discharge shall be made by the state health officer or his designee, under the guidelines of the state health council. The person in charge of a medical facility may also release any person admitted to the medical facility under the provisions of this chapter at such times and under such conditions as deemed advisable after consultation with the state health officer or his designee.

SECTION 11. LIABILITY OF OFFICERS.) The order of the state health officer authorizing the admission of any person to the custody of a medical facility and the reception and detention of such person at such medical facility as a patient, accompanied by the state health officer's findings as provided in this chapter shall protect the state health officer or his designee and the other personnel of the medical facility from all liability, civil or criminal, on account of the reception and detention of such person therein, if such detention is in accordance with the laws of the state of North Dakota.

SECTION 12. EXCEPTION - QUARANTINE.) Any person who shall observe quarantine regulations as established by the state health officer, under the guidelines of the state health council, shall not be subject to confinement under the provisions of this chapter.

SECTION 13. TUBERCULAR INDIAN JURISDICTION.) Nothing in this chapter shall require the admission of an enrolled Indian, resident on any reservation in this state, to any off-reservation institution except upon written request and authorization of the superintendent of the reservation on which said Indian is enrolled. However, in the public interest and with the objective of eradication of tuberculosis in the state of North Dakota, an Indian with active infectious tuberculosis off any reservation shall be subject to this chapter. It shall be the responsibility of the Indian Affairs Commission pursuant to the commission's powers and duties, stated in section 54-36-03, to work closely with the tribal councils and other reservation officials to adopt any agreements found necessary in assisting the state health officer in carrying out his responsibilities under this chapter so that all residents of this state will benefit, and eradication of tuberculosis in North Dakota can be achieved.

SECTION 14. CARE OF TUBERCULAR PATIENTS - ACCEPTANCE OF FEDERAL FUNDS - GENERAL HOSPITAL.) The state health officer, or his designee, under the guidelines of the state health council, is hereby authorized to contract with public or private agencies for the care of tubercular patients. The state health officer is hereby authorized to accept any federal funds or to enter into any federal programs on behalf of tubercular patients in North Dakota. The state health officer may, under the guidelines of the state health council, also utilize general hospitals in the placement of recalcitrant tuberculous patients.

SECTION 15.) A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

BIENNIAL REPORT - ASSISTANT SUPERINTENDENT.) The assistant superintendent of San Haven shall submit to the superintendent a biennial report including the number and type of resident being served and the conditions and needs of the institution and any other information which the director of institutions may require. The superintendent upon his review of the report will submit it to the

director of institutions who shall include it in his required biennial report. 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 16. AMENDMENT.) Subsection 5 of section 25-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "State school" shall mean the Grafton state school and ~~such portion of the state institution at San Haven that is designated for the care of the mentally deficient~~ San Haven.

SECTION 17. AMENDMENT.) Section 25-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-01. STATE SCHOOL - MAINTAINED - NAME.) An institution for the mentally deficient shall be maintained at or near the city of Grafton in the county of Walsh. Such institution shall be known and designated as Grafton state school. There shall be maintained near Dunseith, in the county of Rolette, a division of the Grafton state school which shall be known as San Haven.

SECTION 18. AMENDMENT.) Section 25-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-03. QUALIFICATIONS OF SUPERINTENDENT.) The superintendent of Grafton state school shall be a skilled administrator with professional training and experience relating to the needs of the mentally retarded. The superintendent shall designate a qualified and duly licensed physician as chief of medical staff and such chief of staff shall have the power, with advice and consent of the superintendent, to employ and discharge additional physicians, nurses, and professional assistants and shall be responsible for defining their qualifications and duties. All other employees shall be appointed and removed by the superintendent or a personnel director to be named by him. The salaries of all employees shall be fixed by the director within the limits of the legislative appropriations made for such purpose. The superintendent of the Grafton state school shall also serve as the superintendent of San Haven. The superintendent shall appoint an assistant superintendent who shall be the chief administrative officer of San Haven. The superintendent shall designate a qualified and duly licensed physician as chief of medical staff who will with the advice and consent of the superintendent employ the necessary physicians. All other employees shall be appointed by the assistant superintendent with the advice and consent of the superintendent. The assistant superintendent shall make certain that records on each resident be maintained as required by the director of institutions and the superintendent. The assistant superintendent, with the advice and consent of the superintendent and the director of institutions, shall determine the salaries of all employees at San Haven within the limits of legislative appropriations.

SECTION 19. REPEAL.) Subsection 6 of section 25-01-01 and chapter 25-05 of the North Dakota Century Code are hereby repealed.

Approved April 7, 1979

CHAPTER 316

HOUSE BILL NO. 1566
(Representatives Melby, Boyum, Hoffner)
(Senator Farrington)

BLOOD DISORDER VICTIM ASSISTANCE

AN ACT to establish a program of financial assistance for victims of hemophilia and other similar blood disorders, and granting rulemaking authority.

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 health officer" means the state health officer as defined in title 23.
2. "Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency or abnormality of a blood plasma factor or component.

SECTION 2. ASSISTANCE PROGRAM.) The state health officer shall establish a program of financial assistance to persons suffering from hemophilia and other related congenital bleeding disorders. The program shall assist those persons to purchase the blood derivatives and supplies necessary for home care.

SECTION 3. RECOVERY FROM OTHER SOURCES.) The state health officer may enter into agreements with third parties, including any insurer or private sources, for recovery of payments for blood products and supplies used in home care by persons participating in the program.

SECTION 4. RULEMAKING AUTHORITY.) The state health officer shall:

1. Establish a reasonable cost for blood products and supplies used in home care as a basis of reimbursement under this Act.
2. Determine when reimbursement shall not be made under this Act for any blood products or supplies which are not

purchased in compliance with regulations promulgated pursuant to this Act. Reimbursement shall not be made under this Act for any portion of the costs of blood products or supplies which are payable under any other state or federal program or under any grant, contract, or any other contractual arrangement.

3. Define what constitutes "home care".
4. Define what constitutes "income", "net worth", and "patient eligibility" for assistance.
5. Provide guidelines to determine individual liability.
6. Adopt all rules necessary to implement subsections 1 through 5 of this Act pursuant to chapter 28-32.

Approved March 19, 1979

CHAPTER 317

SENATE BILL NO. 2364
(Lee)

SELF-SERVICE MOTOR FUEL DISPENSING UNITS

AN ACT to amend and reenact subsection 4 of section 23-13-02.1, subsection 2 of section 23-13-02.3, sections 23-13-02.4 and 23-13-02.5, and subsection 1 of section 23-13-02.6 of the North Dakota Century Code, relating to the use of coin-operated and card-operated dispensing devices in self-service motor fuel dispensing facilities.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 23-13-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Self-service motor fuel dispensing unit" means any system, device, or pump for dispensing motor fuels into the fuel tanks of motor vehicles which is intended to be operated by the purchaser of such motor fuel, except that such term does not include any system, device, or pump which is coin-operated, or currency-operated, ~~or card-operated~~.

SECTION 2. AMENDMENT.) Subsection 2 of section 23-13-02.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. At all times during the operation of a self-service motor fuel dispensing facility the owner, operator, or his or its employee or authorized attendant shall be on the premises and shall supervise the operation thereof and such attendant shall refuse service to anyone who appears for any reason to be unable to dispense such motor fuel safely. This subsection shall not apply to any self-service motor fuel dispensing unit equipped with a card-operated or key-operated dispensing device, provided that all persons possessing the card or keys required to operate the device have been instructed in the proper and safe operation of the device.

SECTION 3. AMENDMENT.) Section 23-13-02.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-13-02.4. SELF-SERVICE UNITS TO BE EQUIPPED WITH EMERGENCY POWER CUTOFF.) All self-service motor fuel dispensing units shall be so constructed that their electrical pumping systems shall have an accessible switch or circuit breaker provided at a location remote from the dispensing device, including remote pumping systems, and accessible to the supervising attendant, unless an attendant is not required to be on the premises by subsection 2 of section 23-13-02.3, to shut off electrical power to the dispensing devices in the event of an emergency.

SECTION 4. AMENDMENT.) Section 23-13-02.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-13-02.5. SELF-SERVICE MOTOR FUEL DISPENSING UNITS TO BE IN VIEW OF ATTENDANT - EXCEPTION.) ~~All~~ Unless an attendant is not required to be on the premises by subsection 2 of section 23-13-02.3, all self-service motor fuel dispensing facilities shall, at all times, be in clear view of the attendant who shall be able to communicate, by voice, with persons in the dispensing area.

SECTION 5. AMENDMENT.) Subsection 1 of section 23-13-02.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Use, operate, or install any coin-operated, or currency-operated, ~~or card-operated~~ dispensing device in any self-service motor fuel dispensing facility.

Approved March 27, 1979

CHAPTER 318

HOUSE BILL NO. 1346
(Gunsch)

LIQUID WASTE LICENSE REQUIREMENTS

AN ACT to amend and reenact sections 23-19-01, 23-19-04, and 23-19-05 of the North Dakota Century Code, relating to license and permit requirements for the business of cleaning, pumping, and servicing cesspools, septic tanks, or privies; license and permit fees; and licenses and license tags.

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

SECTION 1. AMENDMENT.) Section 23-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-19-01. LICENSE AND PERMIT REQUIREMENTS.) From and after the passage and approval of this chapter no person, partnership, association, firm, or corporation shall engage for hire in the ~~business of cleaning, pumping, and servicing cesspools, septic tanks, or privies~~ activities listed below without first obtaining an annual license ~~therefor in the manner hereinafter~~ as provided by this chapter:

1. Cleaning, pumping, and servicing cesspools, septic tanks, privies, chemical toilets, or holding tanks.
2. Transfer or disposal of any liquid wastes or byproduct of commercial or industrial processes, provided that such disposal or transfer complies with other regulations or restrictions outlined by federal, state, or local ordinances pertaining to a specific waste or byproduct.
3. Licenses with current registration shall not be required to pay the initial license fee.

In addition to the annual state license, an additional permit may be required by the local governmental and health jurisdictions. The provisions of this chapter shall not apply to master plumbers duly licensed to engage in the business of plumbing in the state of North Dakota.

SECTION 2. AMENDMENT.) Section 23-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-19-04. LICENSE AND PERMIT FEES.)

1. A North Dakota resident licensee shall pay an annual initial fee of fifteen fifty dollars for each one complete servicing unit including pump and transport. A fee of fifteen dollars shall be paid for each additional complete servicing unit. A North Dakota resident licensee shall pay an annual renewal fee of fifteen dollars for each complete servicing unit.

2. A nonresident licensee shall pay an annual initial fee of fifty one hundred dollars for each one complete servicing unit including pump and transport. Where local permits are required in addition to the state license, the permit fee shall not exceed one dollar for each complete servicing unit including pump and transport. This permit fee may be imposed within each local jurisdiction. A fee of fifty dollars shall be paid for each additional complete servicing unit. A nonresident licensee shall pay an annual renewal fee of fifteen dollars for each complete servicing unit.

SECTION 3. AMENDMENT.) Section 23-19-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-19-05. LICENSES AND LICENSE TAGS.) Licenses issued hereunder shall expire one year after date of issuance or upon such uniform dates as the state health council may prescribe by regulation. Normally, unless altered by regulation, the license will run for the calendar year and will expire on December thirty-first each year. A grace period of sixty days shall be allowed for renewal fee continuation. The license shall be assigned and issued only for the servicing unit and person or firm named in the application and shall not be transferable or assignable without written approval by the state health department. A fee of fifteen dollars shall be paid with a written request for a transfer or assignment. The state health department may cause to be designed and issued a numbered metal license tag which shall be posted in a conspicuous place on each servicing unit of the licensee. If deemed desirable different colored tags may be used to distinguish resident and nonresident licenses.

Approved March 15, 1979

CHAPTER 319

SENATE BILL NO. 2214
(Committee on Natural Resources)
(At the request of the Industrial Commission)

NUCLEAR WASTE DISPOSAL

AN ACT placing jurisdiction over storage or disposal of nuclear and other wastes in the industrial commission, providing for permits for such storage or disposal, providing exemptions, providing for administrative regulations; and providing penalties.

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

SECTION 1. DECLARATION OF POLICY.) It is hereby declared to be in the public interest to encourage and promote the proper emplacement of material into subsurface strata for the purpose of storage and retrieval of material; and to promote the terminal disposal of municipal, industrial, and domestic waste in such a manner as to prevent the contamination or pollution of surface and groundwater sources or any other segment of the environment and to avoid creation of secondary hazards of a geologic nature.

SECTION 2. DEFINITIONS.) As used in this Act:

1. "Commission" means the industrial commission of North Dakota.
2. "Person" includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof.
3. "Underground disposal facility" means any drilled, bored, or excavated device or installation to provide for the subsurface disposal of waste, but shall not include a solid waste management facility, sanitary landfill, authorized under chapter 23-29.
4. "Underground storage and retrieval facility" means any drilled, bored, or excavated device or installation to

provide for the subsurface emplacement and recovery of materials.

5. "Waste" includes liquid wastes, gaseous wastes, and solid wastes as defined in subsection 5 of section 23-29-03, and all unusable industrial material including spent nuclear fuels and other unusable radioactive material not brought into this state for disposal.

SECTION 3. JURISDICTION OF THE INDUSTRIAL COMMISSION.) The industrial commission has jurisdiction and authority and is charged with the responsibility to enforce the provisions of this Act. This Act shall not apply to any activity regulated under chapters 23-29, 38-08, 38-12, 61-28, and 61-28.1. The industrial commission acting through the office of the state geologist has the authority:

1. To require:
 - a. Identification of ownership of all facilities and equipment used for the underground storage and retrieval of material and waste disposal.
 - b. The making and filing of all logs and reports on facility location, drilling, boring, excavating, and construction and the filing, free of charge, of samples, core chips, and complete cores, when requested, in the office of the state geologist.
 - c. The drilling, boring, excavating, and construction of facilities in a manner to prevent contamination and pollution of surface and groundwater sources and the environment.
 - d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules of the commission relating to the underground storage and retrieval of material and waste disposal.
 - e. Metering or other measuring of all material injected, emplaced, stored, disposed into, or retrieved from any facility regulated by this Act.
 - f. That every person who operates a facility for the underground storage and retrieval of material or for waste disposal in this state shall keep and maintain complete and accurate records of the quantities and nature of material stored, retrieved or disposed of, which records shall be available to the commission or its agents at all times, and that every such person file with the commission such reports as it may prescribe.

- g. That upon termination of the operation of any facility or activity regulated by this Act, the operator of such facility shall restore the surface as nearly as possible to its original condition and productivity.
2. To regulate:
 - a. The drilling, boring, excavating, and construction of all underground storage, retrieval, and waste disposal facilities.
 - b. Operations to assure the optimum performance of all facilities regulated by this Act.
3. To limit and prescribe the nature, quantity, and source of materials to be stored in, whether as waste or otherwise, or retrieved from any facility regulated by this Act.
4. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes of this Act.

The jurisdiction granted the commission by this Act shall not be exclusive and shall not affect the jurisdiction of other governmental entities.

SECTION 4. PERMIT REQUIRED - DENIAL OF PERMIT - REVIEW.) It shall be unlawful to commence any operations for the excavating, drilling, boring, or construction of an underground storage and retrieval facility; an underground waste disposal facility; or the conversion of any existing facility for use in any activity regulated by this Act, without first securing a permit from the commission. A permit shall not be issued until after notice and hearing, and payment of a fee for each permit in an amount to be prescribed by the commission, but not in excess of one thousand dollars. Each permit application shall include:

1. A general discussion or description of the activity to be permitted.
2. A detailed description and discussion of the nature of the material to be stored, retrieved, or disposed of.
3. A detailed description and discussion of the mechanical construction and operating procedures of the facility.
4. A justification for the need for the facility to be permitted.
5. A detailed discussion and description of the subsurface geology and hydrology of the area to be affected by the construction and operation of the facility to be permitted.

6. A detailed description and discussion of a monitoring system to be used to ascertain the integrity of the facility, and to ensure compliance with the provisions of this Act.
7. A detailed description and discussion of a reclamation program for the restoration of the surface as nearly as possible to its original condition and productivity upon expiration of the permit or termination of any activities regulated by this Act.
8. Any other information required by the commission.

The commission may, following the hearing required herein, deny an application and refund the license fee. A person denied a permit may appeal such denial in accordance with the provisions of sections 28-32-15 through 28-32-21. All fees collected pursuant to this section, or penalties collected pursuant to section 6, shall be deposited in the general fund in the state treasury. The permit required by this Act shall be in addition to all other permits required by law.

SECTION 5. ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLATION.) Whenever it appears that any person is violating or threatening to violate any provision of this Act, or any rule, regulation, or order of the commission, the commission may bring action against that person, in the district court of the county where the violation occurs or is threatened, to restrain that person from continuing the violation or from carrying out the threat of violation. In any such action, the court shall have jurisdiction to issue, without the filing of a bond or other undertaking by the commission, such prohibitory and mandatory injunctions as are necessary, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the person from continuing the violation or from carrying out the threat of violation.

SECTION 6. PENALTIES.)

1. Any person who violates any provision of this Act, or any rule, regulation, or order of the commission promulgated under this Act, shall be subject to a civil penalty of not more than one thousand dollars for each act of violation and for each day that the violation continues.
2. It is a class B misdemeanor for any person, for the purpose of evading this Act, or any rule, regulation, or order of the commission, to make or cause to be made any false entry or statement in a report required by this Act or by any rule, regulation, or order issued or promulgated by the commission, or to make or cause to be made any false entry in any record, account, or memorandum required by this Act, or by any rule, regulation, or order of the commission, or to omit, or cause to be omitted, from any

such record, account, or memorandum, full, true, and correct entries as required by this Act or by any rule, regulation, or order of the commission, or to remove from this state or destroy, mutilate, alter, or falsify any record, account, or memorandum.

3. The civil penalties provided in subsection 1 shall be recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there is more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty shall not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

SECTION 7. EXEMPTION.) The provisions of this Act, and the rules, regulations, or orders authorized herein, shall not apply to any natural person residing on unplatted land in unincorporated areas of this state disposing of his normal household wastes on his property.

SECTION 8. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.) Any proceedings under this chapter for the issuance or modification of rules and regulations, including emergency orders relating to underground storage, retrieval and waste disposal and determining compliance with rules and regulations of the commission, shall be conducted in accordance with the provisions of chapter 28-32 of the North Dakota Century Code. When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than fifteen days. Any person aggrieved by action of the commission, or by its rules, regulations, or orders, may appeal to the district court of the county in which the person resides, or in Burleigh County, in accordance with sections 28-32-15 through 28-32-21.

Approved March 22, 1979

CHAPTER 320

SENATE BILL NO. 2168
(Senators Orange, Vosper)
(Representative Dotzenrod)

RADIOACTIVE WASTE MATERIAL REPOSITORIES

AN ACT to limit the establishment of radioactive waste material repositories in North Dakota.

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

SECTION 1. DEPOSIT OF RADIOACTIVE WASTE MATERIAL - LEGISLATIVE APPROVAL REQUIRED.) No person, firm, corporation, or other legal entity may deposit, or cause or permit to be deposited in this state, any radioactive waste material which has been brought into this state for that purpose unless prior approval has been granted by the legislative assembly. Radioactive waste material means waste either from the generation of electrical power through the utilization of radioactive materials or from the manufacture of nuclear grade weapons and includes fission products and actinides and materials contaminated by fission products and actinides.

Approved March 8, 1979

CHAPTER 321

HOUSE BILL NO. 1292
(Knudson, Martin)

RESALE OF NEGLECTED CEMETERY LOTS

AN ACT to create and enact a new section to chapter 23-21.1 of the North Dakota Century Code, relating to the resale of abandoned or neglected cemetery lots.

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

SECTION 1.) A new section to chapter 23-21.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CEMETERY LOT - NEGLECT - RESALE.) Any cemetery lot, transferred to an individual owner by a cemetery organization governed by the provisions of this chapter, in which no interment has been made and which remains uncared for or neglected by the owner for a period of thirty or more years may, except where the owner is entitled to perpetual care of the lot, be resold by the cemetery organization after the publication of notice of its intent to resell the lot. The notice shall be published for three successive weeks in the official newspaper of the county in which the lot is located.

Approved March 7, 1979

CHAPTER 322

HOUSE BILL NO. 1214
(Hedstrom, Fleming)

LAETRILE USE AUTHORIZED

AN ACT to provide authorization for the use of laetrile, limit disciplinary actions, and to provide for public hearings on the use of laetrile.

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

SECTION 1. USE OF LAETRILE AUTHORIZED.) No hospital or health facility may interfere with the physician-patient relationship by restricting or forbidding the use of amygdalin (laetrile) when prescribed or administered by a licensed physician and requested by a patient unless the substance as prescribed or administered by the physician is found to be harmful by the state board of medical examiners in a hearing conducted pursuant to chapter 28-32.

SECTION 2. DISCIPLINARY ACTION SUBJECT TO FINDING OF HARMFULNESS.) No physician may be subject to disciplinary action by the state board of medical examiners for prescribing or administering amygdalin (laetrile) to a patient under his care who has requested the substance unless the board, in a hearing conducted pursuant to chapter 28-32, has made a formal finding that the substance is harmful.

SECTION 3. HEARING OF BOARD ON EFFECTS OF LAETRILE.) Any person may petition, or the board on its own motion may convene, a public hearing to determine the effects of the use of amygdalin (laetrile) and to promulgate rules and regulations pursuant to chapter 28-32 as to its use and administration.

Approved March 5, 1979

CHAPTER 323

SENATE BILL NO. 2218
(Committee on Natural Resources)
(At the request of the Health Department)

AIR CONTAMINANT SOURCE PERMITS OR REGISTRATION

AN ACT to create and enact a new section to chapter 23-25 of the North Dakota Century Code, relating to the collection of fees for the issuance of permits or registration certificates for air contaminant sources by the state department of health; to amend and reenact section 23-25-04.1 of the North Dakota Century Code, relating to the issuance of permits or registration certificates for air contaminant sources.

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

SECTION 1.) A new section to chapter 23-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

FEES.) The department by rule or regulation may prescribe and provide for the payment and collection of reasonable fees for the issuance of permits or registration certificates. The permit or registration certificate fees shall be based on the anticipated cost of filing and processing the application, of taking action on the requested permit or registration certificate, and conducting an inspection program to determine compliance or noncompliance with the permit or registration certificate.

Any moneys collected for permit or registration fees shall be deposited in the health department operating fund in the state treasury and shall be spent subject to appropriation by the legislative assembly.

SECTION 2. AMENDMENT.) Section 23-25-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-04.1. PERMITS OR REGISTRATION.)

1. No person shall construct, install, modify, use, or operate an air contaminant source designated by regulation, capable of causing or contributing to air

- pollution, either directly or indirectly, without a permit from the department or in violation of any conditions imposed by such permit.
2. The department shall provide for the issuance, suspension, revocation, and renewal of any permits which it may require pursuant to this section.
 3. The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary.
 4. Possession of an approved permit or registration certificate shall not relieve any person of the responsibility to comply with applicable emission limitations or with any other provision of law or regulations adopted pursuant thereto.
 5. The department by rule or regulation may ~~prescribe and provide for the payment and collection of reasonable fees for the issuance of permits required pursuant to this section. Such fees shall be deposited in the general fund.~~ registration and registration renewal of certain air contaminant sources in lieu of the permit required pursuant to this section.
 6. The department may exempt by rule and regulation certain air contaminant sources from the permit or registration requirements set forth in this section when the department makes a finding that the exemption of such sources of air contaminants will not be contrary to section 23-25-01.1 of this chapter.

Approved March 21, 1979

CHAPTER 324

HOUSE BILL NO. 1200
(Committee on Social Services and Veterans Affairs)
(At the request of the Health Department)

AMBULANCE SERVICES

AN ACT to amend and reenact sections 23-27-01, 23-27-02, 23-27-03, 23-27-04, and 23-27-05 of the North Dakota Century Code, relating to licensing of ambulance services.

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

SECTION 1. AMENDMENT.) Section 23-27-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-01. LICENSING OF AMBULANCE SERVICES.) No surface ambulance services, as hereinafter defined, shall be advertised or offered ~~for hire~~ to the public unless the operator of such service shall be licensed by the state health council, ~~or is licensed in another state~~. A license for operators of ambulance service shall be nontransferable and the operator shall be separately licensed for each ambulance service which he operates. Each ambulance service which is headquartered or dispatched from a separate location shall be considered a separate ambulance service operation.

The provisions of this chapter shall not apply to an operator from another state who is headquartered at a location outside of this state and transports patients across state lines, but no such operator will be permitted to pick up patients within this state for transportation to locations within this state, except as provided through regulations.

The state health council shall provide through regulations for special licenses and waiver provisions for an operator of a surface ambulance service intended for industrial site(s) not available to the general public.

SECTION 2. AMENDMENT.) Section 23-27-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-02. DEFINITION OF SURFACE AMBULANCE SERVICES.) For the purpose of this chapter, ~~surface ambulance services shall mean the transportation of a person for hire, who is incapacitated to an~~

~~extent-as-to-require-medical-attention-of-an-emergency-or-routine-nature-during-such-transportation~~ "surface ambulance services" shall mean any use of a publicly or privately owned vehicle upon the streets or highways of this state for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated or helpless by any person who either holds himself out to the public for such a service or who regularly provides such a service.

SECTION 3. AMENDMENT.) Section 23-27-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-03. LICENSE FEES.) The fee for a license to operate and perform ambulance services shall be set by the state health council at a sum of not more than ~~fifteen~~ twenty-five dollars annually, as may be required to defray the costs of administration of the licensing program. All license fees shall be paid to the state department of health and deposited with the state treasurer and credited to the state general fund.

SECTION 4. AMENDMENT.) Section 23-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-04. STANDARDS FOR OPERATORS.) No surface ambulance service operators within this state shall be licensed operated unless the applicant shall meet the following standards service is licensed in accordance with this chapter and regulations promulgated by the state health council. The regulations shall include but not be limited to the following:

- ~~1--The-ambulance-service-shall-be-available-twenty-four-hours-per-day-and-seven-days-per-week-~~
- ~~2--All--drivers--of--ambulance--service-vehicles-have-a-valid-North-Dakota-driver's-license-~~
- ~~3--The--operator--of--the-ambulance-service-shall-provide,--in-addition-to-the-driver-of-the-ambulance--service--vehicle,--an--attendant--on--every--trip,--who--shall-have-a-current-certificate-indicating-completion-of-the-advance-course-in-first-aid-given-by-the-American-Red-Cross-or-by-the-United-States-Bureau-of-Mines,--or-the-equivalent--thereof-~~
- ~~4--Surface--vehicles--used--in--performing-ambulance-services-shall-be-equipped-as-specified-by-regulations--promulgated-by---the---state---health---council,---Such---equipment-specifications-shall-conform,--as-far-as-possible,--to--the-published--recommendations--of--the-committee-on-trauma-of-the-American-College-of-Surgeons-~~

1. Time when ambulance service shall be available.
2. Type of driver's license needed for drivers of ambulance.
3. Training standards for ambulance driver and attendant.

4. Equipment needs and equipment certification.
5. Annual license fees.
6. Number of personnel required for each ambulance run.
7. Such other requirements as may be found necessary to carry out the intent of this chapter.

SECTION 5. AMENDMENT.) Section 23-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-05. PENALTY.) Any person violating the provisions of this chapter shall be guilty of an infraction. ~~The license of an ambulance service operator shall be suspended by the state health council after a hearing, upon proof that the operator does not provide services that meet the standards required by this chapter or does not meet the equipment specifications adopted by the state health council pursuant to this chapter. A suspension order by the state health council may be reviewed by appeal to the district court pursuant to chapter 28-32. A suspended license shall be restored upon a showing that the basis for the suspension no longer exists.~~

Approved March 18, 1979

CHAPTER 325

HOUSE BILL NO. 1568
(Thompson)

HOSPITAL DISTRICTS

AN ACT to amend and reenact subsections 1 and 4 of section 23-30-02 of the North Dakota Century Code, relating to authorization of hospital districts.

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

SECTION 1. AMENDMENT.) Subsections 1 and 4 of section 23-30-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The board of county commissioners of any county, or two or more boards of county commissioners acting jointly, shall, when requested to do so by petition of twenty percent of the eligible voters, as determined by those voting for governor in that geographical area at the last gubernatorial election, in any territory equivalent in area to one township or more, submit the question to the voters at a special election or the next regularly scheduled primary or general election as to whether or not the voters of the area desire to establish a hospital district and whether they approve of the mill levy authorized by section 23-30-07 for the purpose of supporting such hospital district. If sixty percent of the voters voting in the election within the proposed district approve, the county commission or county commissions, as the case may be, shall, by resolution, create the hospital district comprising the entire area as described in the petition. ~~However, if less than sixty percent of the voters voting in each organized or unorganized township or city do not vote in favor of establishing the hospital district, that township or city shall not be included within the hospital district. The nonparticipation of one or more cities or such townships included within the petition shall not preclude the other cities or townships included in the petition from forming a hospital district, regardless of geographical separation.~~
4. Any city located within the area, whether or not such city has a hospital, ~~may~~ shall be included in the district ~~if sixty percent or more of the electors residing therein approve of the district.~~

Approved March 10, 1979

HIGHWAYS, BRIDGES AND FERRIES

CHAPTER 326

SENATE BILL NO. 2207
(Committee on Transportation)
(At the request of the Highway Department)

HARVESTING HAY ON STATE HIGHWAY SYSTEM

AN ACT to provide for the removal of harvested hay on the rights of way of the state highway system and providing for the forfeiture of the hay upon failure to remove.

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

SECTION 1. HARVESTING HAY ON STATE HIGHWAY SYSTEM - STORAGE AND REMOVAL.) Every person harvesting hay on the rights of way of the state highway system, and intending to store the harvested hay on the rights of way for later removal, shall take measures to store the harvested hay near the outer edge of the rights of way. If, in the judgment of the commissioner, the harvested hay hampers the efficient and safe operation of the highway system, the commissioner may give notice to remove the stored hay.

SECTION 2. FORFEITURE.) Any hay improperly stored on the right of way or which has not been removed within two weeks of the notice to do so, shall be deemed forfeited and disposed of in a manner deemed proper by the commissioner.

Approved March 13, 1979

CHAPTER 327

SENATE BILL NO. 2268
 (Committee on Transportation)
 (At the request of the Highway Department)

HIGHWAY SIGNS

AN ACT to create and enact a new section to chapter 24-12 and to amend and reenact sections 24-03-09 and 24-12-04 of the North Dakota Century Code, relating to the payments of rewards in matters concerning highway vandalism and to provide for signing of highway construction projects.

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

SECTION 1. AMENDMENT.) Section 24-03-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-03-09. WARNING SIGNS OF ROAD CONSTRUCTION.) Whenever the department or any county or township shall enter into a contract for the construction and improvement of any road or culvert, or bridge thereon, it, as a condition of such contract, shall provide therein that the contractor shall place suitable warning signs which can be read for a distance of one hundred feet {30.48 meters} in daytime, and also shall erect and place at night a red or white lantern or a torch or other effective device, of a type approved by the department, at both ends of such construction work, no less than three hundred feet {91.44 meters} therefrom, warning the public that such road is under construction or improvement and either is closed, or hazardous for travel thereon, and when and devices which are in conformity with chapter 39-13 of this code. When a highway is so marked, the traveler shall proceed only with great care and diligence, but nothing contained in this section shall make any township, county or the state liable for the failure of any contractor to erect such warning signs.

SECTION 2. AMENDMENT.) Section 24-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-12-04. INJURY TO MILEBOARDS, GUIDEPOSTS, TRAFFIC-CONTROL SIGNALS, SIGNS, OR MARKINGS - REWARD.) No person shall remove, injure, or destroy any mileboard, milestone, or guidepost, traffic-control signals, signs, or markings, or any inscription thereon, erected or placed upon any highway, road or street by any public

authority or by any contractor, subcontractor or employee engaged in construction activities pursuant to a contract with a public authority therefor. ~~The highway commissioner or any political subdivision of this state is hereby authorized to offer a reward, the amount of which shall be determined by the highway commissioner or the governing body of the political subdivision not exceeding however the sum of three hundred dollars, for any information leading to the conviction of any person or persons violating the provisions of this section.~~

SECTION 3.) A new section to chapter 24-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

REWARDS AUTHORIZED.) The highway commissioner or any political subdivision of this state is hereby authorized to offer a reward, the amount of which shall be determined by the highway commissioner or the governing body of the political subdivision not exceeding however the sum of three hundred dollars, for any information leading to the conviction of any person or persons violating the provisions of this chapter.

Approved March 12, 1979

CHAPTER 328

HOUSE BILL NO. 1434
(Thompson)

COUNTY ROAD TAX AMOUNT

AN ACT to amend and reenact section 24-05-01 of the North Dakota Century Code, relating to the amount of the county road tax.

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

SECTION 1. AMENDMENT.) Section 24-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-05-01. COUNTY ROAD TAX - ALLOCATION AND USE OF FUNDS.) In each county of this state having a population of two thousand or more according to the latest United States or state census, there shall be levied and collected a property tax of not less than one-fourth of one mill, nor more than the maximum rate permitted by law, on each dollar of the assessed valuation of all taxable property in the county for the improvement of highways. When authorized to do so by sixty percent of the electors voting upon the question at a regular or special election in any county, the county commissioners may levy and collect a property tax of not more than ~~two~~ five mills on each dollar of the assessed valuation of all taxable property in the county for the improvement of highways, which levy shall be in addition to, and shall not be restricted by, the levy limitations of section 57-15-06. The levy pursuant to such an election may be discontinued at the discretion of the county commissioners; or, upon petition of five percent of the qualified electors of such county, the question of discontinuance of the levy shall be submitted to the electors of the county at any regular or special election and, upon a favorable vote of sixty percent of the electors voting, such levy shall be discontinued. Of the proceeds of such tax collected on account of real or personal property situated within any city, by the county treasurer of the county in which such city is located, twenty percent shall be turned over by such treasurer to the auditor of such city, in the manner provided in section 11-13-06 to be expended under the direction of the governing body of such subdivision in the improvement of the streets and highways thereof. All other proceeds of such tax shall be kept in a distinct fund to be known as the "county road fund" and shall be expended in the improvement of highways as provided in this chapter under the

direction of the board of county commissioners. Such taxes shall be in addition to all other taxes for highway purposes otherwise provided by law. The provisions of this section in regard to allocation shall apply to the proceeds of any tax originally levied for other purposes if appropriated or transferred to the county road fund or for expenditure for road and bridge purposes. No allocation pursuant to this section shall include the proceeds received by the county as its share of the allocation made pursuant to section 54-27-19, nor shall any allocation under this section include moneys received from the state as the result of any other intergovernmental transfer.

Approved March 8, 1979

CHAPTER 329

SENATE BILL NO. 2352
(Shablow)

COUNTY ROAD CONTRACT ADVERTISEMENT

AN ACT to amend and reenact section 24-05-04 of the North Dakota Century Code, relating to when the board of county commissioners shall advertise for rental contracts or agreements for use of road machinery or articles for the improvement of highways.

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~~ five thousand 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. Notwithstanding the provisions of this section relating to the duration of rental contracts, the board of county commissioners may enter into lease-purchase agreements for the road machinery and articles covered by this section, if those agreements provide for the complete performance and full payment of the purchase price of the machinery or articles within five years from the date of the execution of the lease-purchase agreement according to the provisions of section 44-08-01.1.

Approved March 8, 1979

CHAPTER 330

SENATE BILL NO. 2235
(Schirado)

COUNTY BRIDGE REBUILDING OR REPAIR

AN ACT to amend and reenact sections 24-08-01 and 24-08-03 of the North Dakota Century Code, relating to authority of the board of county commissioners to construct, rebuild or repair a bridge under its own supervision.

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 [4.83 kilometers] 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 five 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.) 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~~ thirty 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.

Approved March 22, 1979

CHAPTER 331

HOUSE BILL NO. 1543
(Representative Erickson)
(Senator Thane)

RAILROAD CROSSING WARNING SYSTEMS

AN ACT to create and enact section 24-09-01.1 of the North Dakota Century Code, relating to additional public highway-railroad crossing warning systems; to amend and reenact sections 24-09-02, 24-09-04, and 24-09-10 of the North Dakota Century Code, making the manual on uniform traffic control devices applicable to public highway-railroad crossings and public service commission jurisdiction to close railroad crossings; and to repeal section 49-11-16 of the North Dakota Century Code, relating to caution signs.

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

SECTION 1.) Section 24-09-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

24-09-01.1. ADDITIONAL RAILROAD CROSSING WARNING SYSTEMS.)
The standard warning system at each public highway-railroad grade crossing shall be railroad crossbucks and advance warning signs designed and located pursuant to section 39-13-07. These signing requirements and standards shall be deemed adequate and appropriate for warning of the existence and nature of each railroad crossing for all purposes whatsoever. However, because of the availability of substantial federal funds, and for the purpose of promoting the additional safety and general welfare of the motoring public, and to secure the practical and orderly development of additional warning systems beyond the standards herein, and to enable the various jurisdictional authorities to implement existing statutes authorizing the determination of need and selection of additional warning systems, and within the practical limitations of time and available public funds, the state highway department, with the concurrence of the public service commission, shall conduct and systematically maintain a survey of all streets and highways as required by the Federal Highway Safety Act of 1973, to identify those railroad crossings which may need additional warning systems beyond the standard crossbucks and advance warning signs. To implement such survey and to make the determination of need and selection of additional warning systems the state highway department

may screen, rate and prioritize said crossings for additional warning systems and establish an installation program in concurrence with the public service commission. In order to foster additional warning systems beyond the standards herein or improvements thereto, where such additional warnings or improvements thereto are deemed necessary by any jurisdictional authority either under this statute or any other statutes, neither the actions, proceedings, findings, or orders of any jurisdictional authority, nor the actions of the railroad regarding such additional warning or improvements thereto, prior to installation and operation thereof, shall be admissible in evidence in any civil action for personal injury, death, or damage to property arising out of a public highway-railroad crossing accident.

SECTION 2. AMENDMENT.) Section 24-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-02. WARNING SIGNS AT RAILROAD CROSSINGS.) The ~~commission~~ public service commission shall adopt and prescribe uniform warning ~~signs~~ systems in conformity with sections 39-13-06 and 39-13-07 for use at public grade crossings in this state which will ~~furnish~~ be deemed adequate and appropriate warning of the existence and nature of such grade crossings for all purposes ~~whatsoever and shall make regulations as to the place of installation. There shall be at least three distinct types of such warning signs, to wit:~~

1. ~~Home crossing sign, for use in the immediate vicinity of the crossing.~~
2. ~~An approach crossing sign, to indicate the approach to a grade crossing.~~
3. ~~Stop sign, which shall have the word "stop" plainly appearing thereon, to indicate the necessity for persons on the highway approaching the crossing, whether in vehicles or otherwise, to come to a stop before proceeding over the grade crossing, according to the provisions of this chapter.~~

SECTION 3. AMENDMENT.) Section 24-09-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-04. ~~ADDITIONAL SIGNS MAY BE REQUIRED BY PUBLIC SERVICE COMMISSION~~ ADVANCE WARNING SIGNS.) ~~At each grade crossing where, because of the conditions surrounding the same, the reasonable protection to life and property makes it necessary for additional warning signs to be placed on the highway at a greater distance from the crossing than the home signs, such approach warning signs shall be installed. The commission may designate any such grade crossings requiring such additional signs on either or both sides of said crossing. When the crossing is designated by the commission as requiring such additional protection, it shall notify the railway company operating the railroad thereat and the public authorities~~

~~having the care of the highway. Such railway company, within thirty days after such notification shall furnish the uniform signs to the public authorities, and the public authorities shall erect the signs in conspicuous places on the highway on either or both sides of the grade crossing, as the case may be, not less than two hundred feet {60.96 meters} from the crossing, and thereafter shall maintain the same. The sole signing duty of the road authority, except as otherwise designated by the public service commission, at each public grade crossing in the state shall be the erection and maintenance of advance warning signs. The road authorities shall have a reasonable length of time, not exceeding four years, in which to fully implement this requirement.~~

SECTION 4. AMENDMENT.) Section 24-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-10. CHANGING OR CLOSING RAILROAD CROSSING - POWER OF PUBLIC SERVICE COMMISSION - HEARING --CLOSING---OLD---CROSSINGS.) Whenever it is desired, either by the public officials having the necessary authority or by the railway company operating the railroad, to establish, vacate, or relocate any crossing of a public highway and a railroad, or to separate grades, and an agreement cannot be reached between ~~such~~ the public official and the railway company, either as to the necessity for establishing, vacating, or relocating a crossing or for separating grades, as to place, manner of construction, or a reasonable division of the expense, either party may file a petition with the commission, setting forth the facts and submitting the matter to it for determination. The commission, after ~~such~~ giving notice as it shall deem reasonable, shall conduct a hearing and shall issue its order determining whether there should be an establishment, vacation, or relocation of the crossing in question, or a separation of grades, and dividing the expense of ~~such~~ the establishment, ~~vacation~~, relocation, or separation of grades. Whenever a railroad crossing of any kind has been established, or relocated, in order to eliminate an adjacent or nearby crossing deemed by the commission to be unreasonably dangerous, the ~~said~~ commission shall have the power to order such the dangerous crossing closed. Irrespective of the establishment or relocation of a crossing, if the commission deems any railroad crossing to be unreasonably dangerous, it may order the crossing closed after reasonable notice and hearing. Whenever a final order is entered vacating or closing a crossing, it shall be vacated or closed at the railroad company's expense.

SECTION 5. REPEAL.) Section 49-11-16 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1979

MENTALLY ILL AND RETARDED, TUBERCULAR, BLIND, AND DEAF

CHAPTER 332

HOUSE BILL NO. 1279
(Committee on Social Services and Veterans Affairs)
(At the request of the Health Department)

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

AN ACT to amend and reenact section 25-01-01.1 of the North Dakota Century Code, relating to the coordinating committee on mental retardation.

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

SECTION 1. AMENDMENT.) Section 25-01-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-01-01.1. ~~COORDINATING--COMMITTEE--ON--MENTAL--RETARDATION~~
~~STATE COUNCIL ON DEVELOPMENTAL DISABILITIES.)~~ There is hereby
created and shall be maintained ~~a state coordinating committee on~~
~~mental-retardation~~ in the state department of health a state council
on developmental disabilities consisting of one ~~or more~~
~~representatives~~ representative of each of the following departments,
divisions, institutions, and organizations designated by the head of
such agency or organization:

1. Office of superintendent of public instruction.
2. Social services board of North Dakota.
3. ~~Department~~ State department of health.
4. Grafton state school.
5. ~~Division--of--vocational--rehabilitation~~ Employment security
bureau.
6. ~~A--nerveting--consultant--representing--the--North--Dakota~~
~~association--for--retarded--children~~ Director of
institutions.
7. Community mental health and retardation and human service
center.

The council shall have consumer representation in conformity with federal regulations regarding developmental disabilities. All members of the council shall be appointed by the governor. Such committee The council shall select its own officers who shall serve for a term of one two year years commencing on July October first of each year. Meetings shall be held at least twice a year or at the call of the chairman or upon notice in writing signed by not less than three members of the committee council. Representatives--of four--of--the--above--agencies A simple majority of the council shall constitute a quorum and a--majority--of--such--quorum shall have authority to act upon any matter coming before the committee council. Members of the committee council shall receive--no compensation--for--service--upon--such--committee--except--compensation otherwise--normally--due--them--from--their--respective--departments, divisions,--institutions,--or--organizations,-- Members representing departments, divisions, or institutions of the state shall be reimbursed for--their--actual--expenses--incurred--in--serving--upon--such committee--by--their--respective--department,--division,--or--institution in the same manner and at the same rate provided by law for other state officials.

The council shall assist in the development of the state plan for developmental disabilities, monitor and evaluate the implementation of such state plan, review and comment on all state plans in the state which relate to programs affecting persons with developmental disabilities, provide protection and advocacy to developmentally disabled individuals when requested by a state department, division, institution or organization, and establish a committee on professional standards and certification that will develop rules and regulations for the certification of developmental disability professionals. The committee council shall have the duty and--responsibility--of--making--or--providing--for--such also perform studies and surveys of the needs of retarded the developmentally disabled persons in North Dakota as--it--may--deem--necessary, and shall facilitate coordinate coordination of the activities of all state departments, divisions, agencies, and institutions having responsibilities in the field of mental--retardation developmental disabilities.

Approved March 7, 1979

CHAPTER 333

SENATE BILL NO. 2059
(Legislative Council)
(Interim Committee on Education)

SURROGATE PARENTS AND STATE HOSPITAL CARE CHARGES

AN ACT to create and enact a new section to chapter 25-01.1 of the North Dakota Century Code, relating to the duty of the heads of state institutions to provide for surrogate parents where necessary; to create and enact a new section to chapter 25-09 of the North Dakota Century Code, relating to the duty of certain handicapped patients to pay for costs of education and related services; and declaring an emergency.

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

SECTION 1.) A new section to chapter 25-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

HEADS OF INSTITUTIONS - DUTY TO APPOINT SURROGATE PARENTS.) The heads of each of the state institutions shall establish as required by the state superintendent a procedure for determining whether a patient under the age of twenty-one years needs a surrogate parent and for assigning such a surrogate parent for the purpose of special education and related services.

SECTION 2.) A new section to chapter 25-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

HANDICAPPED PATIENTS - LIMITATION.) Notwithstanding any other provision of this chapter, no handicapped patient under twenty-one years of age nor the estate nor the responsible relative of such patient may be charged for educational or related services provided at the state hospital. However, the state hospital shall have prior claim on all benefits accruing to such patients for medical and medically related services under entitlement by the federal government, medical or hospital insurance contracts, workmen's compensation or medical care and disability provisions of programs administered by the social service board of North Dakota. For the purposes of this section, "related services" means transportation and such developmental, corrective, and other supportive services,

as determined by the state department of public instruction, as are required to assist a handicapped patient to benefit from special education. The cost of related services, other than medical and medically related services, shall be paid by the state hospital, the school district of residence of the handicapped child, and other appropriate state agencies and political subdivisions of this state. The department of public instruction, the state hospital, the school district of residence and other appropriate state agencies and political subdivisions, as determined by the department of public instruction, shall determine and agree to that portion of related services, other than medical and medically related services, for which each such agency and political subdivision shall be liable. The department of public instruction shall have the authority to adopt such regulations and guidelines as shall be necessary to implement the provisions of this section.

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

Approved March 21, 1979

CHAPTER 334

SENATE BILL NO. 2411
(Senators Christensen, Goodman)
(Representative Stenehjem)

MENTAL HEALTH COMMITMENT

AN ACT to create and enact a new subsection to section 25-03.1-30 of the North Dakota Century Code, relating to modification of treatment orders and to the rights of patients; to amend and reenact sections 12-47-27, 12-47-28, 12-47-29, 25-03.1-04, 25-03.1-05, 25-03.1-06, 25-03.1-08, 25-03.1-09, 25-03.1-10, 25-03.1-11, 25-03.1-13, 25-03.1-14, 25-03.1-16, 25-03.1-19, 25-03.1-21, 25-03.1-22, 25-03.1-23, 25-03.1-24, 25-03.1-25, 25-03.1-26, 25-03.1-27, and 25-03.1-31, subsection 3 of section 25-03.1-34, section 25-03.1-41, and subsection 2 of section 25-03.1-42 of the North Dakota Century Code, and to amend and reenact in the alternative sections 25-03.1-02, 25-03.1-03, and 25-03.1-29 of the North Dakota Century Code, all sections relating to the transfer of penitentiary inmates to the state hospital or other treatment facility, delivery of the written order by the warden, recovery of the person transferred, definitions, jurisdiction, voluntary admission, discharge of voluntary patients, right to release on application, petition for involuntary treatment, review of petition for involuntary treatment, involuntary treatment, examination and report on involuntary treatment, right to counsel, duty of state's attorney, medication pending treatment order, involuntary treatment hearing, alternatives to hospitalization, involuntary treatment orders, petition for continuing treatment orders, right to treat, emergency detention or hospitalization, emergency procedure, notice and statement of rights, appeal, review of the current status of continuing treatment, transfer of patients, rights of patients, limitations and restrictions of patient's rights, and limitation of liability; and to repeal section 25-03.1-32 of the North Dakota Century Code, relating to a periodic hearing and petition for discharge.

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

SECTION 1. AMENDMENT.) Section 12-47-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-27. TRANSFER OF PENITENTIARY INMATE TO STATE HOSPITAL OR OTHER TREATMENT FACILITY - EVALUATION PROCEDURE - RIGHT TO ADMINISTRATIVE HEARING - WRITTEN ORDER BY WARDEN.) ~~Whenever the warden of the penitentiary believes that a person confined in the penitentiary has become mentally ill during his confinement, he may require such person to be given a psychiatric evaluation or transfer such person to the state hospital for such evaluation. If it is found from the evaluation that such person is mentally ill, such person shall be confined and treated in the state hospital upon a written order by the warden.~~

1. A person confined to the penitentiary may request in writing a transfer to the state hospital or other appropriate treatment facility. The request may be delivered to the warden or to a member of the penitentiary staff who shall immediately submit the request to the warden. Whenever the warden receives a request for transfer and has reason to believe that a person confined in the penitentiary requires treatment beyond what is available at the penitentiary and the treatment can be provided without violating penitentiary security requirements, he shall appoint an evaluation committee, which shall include a psychiatrist, to review the person's mental and physical condition. The warden may appoint an evaluation committee whenever the warden has reason to believe a person confined in the penitentiary requires treatment beyond what is available at the penitentiary. The evaluation committee, upon a finding that the confined person has treatment needs which cannot be met by the penitentiary and which can be provided elsewhere without violating penitentiary security requirements, shall submit a written report to the warden of its findings, which may be accompanied by a written statement of the person requesting or consenting to transfer to the state hospital or other appropriate treatment facility. The warden shall notify the person of the results of the evaluation, the right to an administrative hearing if the person objects to the results, and the right to be represented by a prison employee of his choice at the administrative hearing. If the person has consented to or requested the transfer, the warden shall order in writing that the person be transferred to the state hospital or other appropriate treatment facility.
2. If the person objects to the findings of the evaluation committee or to the transfer to the state hospital or other appropriate treatment facility, the warden shall set a date for an administrative hearing. The hearing shall be conducted by a three-member board appointed by the warden. The board shall include a member of the prison counseling staff, a licensed physician, psychiatrist, or clinical psychologist, and shall be chaired by an employee designated by the warden. In no event may a member of this board have been involved in the development of the

evaluation report. Following the hearing, the board shall submit its findings and the basis of those findings to the warden in writing. Unless the board determines that the person does not meet the criteria of a person requiring treatment, the warden may order the person transferred to the state hospital or other appropriate treatment facility. The warden shall notify the person of the results of the administrative hearing and the right to an involuntary treatment hearing fourteen days after transfer, pursuant to section 25-03.1-19, before a magistrate of the court where the hospital or treatment facility is located. If the hearing determines that the transferred person should be discharged, the hospital or treatment facility shall return the person to the custody of the warden for transfer to the penitentiary unless his sentence has expired.

SECTION 2. AMENDMENT.) Section 12-47-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-28. COPY OF WRITTEN ORDER BY WARDEN DELIVERED TO SUPERINTENDENT OF STATE HOSPITAL OR OTHER FACILITY - SUPERINTENDENT TO RECEIVE INMATE - FILING OF RECEIPT.) The warden of the penitentiary shall deliver to the superintendent of the state hospital or the admitting officer of another appropriate facility, with any person transferred thereto as provided in section 12-47-27, a correct copy of the written order of the warden directing such transfer, accompanied by a copy of the person's request for or consent to hospitalization, the evaluation committee's report, and the findings of the administrative hearing, if one has been held. The superintendent of the state hospital or the admitting officer of another appropriate facility shall receive such person into the hospital or facility upon the presentation of such order and shall deliver to the warden a certificate acknowledging the receipt of such person and of the original order. The certificate of the superintendent of the state hospital or the admitting officer of another appropriate facility shall be retained by the warden and filed in his office.

SECTION 3. AMENDMENT.) Section 12-47-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12-47-29. RECOVERY OF PERSON TRANSFERRED - DUTY OF SUPERINTENDENT OR OFFICER - RETURN OR RELEASE - ALLOWANCE ON DISCHARGE.) The superintendent of the state hospital or the chief administrative officer of another appropriate facility shall notify the warden of the penitentiary ~~of the recovery of~~ in writing when any person transferred to the state hospital or other facility from the penitentiary, ~~and if~~ no longer requires treatment, and provide the warden with a written report showing the treatment provided and the future prognosis of the person provided treatment. If the term of sentence of such person has not expired, the warden shall return him to the penitentiary immediately. If the term of commitment of such person has expired at the time of his ~~recovery~~ no longer

requiring treatment, the warden shall direct that he be released from further custody by the superintendent or chief administrative officer. The warden shall provide any person so released with the same allowance of clothing, money, and transportation as that to which other persons discharged from the penitentiary are entitled.

SECTION 4. AMENDMENT.) If House Bill No. 1066 is not approved by the forty-sixth legislative assembly, then section 25-03.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-02. DEFINITIONS.) In this chapter, unless the context or subject matter requires otherwise:

1. "Alcoholic individual" means an individual who has lost the power of self-control, exhibits cognitive deficiencies, general confused thinking, or other manifestations of disorientation which show an inability to make judgments about areas of behavior that do not directly relate to his drinking.
2. "Court" means, except where otherwise indicated, the county court of increased jurisdiction or the county justice court of the county wherein the respondent resides ~~or of the county closest geographically thereto as determined by the petitioner if no county court of increased jurisdiction is established therein.~~ Only the county justice courts wherein a licensed attorney presides may exercise jurisdiction under this chapter.
3. "Department" means the state department of health pursuant to chapter 23-01.
4. "Director" means the director of a treatment facility.
5. ~~"District" means the geographical area composed of these counties without county courts of increased jurisdiction surrounding, adjacent to, or geographically closest to a county court of increased jurisdiction, as determined by the petitioner. It does not refer to any established judicial, administrative, or executive district within the state.~~
- 6- "Drug addict" means an individual who has a physical or emotional dependence on a drug or drugs which he uses in a manner not prescribed by a physician.
6. "Expert examiner" means a licensed physician, psychiatrist, or clinical psychologist appointed by the court to examine the respondent. An evaluation of a respondent's physical condition shall be made only by a licensed physician or psychiatrist, while an evaluation of a respondent's mental status shall be made only by a licensed psychiatrist or clinical psychologist.

7. "Independent expert examiner" means a licensed physician, psychiatrist, or clinical psychologist licensed--in--North Dakota chosen at the request of the respondent to provide an independent evaluation of whether the respondent meets the criteria of a person requiring treatment.
8. "Magistrate" means the judge of the appropriate county court of increased jurisdiction or the appropriate county justice.
9. "Mental health professional" means:
- a. A licensed--clinical psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota board of psychology examiners.
 - b. A social worker with a master's degree in social work from an accredited program.
 - c. A registered nurse with a master's degree in psychiatric and mental health nursing from an accredited program.
 - d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of a qualified-mental-health-professional-defined-by subdivision-a-or-b registered nurse as defined by subdivision c or an expert examiner as defined by subsection 6.
 - d+ e. An addiction counselor certified by the department.
10. "Mentally ill person" means an individual with an organic, mental, or emotional disorder which substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. "Mentally ill person" does not include a mentally retarded or mentally deficient person of significantly subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior. Drug addiction and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness.
11. "Person requiring treatment" means either a person:
- a. A---person---who Who is severely mentally ill,--an alcoholic,--or-a-drug-addict-and-who--as--a--result--of such--condition--can-reasonably-be-expected-within-the near--future--to--intentionally---or---unintentionally seriously--physically--harm-himself-or-another-person, and-who--has--engaged--in--an--act--or--acts--or--made

~~significant--threats-that-are-substantially-supportive of-this-expectation; or~~

- b. ~~A--person-who-is-mentally-ill,-an-alcoholic,-or-a-drug addict-and-who-as-a-result-of-such-condition-is-unable to--attend--to-his-basic-physical-needs,-such-as-feed, clothing,-or-shelter,-that-must-be-attended-to-for-him to--avoid-serious-harm-in-the-near-future,-and-who-has demonstrated-that-inability-by-failing-to--meet--these basic---physical--needs.~~ Who is mentally ill, an alcoholic, or drug addict, and there is a reasonable expectation that if the person is not hospitalized there exists a serious risk of harm to himself, others or property. "Serious risk of harm" means a substantial likelihood of:

- (1) Suicide as manifested by suicidal threats, attempts, or significant depression relevant to suicidal potential; or
- (2) Killing or inflicting serious bodily harm on another person, inflicting significant property damage, as manifested by acts or threats; or
- (3) Substantial deterioration in physical health, or substantial injury, disease, or death resulting from poor self-control or judgment in providing one's shelter, nutrition, or personal care.

~~12. "Physician"--means--a-physician-licensed-under-the-laws-of this-state-~~

~~13- "Private treatment facility" means any facility established pursuant to chapters 10-19 through 10-24 and licensed pursuant to chapter 23-16 or 23-17.1.~~

~~14- 13. "Public treatment facility" means any treatment facility not falling under the definition of a private treatment facility.~~

~~15- 14. "Respondent" means a person subject to petition for involuntary treatment.~~

~~16- 15. "Superintendent" means the state hospital superintendent.~~

~~17- 16. "Treatment facility" or "facility" means any hospital including the state hospital at Jamestown, or evaluation and treatment facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and inpatient care to persons suffering from a mental disorder, alcoholism, or drug addiction.~~

SECTION 5. AMENDMENT.) If House Bill No. 1066 is approved by the forty-sixth legislative assembly, then section 25-03.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-02. DEFINITIONS.) In this chapter, unless the context or subject matter requires otherwise:

1. "Alcoholic individual" means an individual who has lost the power of self-control, exhibits cognitive deficiencies, general confused thinking, or other manifestations of disorientation which show an inability to make judgments about areas of behavior that do not directly relate to his drinking.
2. "Court" means, except where otherwise indicated, the ~~county district court of--increased--jurisdiction~~ of the county wherein the respondent resides ~~or-of-the-county closest--geographically--thereto--as--determined--by--the petitioner-if-no-county-court-of-increased-jurisdiction-is established-therein.~~
3. "Department" means the state department of health pursuant to chapter 23-01.
4. "Director" means the director of a treatment facility.
5. ~~"District"--means--the-geographical-area-composed-of-these counties-without-county-courts-of--increased--jurisdiction surrounding--adjacent--to--or-geographically-closest-to-a county-court-of-increased-jurisdiction,--as--determined--by the--petitioner,---It--does--not--refer-to-any-established judicial--administrative,--or-executive-district-within-the state-~~
6. "Drug addict" means an individual who has a physical or emotional dependence on a drug or drugs which he uses in a manner not prescribed by a physician.
6. "Expert examiner" means a licensed physician, psychiatrist, or clinical psychologist appointed by the court to examine the respondent. An evaluation of a respondent's physical condition shall be made only by a licensed physician or psychiatrist, while an evaluation of a respondent's mental status shall be made only by a licensed psychiatrist or clinical psychologist.
7. "Independent expert examiner" means a licensed physician, psychiatrist, or clinical psychologist ~~licensed--in--North Dakota~~ chosen at the request of the respondent to provide an independent evaluation of whether the respondent meets the criteria of a person requiring treatment.

8. "Magistrate" means the judge of the appropriate county district court of increased jurisdiction.
9. "Mental health professional" means:
- a. A licensed-clinical psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota board of psychology examiners.
 - b. A social worker with a master's degree in social work from an accredited program.
 - c. A registered nurse with a master's degree in psychiatric and mental health nursing from an accredited program.
 - d. A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of a qualified mental health professional defined by subdivision a or b registered nurse as defined by subdivision c or an expert examiner as defined by subsection 6.
 - ~~d~~ e. An addiction counselor certified by the department.
10. "Mentally ill person" means an individual with an organic, mental, or emotional disorder which substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. "Mentally ill person" does not include a mentally retarded or mentally deficient person of significantly subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior. Drug addiction and alcoholism do not per se constitute mental illness, although persons suffering from these conditions may also be suffering from mental illness.
11. "Person requiring treatment" means either a person:
- a. ~~A---person---who Who is severely mentally ill,---an alcoholic,---or---a---drug---addict---and---who---as---a---result---of such---condition---can reasonably be expected within the near---future---to---intentionally---or---unintentionally seriously---physically---harm---himself---or---another---person, and---has---engaged---in---an---act---or---acts---or---made significant---threats---that---are---substantially---suppervive of---this---expectation; or~~
 - b. ~~A---person---who---is---mentally---ill,---an---alcoholic,---or---a---drug addict---and---who---as---a---result---of---such---condition---is---unable to---attend---to---his---basic---physical---needs,---such---as---feed, clothing,---or---shelter,---that---must---be---attended---to---for---him~~

~~to avoid serious harm in the near future, and who has demonstrated that inability by failing to meet these basic physical needs.~~ Who is mentally ill, an alcoholic, or drug addict, and there is a reasonable expectation that if the person is not hospitalized there exists a serious risk of harm to himself, others or property. "Serious risk of harm" means a substantial likelihood of:

- (1) Suicide as manifested by suicidal threats, attempts, or significant depression relevant to suicidal potential; or
- (2) Killing or inflicting serious bodily harm on another person, inflicting significant property damage, as manifested by acts or threats; or
- (3) Substantial deterioration in physical health, or substantial injury, disease, or death resulting from poor self-control or judgment in providing one's shelter, nutrition, or personal care.

12. ~~"Physician" means a physician licensed under the laws of this state.~~
13. "Private treatment facility" means any facility established pursuant to chapters 10-19 through 10-24 and licensed pursuant to chapter 23-16 or 23-17.1.
14. 13. "Public treatment facility" means any treatment facility not falling under the definition of a private treatment facility.
15. 14. "Respondent" means a person subject to petition for involuntary treatment.
16. 15. "Superintendent" means the state hospital superintendent.
17. 16. "Treatment facility" or "facility" means any hospital including the state hospital at Jamestown, or evaluation and treatment facility which can provide directly, or by direct arrangement with other public or private agencies, emergency evaluation and treatment, outpatient care, and inpatient care to persons suffering from a mental disorder, alcoholism, or drug addiction.

SECTION 6. AMENDMENT.) If House Bill No. 1066 is not approved by the forty-sixth legislative assembly, then section 25-03.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-03. JURISDICTION.) The county courts of increased jurisdiction and the county justice courts shall both have original ~~and exclusive~~ jurisdiction over the proceedings governed by this

chapter, which jurisdiction is exclusively vested in those courts, except as provided in this section. They shall have concurrent jurisdiction with the juvenile court for the commitment of juveniles for treatment or evaluation. For the limited purpose of proceedings under this chapter the supreme court shall designate the county justice courts as courts of record.

SECTION 7. AMENDMENT.) If House Bill No. 1066 is approved by the forty-sixth legislative assembly, then section 25-03.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-03. JURISDICTION.) The ~~county district courts of increased---~~jurisdiction shall have original and exclusive jurisdiction over the proceedings governed by this chapter. They shall have concurrent jurisdiction with the juvenile court for the commitment of juveniles for treatment or evaluation.

SECTION 8. AMENDMENT.) Section 25-03.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-04. VOLUNTARY ADMISSION.) An application for admission to the state hospital or a public treatment facility for observation, diagnosis, care, or treatment as a voluntary patient may be made by any person who is mentally ill, an alcoholic, or a drug addict, or who has symptoms of such illnesses. An application for admission as a voluntary patient may be made on behalf of a minor who is mentally ill, an alcoholic, or a drug addict, or who has symptoms of such illnesses, by his parent or legal guardian. The application may be submitted to a public treatment facility or to the state hospital, both of which shall have the authority to admit and treat the applicant. Upon admittance, the superintendent or the director shall immediately designate a physician, psychiatrist, clinical psychologist, or mental health professional to examine the patient.

SECTION 9. AMENDMENT.) Section 25-03.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-05. DISCHARGE OF VOLUNTARY PATIENTS.) Any voluntary patient who has recovered, or whose treatment the superintendent or director determines is no longer advisable, shall be discharged. Upon If, upon discharge there shall be a release plan--- Appropriate it is determined that the individual would benefit from the receipt of further treatment, the superintendent or director shall offer him appropriate treatment on a voluntary basis or shall aid him to obtain treatment from another source on a voluntary basis. With the patient's consent, appropriate referrals may be made for the patient.

SECTION 10. AMENDMENT.) Section 25-03.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-06. RIGHT TO RELEASE ON APPLICATION - EXCEPTION - JUDICIAL PROCEEDINGS.) Any person voluntarily admitted for inpatient treatment to any treatment facility or the state hospital shall be orally advised of the right to release and shall be further advised in writing of his rights under this chapter. A voluntary patient who requests his release shall be immediately released. However, if the superintendent or the director determines that the patient is a person requiring treatment, the release may be postponed until judicial proceedings for involuntary treatment have been held in the county ~~or district~~ where the hospital or facility is located. The ~~court~~ patient must be ~~petitioned to begin such proceedings~~ served the petition within twenty-four hours, exclusive of weekends and holidays, ~~of from~~ the time release is requested, unless extended by the magistrate for good cause shown. The treatment hearing shall be held within ~~seventy-two hours of five days, excluding weekends and holidays, from~~ the time the ~~written request--for--release--is--received--by--the--superintendent--or--director~~ petition is served.

SECTION 11. AMENDMENT.) Section 25-03.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-08. PETITION FOR INVOLUNTARY TREATMENT.) Proceedings for the involuntary treatment of an individual may be commenced by any person eighteen years of age or over by filing a written petition with the clerk of court of the county where the respondent is presently located, or which is the respondent's place of residence, ~~or of the court within the district~~. The clerk of court shall assist the person in completing the petition. The petition shall contain assertions that the respondent is the person requiring the treatment; the facts, in detail, that are the basis of that assertion; the names and addresses, if known, of any witnesses to such facts; and, if known, the name and address of the nearest relative or guardian of the respondent, or, if none, of a friend of the respondent. The petition may be accompanied by any of the following:

1. A written statement supporting the petition from a psychiatrist ~~or~~, physician, or clinical psychologist who has personally examined the respondent within ~~thirty~~ forty-five days of the date of the petition.
2. One or more supporting affidavits otherwise corroborating the petition.
3. Corroborative information obtained and reduced to writing by the clerk of court, but only when it is not feasible to comply with, or when he considers it appropriate to

supplement, the information supplied pursuant to either subsection 1 or 2.

SECTION 12. AMENDMENT.) Section 25-03.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-09. REVIEW OF PETITION FOR INVOLUNTARY TREATMENT - PROBABLE CAUSE ESTABLISHED - RESPONDENT NOTIFIED - RIGHTS - INVESTIGATION.)

1. Upon the filing of a petition for involuntary treatment, the clerk of court shall immediately notify the magistrate who shall review the petition and accompanying documentation to determine whether it complies with requirements of section 25-03.1-08 and whether it establishes probable cause to believe the respondent meets the criteria of a person requiring treatment. If probable cause has not been so established, the petition shall be dismissed unless an amendment would cure the defect.
2. If probable cause has been established, the magistrate shall cause to be served on the respondent and his nearest relative or guardian or, if none, a friend of the respondent, copies of the petition and supporting documentation. This shall be accompanied by notice informing the respondent of the procedures required by this chapter and an explanation of the intended uses and possible effects of the investigation mandated in subsection 3. This notice shall also include notice of the respondent's right to a preliminary and a treatment hearing when in custody pursuant to section 25-03.1-25 or, if not in custody, the right to a treatment hearing; of his right to be present at the hearings; of his right to have counsel prior to the hearings and any court-ordered examination; of his right to an ~~additional independent expert-examiner~~ independent evaluation; and, if the respondent is indigent, of his right to counsel and to an independent expert examiner, each at the expense of the county which is the respondent's place of residence. If an independent expert examiner is to be appointed, the respondent shall be given an opportunity to select that examiner.
3. The magistrate shall direct the city, county, or district mental health outreach worker or other qualified person to investigate and evaluate the specific facts alleged and ~~the reliability and credibility of the person providing the information unless the respondent is in a facility.~~ The investigation, to be completed as promptly as possible, shall include observations of and conversation with the respondent in his home or other surroundings where he can be found or desires to meet, unless he cannot be found or refuses to meet with the outreach worker. A

written report of the results of the investigation shall be delivered to the magistrate. Copies of the report shall be made available upon request to the respondent, his counsel, and any ~~psychiatrist--or--physician~~ expert examiner conducting an examination pursuant to section 25-03.1-11.

SECTION 13. AMENDMENT.) Section 25-03.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-10. INVOLUNTARY TREATMENT - COURT-ORDERED EXAMINATION.) If the petition is not accompanied by a written supportive statement of a psychiatrist ~~or~~, physician, or clinical psychologist who has examined the respondent within the last forty-five days, the court shall order the respondent to be examined by a ~~psychiatrist--or--physician~~ an expert examiner of his own choice or one appointed by the court. The order shall state the date and time within which the respondent must appear, the address to which the respondent is to report, and a statement that if the respondent fails to appear at the appointed place at or before the ordered date and time, he may be involuntarily taken into custody and transported to the appointed place. Accompanying the order shall be an explanation of the intended uses and possible effects of this examination. The examination may be conducted at the state hospital or a treatment facility, at the respondent's home, or at any other suitable place in the community. The respondent may be accompanied by one or more of his relatives or friends at the place of the examination. The costs of the court-ordered examination shall be borne by the county which is the respondent's place of residence.

SECTION 14. AMENDMENT.) Section 25-03.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-11. INVOLUNTARY TREATMENT - EXAMINATION - REPORT.) The respondent shall be examined within a reasonable time by a ~~psychiatrist--or--physician~~ an expert examiner as ordered by the court. If the respondent is taken into custody pursuant to the emergency treatment provisions of this chapter, the examination shall be conducted within twenty-four hours of custody. Any ~~psychiatrist--or--physician~~ expert examiner conducting an examination pursuant to this section may consult with, or request participation in the examination by, any qualified mental health professional, and may include with the written examination report any findings or observations by such mental health professional. This examination report, and that of the independent examiner, if one has been requested, shall be filed with the court. The report shall contain:

1. Evaluations of the respondent's physical, ~~social,~~ and educational condition and mental status.
2. A conclusion as to whether the respondent meets the criteria of a person requiring treatment, with a clear

explanation of how that conclusion was derived from the evaluation required.

3. If the report concludes that the respondent meets the criteria of a person requiring treatment, a list of available forms of care and treatment that may serve as alternatives to involuntary hospitalization.
4. The signature of the examiner who prepared the report.

If the ~~examining--psychiatrist--or-physician~~ expert examiner concludes that the respondent does not meet the criteria of a person requiring treatment, the court may without taking any other additional action terminate the proceedings and dismiss the petition. If the ~~examination~~ expert examiner concludes that the respondent does meet the criteria of a person requiring treatment, or makes no conclusion thereon, the court shall set a date for a preliminary hearing and shall give notice of this hearing to the persons designated in section 25-03.1-12. The If the respondent is in custody, the preliminary hearing date must be within seventy-two hours, exclusive of weekends and holidays, of the date the court received the commitment petition respondent was taken into custody through emergency commitment pursuant to section 25-03.1-25 unless a delay or continuance is concurred in by the respondent or unless extended by the magistrate for good cause shown. If the preliminary hearing is not required, the treatment hearing shall be held within seventy-two hours of the date the court received the expert examiner's report, not to exceed fourteen days, excluding weekends and holidays, from the time the petition was served.

SECTION 15. AMENDMENT.) Section 25-03.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-13. RIGHT TO COUNSEL - INDIGENCY - WAIVER.)

1. Every respondent under this chapter is entitled to legal counsel.
2. Unless an appearance has been entered on behalf of the respondent, the court shall, within ~~twenty-four~~ seventy-two hours, exclusive of weekends or holidays, ~~of its receipt of any petition~~ from the time the petition was served, appoint counsel to represent the respondent. If an individual has been hospitalized pursuant to the emergency procedure, counsel shall be appointed within twenty-four hours, exclusive of weekends or holidays, of such hospitalization.
3. If, after consultation with appointed counsel, the respondent wants to waive his right to counsel or his right to any of the hearings provided for under this chapter, he may do so by notifying the court in writing.

This notification shall clearly state his reasons for the waiver and it shall also be signed by counsel.

4. If the respondent is indigent, the court shall order that appointed counsel be compensated from county funds of the county which is the respondent's place of residence in a reasonable amount based upon time and expenses.

SECTION 16. AMENDMENT.) Section 25-03.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-14. DUTY OF STATE'S ATTORNEY.) The state's attorney for the county in which proceedings under this chapter are initiated shall represent the petitioners state in court proceedings and hearings conducted under section 25-03.1-19. ~~A state's attorney need not participate in or be present at a hearing whenever a petitioner has retained private counsel, or whenever any criminal charge is pending or contemplated arising from an act of the respondent.~~ The county of residence of the respondent shall bear the cost of the state's attorney in such proceeding in a reasonable amount based upon time and expenses.

SECTION 17. AMENDMENT.) Section 25-03.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-16. MEDICATION PENDING HOSPITALIZATION TREATMENT ORDER.) A patient who has requested release or a person who is the subject of a petition for hospitalization has the right to refuse medication and other forms of treatment before the preliminary or treatment hearing. However, ~~state hospital or treatment facility personnel shall be able to treat him with medication or a less restrictive alternative of his preference if, in the opinion of the psychiatrist or physician, these treatments may be necessary to prevent bodily harm to the respondent or others~~ a physician may prescribe medication or a less restrictive alternative if it is necessary to prevent bodily harm to the respondent or others or to prevent imminent deterioration of the respondent's physical or mental condition. The patient has the right to be free of the effects of medication at the preliminary or treatment hearing by discontinuance of medication no later than twenty-four hours before the hearing unless, in the opinion of the prescribing physician, the need for the medication still exists or discontinuation would hamper preparation of and participation in the proceedings.

SECTION 18. AMENDMENT.) Section 25-03.1-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-19. INVOLUNTARY TREATMENT HEARING.) The involuntary treatment hearing, unless waived by the respondent or the respondent has been released as a person not requiring treatment, shall be held within fourteen days of the preliminary hearing. If the preliminary

hearing is not required, the involuntary treatment hearing shall be held within seventy-two hours of the date the court received the expert examiner's report, not to exceed fourteen days, excluding weekends and holidays, from the time the petition was served. The respondent has the right to an examination by an independent expert examiner if so requested. If the respondent is indigent, the county of residence of the respondent shall pay for the cost of the examination and the respondent may choose an independent expert examiner.

The hearing may shall be held in the county ~~ex-district~~ of the respondent's residence or location, or the county ~~ex-district~~ wherein the state hospital or treatment facility treating the respondent is located, ~~or the county of the court ordering detention pursuant to section 25-03.1-17, at the discretion of the respondent or his counsel.~~ At the hearing, evidence in support of the petition shall be presented by the state's attorney, private counsel, or counsel designated by the court. During the hearing, the petitioner and the respondent shall be afforded an opportunity to testify and to present and cross-examine witnesses. The court may receive the testimony of any other interested person. All persons not necessary for the conduct of the proceeding shall be excluded, except that the court may admit persons having a legitimate interest in the proceeding. The hearing shall be conducted in as informal a manner as practical, but the issue shall be tried as a civil matter. Discovery and the power of subpoena permitted under the North Dakota Rules of Civil Procedure shall be available to the respondent. The court shall receive all relevant and material evidence which may be offered as governed by the North Dakota Rules of Evidence. There shall be a presumption in favor of the respondent, and the burden of proof in support of the petition shall be upon the petitioner.

If, upon completion of the hearing, the court finds that the petition has not been sustained by clear and convincing evidence, it shall deny the petition, terminate the proceeding, and order that the respondent be discharged if he has been hospitalized prior to the hearing.

SECTION 19. AMENDMENT.) Section 25-03.1-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-21. ALTERNATIVES TO HOSPITALIZATION.) Before making its decision in an involuntary treatment hearing, the court shall review a report assessing the availability and appropriateness for the respondent of treatment programs other than hospitalization which has been prepared and submitted by the state hospital or treatment facility.

If the court finds that a treatment program other than hospitalization is adequate to meet the respondent's treatment needs and is sufficient to prevent harm or injuries which the individual may inflict upon himself or others, the court shall order the respondent to receive whatever treatment other than hospitalization

is appropriate for a period of ninety days. If, during this period, the court learns that the respondent is not complying with the order, or that the alternative treatment has not been sufficient to prevent harm or injuries that the individual may be inflicting upon himself or others, the court may without a hearing and based upon the record and other available information:

1. Consider other alternatives to hospitalization, modify its original order, and direct the individual to undergo another program of alternative treatment for the remainder of the ninety-day period; or
2. Enter a new order directing that the individual be hospitalized for the remainder of the ninety-day period. If the individual refuses to comply with this hospitalization order, the court may direct a peace officer to take the individual into protective custody and transport him to a treatment facility.

If, at the date of expiration of an order of alternative treatment, it is believed that an individual continues to require treatment, a petition for a determination that the individual continues to be a person requiring treatment may be filed with the court ~~that--originally--ordered--hospitalization--or--alternative treatment~~ where the facility is located.

SECTION 20. AMENDMENT.) Section 25-03.1-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-22. INVOLUNTARY HOSPITALIZATION TREATMENT ORDERS.)

1. An initial order for involuntary hospitalization treatment shall be for a period not to exceed ninety days.
2. ~~If--prior--to--the--expiration--of--a--ninety--day--order--the--director--or--superintendent--believes--that--a--patient's--condition--is--such--that--he--continues--to--require--treatment--the--director--or--superintendent--shall--not--less--than--fourteen--days--prior--to--the--expiration--of--the--order--petition--the--court--that--originally--ordered--hospitalization--for--a--determination--that--the--patient--continues--to--require--treatment--and--for--an--order--authorizing--additional--hospitalization--for--a--period--not--to--exceed--ninety--days--~~
- 3- If, prior to the expiration of the ~~second~~ ninety-day order, the director or superintendent believes that a patient's condition is such that he continues to require treatment, the director or superintendent shall, not less than fourteen days prior to the expiration of the order, petition the court that originally ordered hospitalization where the facility is located for a determination that the patient continues to be a person requiring treatment and for an order of continuing hospitalization treatment,

which order may be for an unspecified period of time. If the patient has been hospitalized for the treatment of alcoholism, the continuing ~~hospitalization~~ treatment order may be only for thirty days after which time the patient must be released.

SECTION 21. AMENDMENT.) Section 25-03.1-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-23. PETITION FOR ~~SUBSEQUENT---HOSPITALIZATION~~ CONTINUING TREATMENT ORDERS.) A petition for an order authorizing a ~~second--ninety--days--of~~ continuing ~~hospitalization~~ treatment shall contain: a statement setting forth the reasons for the superintendent's or director's determination that the patient continues to be a person requiring treatment; a statement describing the treatment program provided to the patient and the results of that treatment; and a clinical estimate as to how long further treatment will be required. The petition shall be accompanied by a certificate executed by a physician ~~or~~ psychiatrist, or clinical psychologist. The court shall set a hearing date which shall be within fourteen days of the receipt date of service of the petition.

SECTION 22. AMENDMENT.) Section 25-03.1-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-24. RIGHT TO TREAT.) State hospital or treatment facility personnel shall be able to treat a patient with prescribed medication or a less restrictive alternative ~~of his preference~~ if, in the opinion of a psychiatrist or physician, these treatments may be necessary to prevent bodily harm to the patient or others or to prevent imminent deterioration of the respondent's physical or mental condition. Nothing in this chapter shall be deemed to prohibit a hospital from rendering emergency medical care without the need for consultation, if in the exercise of sound medical judgment that care is immediately necessary for the well-being of the patient.

SECTION 23. AMENDMENT.) Section 25-03.1-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-25. DETENTION OR HOSPITALIZATION - EMERGENCY PROCEDURE.)

1. When a peace officer, physician, psychiatrist, clinical psychologist, or any mental health professional has reasonable cause to believe that a person is suffering from mental illness, alcoholism, or drug addiction, and is likely to cause serious injury to himself or others of such an immediate nature that considerations of safety do not allow preliminary intervention by a magistrate, the peace officer, physician, psychiatrist, clinical

psychologist, or mental health professional may cause the person to be taken into custody and detained at a treatment facility as provided in subsection 3, and subject to section 25-03.1-26.

2. If a petitioner seeking the involuntary treatment of a respondent requests that the respondent be taken into immediate custody and the judge, upon reviewing the petition and accompanying documentation, finds probable cause to believe that the respondent is seriously mentally impaired, an alcoholic, or a drug addict, and is imminently likely to injure himself or other persons if allowed to remain at liberty, the judge may enter a written order directing that the respondent be taken into immediate custody ~~by--the--sheriff~~ and be detained as provided in subsection 3 until the preliminary hearing, which shall be held no more than seventy-two hours, exclusive of weekends and holidays, after the date of the order.
3. Detention under this section may be:
 - a. In a treatment facility where the director or superintendent shall be informed of the reasons why immediate custody has been ordered. The facility may provide treatment which is necessary to preserve the respondent's life, or to appropriately control behavior by the respondent which is likely to result in physical injury to himself or to others if allowed to continue, but may not otherwise provide treatment to the respondent without the respondent's consent; or
 - b. In a public or private facility in the community which is suitably equipped and staffed for the purpose. Detention in a jail or other correctional facility may not be ordered except in cases of actual emergency when no other secure facility is accessible, and then only for a period of not more than twenty-four hours and under close supervision.
4. Immediately upon being taken into custody, the person shall be advised of the purpose of custody, of the intended uses and possible effects of any evaluation he undergoes, and of his right to counsel and to a preliminary hearing.
5. Upon arrival at a facility the peace officer, physician, psychiatrist, clinical psychologist, or the mental health professional who conveyed the person, or caused him to be conveyed, shall complete an application for evaluation and be interviewed by a mental health professional at the facility. The application for emergency admission shall state in detail the circumstances under which the person was taken into custody. It must allege in detail the

overt act which constituted the basis for the petitioner's belief that the person is mentally ill, an alcoholic, or drug addict and that, because of such condition, he could reasonably be expected to cause serious physical injury to himself or another if not immediately detained.

SECTION 24. AMENDMENT.) Section 25-03.1-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-26. EMERGENCY PROCEDURE - ACCEPTANCE OF PETITION AND INDIVIDUAL - NOTICE - COURT HEARING SET.)

1. The state hospital or public treatment facility must immediately accept and a private treatment facility may accept on a provisional basis the application and the person admitted under section 25-03.1-25. The superintendent or director shall require an immediate examination of the subject and, within twenty-four hours after admission, shall either release the person if he finds that the subject does not meet the emergency commitment standards, or file a petition with the magistrate of the county ~~ex--district~~ of the person's residence giving notice to the court and stating in detail the circumstances and facts of the case.
2. Upon receipt of the petition and notice of the emergency detention, the magistrate shall set a date for a preliminary hearing to be held no later than seventy-two hours, exclusive of weekends or holidays, after detention unless the person has been released as a person not requiring treatment ~~or~~, has voluntarily admitted himself for treatment, has requested or agreed to a continuance, or unless extended by the magistrate for good cause shown. The magistrate shall appoint counsel if one has not been retained by the respondent.

SECTION 25. AMENDMENT.) Section 25-03.1-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-27. NOTICE AND STATEMENT OF RIGHTS.)

1. Whenever any person is detained for emergency evaluation and treatment pursuant to this chapter, the superintendent or director shall cause both the patient and, if possible, a responsible member of his immediate family, a guardian, or a friend, if any, to receive:
 - a. A copy of the petition which asserted that the individual is a person requiring treatment.
 - b. A written statement explaining that the individual will be examined by a ~~physician--or--psychiatrist~~ an

expert examiner within twenty-four hours of his hospitalization, excluding Sundays and holidays.

- c. A written statement in simple terms explaining the rights of the individual to a preliminary hearing, to be present at the hearing, and to be represented by legal counsel, if he is certified by ~~the--medical~~ an expert examiner or examiners as a person requiring treatment.
 - d. A written statement in simple terms explaining the rights of the individual to a full court hearing, to be present at the hearing, to be represented by legal counsel, and the right to an independent medical evaluation.
2. If the individual is unable to read or understand the written materials, every effort shall be made to explain them to him in a language he understands, and a note of the explanation and by whom made shall be entered into his patient record.

SECTION 26. AMENDMENT.) If House Bill No. 1066 is not approved by the forty-sixth legislative assembly, then section 25-03.1-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-29. APPEAL.) The respondent shall have the right to an expedited appeal from an order of involuntary commitment or alternative treatment, a continuing treatment order, an order denying a petition for discharge, or an order of transfer. Upon entry of an appealable order, the court shall notify the respondent of the right of appeal and the right to counsel. The notice of appeal must be filed within thirty days after the order has been entered. Such appeal shall be to the district court and the hearing shall be commenced within fourteen days of filing of the notice of appeal. The hearing shall be limited to a review of the procedures, findings, and conclusions of the lower court.

Pending appeal, the order appealed from shall remain in effect, unless the district court determines otherwise. The respondent shall not be denied the opportunity to be present at the appeal hearing, and the court conducting the appeal may issue such interim order as will assure this opportunity to the respondent while protecting the interest sought to be served by the order appealed from.

SECTION 27. AMENDMENT.) If House Bill No. 1066 is approved by the forty-sixth legislative assembly, then section 25-03.1-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-29. APPEAL.) The respondent shall have the right to an expedited appeal from an order of involuntary commitment or

~~alternative treatment, a continuing treatment order, an order denying a petition for discharge, or an order of transfer. Upon entry of an appealable order, the court shall notify the respondent of the right of appeal and the right to counsel. The notice of appeal must be filed within thirty days after the order has been entered. Such appeal shall be to the district supreme court and the hearing shall be commenced within fourteen days of filing of the notice of appeal. The hearing shall be limited to a review of the procedures, findings, and conclusions of the lower court.~~

Pending appeal, the order appealed from shall remain in effect, unless the district supreme court determines otherwise. ~~The respondent shall not be denied the opportunity to be present at the appeal hearing, and the court conducting the appeal may issue such interim order as will assure this opportunity to the respondent while protecting the interest sought to be served by the order appealed from.~~

SECTION 28.) A new subsection to section 25-03.1-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

If, prior to the expiration of a ninety-day order, the superintendent or director determines that a less restrictive form of treatment would be more appropriate for a patient hospitalized by court order, the superintendent or director may petition the court which last ordered the patient's hospitalization to modify its order. The petition shall contain a statement setting forth the reasons for the determination that the patient continues to require treatment, a statement setting forth the reasons for the determination that a less restrictive form of treatment would be more appropriate for the patient, and a statement describing the recommended treatment program. If the patient consents, the court may, without a hearing, modify its treatment order by directing the patient to undergo the agreed treatment program for the remainder of the ninety-day order. The patient shall be given an opportunity to protest the discharge and modification of treatment order and to receive a hearing on the merits of his protest.

SECTION 29. AMENDMENT.) Section 25-03.1-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-31. REVIEW OF CURRENT STATUS OF CONTINUING HOSPITALIZATION TREATMENT.) Every individual subject to an order of continuing hospitalization treatment has the right to regular, adequate, and prompt review of his current status as a person requiring treatment and in need of hospitalization. Six months from the date of an order of continuing hospitalization treatment, and every six months year thereafter, the director or superintendent where an individual is hospitalized shall review his status as a

person requiring treatment and in need of hospitalization. The results of each periodic review conducted under this chapter shall be made part of the patient's record, and shall be filed within five days of the review, in the form of a written report, with the court ~~which--last-ordered-the-patient's-hospitalization~~ where the facility is located. Within this five-day period, the director or superintendent shall give notice of the results of the review to the patient, his attorney, and his nearest relative or guardian.

If a periodic review report concludes that the patient continues to require treatment and hospitalization, and the patient objects to either or both of those conclusions, the patient shall have the right to a hearing, an independent evaluation, and may petition the court for discharge. This petition may be presented to the court or a representative of the hospital or facility within seven days, excluding weekends and holidays, after the report is received. If the petition is presented to a representative of the hospital or facility, he shall transmit it to the court forthwith. ~~The court shall set a hearing date which shall be within fourteen days of the date of receipt of the petition.~~ The petition shall be accompanied by a report from a physician, psychiatrist, or clinical psychologist setting forth the reasons for his or her conclusions that the patient no longer is a person requiring treatment or in need of hospitalization. If no such report accompanies the petition because the patient is indigent or is unable for reasons satisfactory to the court to procure such a report, the court shall appoint an independent expert examiner to examine the patient, and the examiner shall furnish a report to the court.

If such report concludes that the patient continues to be a person requiring treatment and in need of hospitalization, the court shall so notify the patient and shall dismiss the petition for discharge. If the conclusion is to the contrary, the court shall set a hearing date which shall be within fourteen days of receipt of the examiner's report. At the hearing, the burden of proof shall be the same as in an involuntary treatment hearing.

SECTION 30. AMENDMENT.) Subsection 3 of section 25-03.1-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. No patient shall be transferred to another hospital or agency without first notifying the patient and the patient's legal guardian, spouse, or next of kin, if known, or a chosen friend of the patient and the court ordering hospitalization. The patient shall be given an opportunity to ~~oppose~~ protest the transfer and to receive a hearing on the merits of his protest ~~before--the magistrate--upon--whose--order--he--was--committed.~~ The patient's objection to the transfer must be presented to the court where the facility is located or to a representative of the hospital or facility within five days, excluding weekends and holidays, after the notice of transfer was received. If the objection is presented to a

representative of the hospital or facility, he shall transmit it to the court forthwith. The court shall set a hearing date which shall be within fourteen days of the date of receipt of the objection. If an objection has not been filed or the patient consents to a transfer, the court may enter an ex parte order authorizing transfer.

SECTION 31. AMENDMENT.) Section 25-03.1-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-03.1-41. LIMITATIONS AND RESTRICTIONS OF PATIENT'S RIGHTS.) The rights enumerated in section 25-03.1-40 may be limited or restricted by the treating physician ~~or~~, psychiatrist, or clinical psychologist, if in his ~~medical~~ professional judgment to do so would be in the best interests of the patient and the rights are restricted or limited in the manner authorized by the rules and regulations promulgated pursuant to section 25-03.1-46. Whenever a physician ~~or~~, psychiatrist, or clinical psychologist responsible for treatment of a particular patient imposes a special restriction on the rights of the patient as authorized by the rules and regulations, a written order specifying the restriction and the reasons therefor shall be signed by the physician ~~or~~, psychiatrist, or clinical psychologist and attached to the patient's chart. These restrictions shall be reviewed at intervals of not more than fourteen days and may be renewed by following the procedure set out in this section.

SECTION 32. AMENDMENT.) Subsection 2 of section 25-03.1-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A physician, psychiatrist, clinical psychologist, mental health professional, employee of a treatment facility, or peace officer who in good faith exercises his professional judgment in fulfilling an obligation or discretionary responsibility under this chapter is not subject to civil or criminal liability for his act unless it can be shown that it was done in a negligent manner.

SECTION 33. REPEAL.) Section 25-03.1-32 of the North Dakota Century Code is hereby repealed.

Approved April 7, 1979

CHAPTER 335

SENATE BILL NO. 2057
(Legislative Council)
(Interim Committee on Education)

TRANSPORTATION AT GRAFTON AND SAN HAVEN

AN ACT to create and enact a new section of the North Dakota Century Code, relating to transportation costs to and from the San Haven state hospital; and to amend and reenact subsection 3 of section 25-04-05 of the North Dakota Century Code, relating to transportation costs to and from the Grafton state school.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 25-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. On and after July 1, 1975, care and treatment at the state school shall be provided without charge to anyone under twenty-one years of age who is qualified for admission pursuant to this chapter. Residents not more than twenty-one years of age admitted to the state school shall be entitled to transportation as provided by rules and regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for at least eighty percent of the costs incurred by it in providing transportation for the applicant. The reimbursement shall not be for more than six round trips home per year at a rate not to exceed that paid state officials. On and after July 1, 1975, persons over twenty-one years of age who are qualified for admission pursuant to this chapter shall be responsible for expenses incurred through care and treatment at the state school in the manner provided by chapter 25-09.

SECTION 2.) A new section of the North Dakota Century Code is hereby created and enacted to read as follows:

TRANSPORTATION COSTS - PAYMENT LIMITED.) All residents not more than twenty-one years of age admitted to San Haven, shall be entitled to transportation as provided by rules and regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for at least eighty percent of the costs incurred by it in providing transportation for the applicant. The reimbursement shall not be for more than six round trips home per year at a rate not to exceed that paid state officials.

Approved April 7, 1979

CHAPTER 336

SENATE BILL NO. 2058
 (Legislative Council)
 (Interim Committee on Education)

TRANSPORTATION AT SCHOOLS FOR BLIND AND DEAF

AN ACT to amend and reenact sections 25-06-04 and 25-07-04 of the North Dakota Century Code, relating to transportation of pupils of the school for the blind and the school for the deaf; and to repeal sections 25-06-06 and 25-07-07 of the North Dakota Century Code, relating to transportation of indigent persons to the school for the blind and the school for the deaf.

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

SECTION 1. AMENDMENT.) Section 25-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-06-04. QUALIFICATIONS FOR ADMISSION TO SCHOOL FOR THE BLIND - RESIDENTS OF STATE ENTITLED TO FREE EDUCATION.) Applicants for admission to the school for the blind must be blind or partially blind, ~~of school age, capable of receiving an education, of good moral character, and free from chronic infection~~ and unable to make suitable progress in the public schools of the state. The superintendent, with the approval of the director, may ~~modify the age requirement as to any applicant~~ determine the age required for admission. 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 may require has been returned to and approved by the superintendent of the school for the blind. An applicant admitted to the school for the blind ~~must be transported thereto at the expense of his parents or of the county of which he is a resident~~ shall be entitled to transportation as provided by rules and regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for at least eighty percent of the costs incurred by it in providing transportation for the applicant. The reimbursement shall not be for more than six round trips home per year at a rate not to exceed that paid state officials. 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 blind at the expense of the state.

SECTION 2. 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, and capable of caring for himself, and capable of receiving an education.~~ The superintendent, with the approval of the director, may determine the age required for admission. 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~~ shall be entitled to transportation as provided by rules and regulations of the department of public instruction. The rules and regulations of the department of public instruction shall have the force and effect of law on other state agencies and public school districts. The school district of which the applicant is a resident shall be reimbursed by the state special education fund for at least eighty percent of the costs incurred by it in providing transportation for the applicant. The reimbursement shall not be for more than six round trips home per year at a rate not to exceed that paid state officials. 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 3. REPEAL.) Sections 25-06-06 and 25-07-07 of the North Dakota Century Code are hereby repealed.

Approved April 7, 1979

CHAPTER 337

HOUSE BILL NO. 1060
(Legislative Council)
(Interim Committee on Health Services)

MENTAL HEALTH AND RETARDATION SERVICE UNITS

AN ACT to create and enact a new section to chapter 25-10 of the North Dakota Century Code, relating to the authority of the mental health and retardation division; and to amend and reenact sections 25-12-01, 25-12-02, 25-12-03, and 25-12-04 of the North Dakota Century Code, relating to the operation of mental health and retardation service units.

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

SECTION 1.) A new section to chapter 25-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

MENTAL HEALTH AND RETARDATION SERVICE UNITS.) The mental health and retardation division shall supervise and direct, within the limits of legislative appropriations, any mental health and retardation service unit established pursuant to chapter 25-12. The mental health and retardation division shall have those powers necessary to supervise and direct such units. The division shall, with respect to each unit:

1. Supervise and direct the service unit within the central personnel system.
2. Supervise and direct the service unit within limits of state budgetary controls and in compliance with state budget procedures.
3. Supervise and direct the service unit subject to the same laws relating to administration which govern other state agencies.
4. Collocate the service unit in each region with the area social service center in each region by July 1, 1981.
5. Develop such rules and regulations as may be necessary to operate a collocated service unit.

SECTION 2. AMENDMENT.) Section 25-12-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-12-01. ESTABLISHMENT OF MENTAL HEALTH AND RETARDATION SERVICE UNITS.) Upon petition of eight percent of the voters of any city as determined by the number voting for the office of governor in such city at the most recent general election at which a governor was elected, the governing body of any city having a population of five thousand or more according to the last federal census may, with the approval of the board of county commissioners of the county within which such city is located, establish and maintain a mental health and retardation service unit.

Upon petition of eight percent of the voters of any county as determined by the number voting for the office of governor in such county at the most recent general election at which a governor was elected, the board of county commissioners of any county containing a city having a population of five thousand or more according to the most recent federal census may establish and maintain a mental health and retardation service unit.

In addition to the other methods provided by law, a mental health and retardation service unit may be established upon the petition of eight percent of the voters of any county as determined by the number voting for the office of governor in such county at the most recent general election at which a governor was elected, the board of county commissioners of any county not containing a city having a population of five thousand or more according to the most recent federal census, may enter into agreements for the joint operation or for the participation in the operation or contracts with other cities or counties who have established a mental health and retardation service unit pursuant to this section. Such counties may act in accordance with the provisions of section 54-40-08 in making such agreements.

Any county or city establishing a mental health and retardation service unit may in accordance with section 54-40-08 make agreements with the governing bodies of other political subdivisions for the joint operation or participation in the operation of such service unit or contracts as provided in this chapter.

~~Such service unit may be established by the county or city and operated by the political subdivisions involved, or in the discretion of their respective governing bodies such service unit may be operated by contract with a nonprofit corporation which shall agree to furnish such services in the field of mental health and retardation in accordance with such contract in a manner consistent with state law and rules of the mental health and retardation division of the state department of health.~~

Such service unit shall be supervised and directed by the mental health and retardation division of the state department of health.

These units will take into consideration and be coordinated with existing mental health and retardation services which are under other local, state, or private administrations, such as social service programs of county social service boards, area child welfare and family services of the social service board of North Dakota, special education programs, specialized services of the division of vocational rehabilitation, and other facilities providing services in the broad field of mental health.

SECTION 3. AMENDMENT.) Section 25-12-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-12-02. STATE-AID---APPLICATION---PROGRAM-APPROVAL-- LOCAL SUPPORT - LICENSING.)

- 1.---Cities,---counties,---or-other-political-subdivisions-or-any combination-thereof,---and---private-nonprofit---corporations may-apply-to-the-mental-health-and-retardation-division-of the--state--department--of--health---for---assistance---in establishing-and-maintaining-mental-health-and-retardation service-units---in---the---case---of---a---private---nonprofit corporation---a---contract---between---the---mental---health-and retardation-division-and-the-corporation-shall-be-entered into---for-state-aid-and-for-the-provision-of-mental-health and--retardation--services--by--such--corporation,---which contract---shall---be---upon-such-terms-as-the-division-shall prescribe---The-unit-or-corporation-requesting--state--aid shall-submit-to-the-mental-health-and-retardation-division of-the-state-department-of-health-not-later-than--March first--of--each-year-the-proposed-budget-for-the-following year,---plus-detailed-plans-with-regard--to--the--extent--of services--which--shall--include--fee-schedules-based-on-the ability--to--pay--and--programs--to--be--undertaken,---The division---shall---not---allocate---any---funds---to---any---unit maintaining-or-establishing-mental-health-and--retardation service-units-until-the-proposed-budget-and-detailed-plans shall-be-approved-by-the-division,---During--July--of--each year--the--division--shall--allocate--funds,---to--the--extent available,---to--the--various--units--in--accordance---with approved--budgets--and--programs,---The-division-shall-have authority-to-reallocate-unenumerated-funds-that-have-been allocated--and--may--withdraw--unenumerated--funds--if-the services-and-programs-of-the-mental-health-and-retardation service--unit-do-not-correspond-to-the-approved-budget-and plans-forwarded-to-the-department-of-health.
- 2.---State--support-to-any-mental-health-or-retardation-service unit-shall-not-exceed-forty-percent-of-such-units-total expenditure---for---salaries,---contract---facilities--and services,---maintenance-and-service-costs,---expenses---of--the board--of--directors--of--the--unit,---and--other--expenses authorized-by-the-mental-health-and--retardation--division of--the-state-department-of-health,---No-reimbursement-from moneys-appropriated-to-the-mental-health--and--retardation

~~division--of--the--state--department--of--health--by--the
legislative--assembly--shall--be--authorized--for--any--capital
expenditures-~~

- 3- 1. A mental health and retardation service unit comprising only one political subdivision may receive aid from such political subdivision to the extent that its governing body agrees to participate. If a mental health or retardation service unit comprises more than one political subdivision, the unit shall receive aid from the political subdivisions in proportion to the assessed valuation of each political subdivision or in such other manner as their governing bodies shall agree. ~~A-private-nonprofit corporation may receive aid from any political subdivision on--a-contract-basis,--entered-into-between-the-officers-of-the-corporation-and-the-governing-body--of--the--political-subdivision--or--subdivisions,--for-services-to-be-rendered-to-the-political-subdivision-and-its-residents-~~
- 4- 2. The governing body of any such political subdivisions for the purpose of operating, maintaining, or participating in the operation and maintenance of mental health and retardation service units or providing such services by contract in accordance with this chapter, may by resolution of the governing body thereof submit the question of the authorization of a tax upon all taxable property in the political subdivision of not to exceed three-quarters of one mill to the electorate of the political subdivision at any special or regular election. If such levy shall be approved by the majority of the electors voting thereon, a tax not in excess of that authorized may be levied by the governing body of the political subdivision for the purpose of providing services as authorized in this chapter. Such levy, when authorized, shall be over and above any mill levy limitation provided by law, provided, however, there shall not be more than one election per year on the mill levy.
- 5- 3. The mental health and retardation division of the state department of health is hereby authorized to license mental health and retardation service units established pursuant to this chapter. The division shall promulgate standards, rules, and regulations for the operation of the mental health and retardation facilities licensed hereunder in accordance with chapter 28-32 and may, in accordance with chapter 28-32, suspend the license of any facility which does not remain in compliance with the standards, rules, and regulations so promulgated. No mental health and retardation service unit may operate after July 1, 1975, without a license issued hereunder.

SECTION 4. 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~~ have 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~~ are 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 social service 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.~~

SECTION 5. AMENDMENT.) Section 25-12-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-12-04. POWERS AND DUTIES OF BOARD OF DIRECTORS - ADMINISTRATION.) The following powers and duties shall be performed by the board of directors of the mental health and retardation service unit:

1. Determine, review, and evaluate services and programs provided by the unit and make periodic reports thereon to the mental health and retardation division of the state department of health, together with any recommendations the board may have for improvement in services, programs, or facilities.
2. Recruit and promote local financing from private and public sources.

3. Promote and arrange for cooperation and working agreements with other social service agencies, public and private, and with individuals and organizations in the educational field and judicial branch of government.
4. Determine the budgets and submit them to the governing bodies of the political subdivisions concerned for their approval and prepare detailed plans for services and programs of the unit for the forthcoming year mental health and retardation division for approval and submission within the state health department's budget request.
5. Perform any other act necessary to properly administer the mental health and retardation service unit.
6. Determine the type of services to be provided by the unit, subject to the approval of the director of the mental health and retardation division.

The board may employ such professional personnel as may be necessary to properly staff the mental health and retardation service unit and may in its discretion employ such administrative personnel as may be necessary to assist them in the performance of their duties, including an administrator. The board may delegate to the administrator such of its powers and duties as the board deems necessary and desirable. The professional staff of such mental health and retardation service unit shall be under the medical direction of a qualified psychiatrist. The board shall, within the limits of legislative appropriations, employ such personnel as may be necessary to properly staff the mental health and retardation service unit. The employment of the executive director and the medical director shall be subject to the approval of the director of the mental health and retardation division.

Approved March 3, 1979

CHAPTER 338

HOUSE BILL NO. 1061
(Legislative Council)
(Interim Committee on Health Services)

MENTAL HEALTH AND SOCIAL SERVICE UNIT COLLOCATION

AN ACT to improve the quality, and efficiency in delivery, of human services through the collocation of social services and mental health services in each of the eight regions of the state; providing for joint intake, interagency referral, and interprogram planning and coordination; encouraging regional collocation of other related human services; providing for a fiscal incentive for the collocation of county social services in the regional centers; providing for the North Dakota social service board to reimburse qualifying mental health and retardation service units and human service centers for provision of clinical services to medical assistance individuals; and to amend and reenact section 50-24.1-03 of the North Dakota Century Code, relating to medical assistance.

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

SECTION 1. COLLOCATION OF MENTAL HEALTH AND RETARDATION SERVICE UNITS AND AREA SOCIAL SERVICE CENTERS - REGIONAL INTERAGENCY COORDINATING COUNCILS - FISCAL INCENTIVES FOR COUNTY SOCIAL SERVICE BOARD COLLOCATION.) Mental health and retardation service units established under chapter 25-12 and area social service centers under the jurisdiction of the social service board shall, not later than July 1, 1981, collocate their respective regional offices in each of the regions designated by the governor's executive order 49, dated September 18, 1969. Each collocated office shall provide joint client intake, identification of client needs, interagency referral, interprogram policy development, interprogram planning and coordination, and interprogram staff development and training. Such collocated offices shall encourage the collocation of other public and private human service agencies within the centers. Each collocated agency shall be represented by its chief officer on an interagency coordinating council for the center which shall meet monthly to plan and coordinate the delivery of center human services within the region. The council shall, not less than annually, meet with the advisory boards, boards of directors, supervising departments, and other interested human service delivery entities within the region for purposes of developing and implementing a

coordinated and comprehensive human service delivery plan for the region. Any county social service board collocating its offices within the center shall, within the limits of legislative appropriation, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.

SECTION 2. CLINIC SERVICES - PROVIDER QUALIFICATION - UTILIZATION OF FEDERAL FUNDS.) Within the limits of legislative appropriation therefor and in accordance with rules and regulations established by the social service board, the board may defray the costs of preventive diagnostic, therapeutic, rehabilitative, or palliative items or services furnished medical assistance eligible individuals by:

1. Human service centers established under section 54-40-09 which fulfill mental health and social service quality assurance standards jointly prescribed, promulgated, and adopted by the social service board and the state department of health.
2. Mental health and retardation service units established and licensed under chapter 25-12.

Within the limits of legislative appropriations and to the extent permitted by state and federal law and regulations established thereunder, it is the intent of the legislative assembly that federal funds available under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] be utilized to defray the costs of identifiable mental health clinic services furnished eligible individuals in qualifying human service and mental health centers and that federal funds available under title XX of the Act [42 U.S.C. 1397 et seq.] be utilized to defray the costs of identifiable social services furnished eligible individuals by county social service boards, area social service centers, and human service centers.

SECTION 3. AMENDMENT.) Section 50-24.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24.1-03. COUNTY SHARE OF MEDICAL ASSISTANCE - REIMBURSEMENT FOR CLINIC SERVICES NOT REQUIRED.) Each county in this state shall reimburse the state department for amounts expended for medical assistance in such county in excess of the amount provided by the federal government, in the amount of fifteen percent. This section shall not be construed to require a county to reimburse the state department for clinic services furnished by mental health and retardation service units or human service centers, but it shall also not be construed as preventing payments under chapter 25-12.

Approved March 3, 1979

CHAPTER 339

SENATE BILL NO. 2383
(Solberg)

VOCATIONAL REHABILITATION FACILITIES

AN ACT to amend and reenact sections 25-15-01, 25-15-02, 25-15-03, 25-15-04, 25-15-05, 25-15-06, and 25-15-07 of the North Dakota Century Code, relating to vocational rehabilitation facilities for the handicapped.

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

SECTION 1. AMENDMENT.) Section 25-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-01. LEGISLATIVE INTENT.) The purposes of this chapter are:

1. To improve rehabilitation services for the seriously handicapped including the mentally retarded in North Dakota by providing for the development and continuation of ~~long-term-sheltered-workshops~~ vocational rehabilitation facilities.
2. To provide for licensure and standard-setting for ~~sheltered-workshops~~ vocational rehabilitation facilities, and to establish responsibility for development and continuation of a statewide program by the division of vocational rehabilitation.

SECTION 2. AMENDMENT.) Section 25-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-02. ~~SHELTERED---WORKSHOP~~ VOCATIONAL REHABILITATION FACILITIES - DEFINITION.) For purposes of this chapter, a ~~sheltered workshop~~ vocational rehabilitation facility is a nonprofit organization ~~where-useful-work-is-carried-on,~~ and which is operated for the purpose of providing ~~remunerative-employment~~ rehabilitation to ~~severely~~ handicapped individuals, ~~---including---the---mentally retarded,~~ who are unable to participate in competitive employment due to their disability. A ~~long-term-sheltered-workshop~~ vocational rehabilitation facility shall supply ~~such-employment.~~

- ~~1. As two or more of the following as a step in the rehabilitative process for those who cannot be readily absorbed in the competitive labor market-~~
- ~~2. During and during such time as employment opportunities for them in the competitive labor market do not exist-:~~
- ~~1. Work Activity. The provision of therapeutic activities to handicapped individuals whose physical and mental impairment is so severe as to make their productive capacity inconsequential, for the purpose of enhancing their ability to function as independently as possible in their homes and community.~~
 - ~~2. Extended Employment. A work situation in a supervised environment which provides employment opportunities for indefinite periods of time.~~
 - ~~3. Vocational Evaluation. A comprehensive process that systematically utilizes work as the focal point for assessment and vocational exploration, the purpose of which is to assist individuals in vocational development. Vocational evaluation incorporates medical, psychological, social, vocational, educational, cultural, and economic data.~~
 - ~~4. Vocational Development. A program which applies vocational services including evaluation, training, transitional or interim employment, to resolve the problem of unemployment and to enable the person served to obtain competitive employment or further education or training, or both, leading to employment.~~
 - ~~5. Residential Rehabilitation. The provision of supervised training within a community living setting which is designed to prevent the need for institutional living, and is programmed to meet individual needs. Services offered provide activities designed to maximize community contact and develop positive cultural, social, occupational and educational attitudes.~~

SECTION 3. AMENDMENT.) Section 25-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-03. ADVISORY COMMITTEE.) The division of vocational rehabilitation shall appoint a ~~sheltered---workshop~~ vocational rehabilitation facilities advisory committee ~~of---eleven-members,~~ seven nine members of which shall be representatives of each of the following state organizations or agencies:

1. Division of vocational rehabilitation.
2. Department of public instruction - special education.

3. ~~Workmen's--compensation--bureau~~ Department of accounts and purchases.
4. North Dakota state employment service.
5. Organized labor.
6. ~~Seecial-service-board-of-Nerth-Dakota---medical~~ Division of mental health and retardation services.
7. ~~Nerth--Dakota--asseeiation--fer--retarded--children~~ North Dakota chapter association of retarded persons.
8. Vocational education - special needs.
9. Grafton state school.

~~The---ether~~ At least four members shall be appointed from professional, legislative, or civic groups, or from other public or nonpublic voluntary agencies. Such members shall serve at the pleasure of the division of vocational rehabilitation without compensation.

It shall be the duty of the ~~sheltered-workshop~~ vocational rehabilitation facilities advisory committee to recommend standards for community ~~sheltered-workshops~~ rehabilitation facilities for the ~~seriously~~ seriously handicapped, including the mentally retarded. These standards shall include those for physical plant, programming, staff, ratio of staff to persons served, policies, records and reports required, and such other standards deemed appropriate, and shall submit the same to the division for its approval. The committee shall also advise the division on the general policy involved in the provision of ~~sheltered--workshop~~ rehabilitation facilities services and shall perform such other functions as the division may request.

SECTION 4. AMENDMENT.) Section 25-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-04. DUTIES OF THE DIVISION OF VOCATIONAL REHABILITATION.)

1. The division of vocational rehabilitation shall issue licenses on an annual basis to programs meeting approved standards and applying for licensure.
2. Other duties of the division:
 - a. To encourage the development of local community initiative in broadening the scope of noninstitutional care and training programs for persons who are mentally retarded or seriously handicapped.

- b. To maintain ~~minimum~~ standards for the operation of such programs.
- c. To review ~~the--experience--of--individual~~ and assist programs as they develop.
- d. To foster the progress of ~~sheltered--workshops~~ vocational rehabilitation facilities to higher levels of service and to stimulate their rehabilitative aspects.

SECTION 5. AMENDMENT.) Section 25-15-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-05. ORGANIZATIONS ELIGIBLE FOR LICENSURE.) Eligible ~~local-community-organizations~~ vocational rehabilitation facilities shall be organizations which are nonprofit ~~corporations~~ entities, operating ~~sheltered-workshops~~ vocational rehabilitation facilities and serving the ~~seriously~~ handicapped, including the mentally retarded, without regard to race, religion, or national origin. Such organizations shall be licensed in accordance with this chapter and conform to standards recommended by the advisory committee and established by the division of vocational rehabilitation.

SECTION 6. AMENDMENT.) Section 25-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-06. QUALIFICATIONS FOR LICENSURE.) In order to be eligible for licensure, the ~~sheltered--workshops~~ vocational rehabilitation facilities shall operate their program under the direction of a board of directors ~~from the local-community-and-shall be--appointed--by--the--officers-of-the-nonprofit-corporation--This board-of-directors-shall-be-made-up-of-a-minimum-of-nine-members-and not--more--than--thirteen--members--It--shall--serve--without compensation--Membership-shall--include--representatives--of--local health,-education,-welfare,-employment-and-vocational-rehabilitation agencies,-lay-associations-for-the-disabled,-and-business-and-civic groups--It-may--also--include--individuals--who--are-legislators, members-of-a-city-council-or-a-board--of-county-commissioners--as well-as-professional-members-and-the-lay-public-~~

~~The--term--of-office-of-each-member-of-the-community-sheltered workshop-board-shall-be-for-four-years,-measured-from-the-first--day of--the-year-of-appointment-except-as-follows--of-the-members-first appointed,-at-least-three-shall-be--appointed--for--a-term-of--two years--at-least-three-for-a-term-of-three-years,-and-at-least-three for-a-term-of--four-years--Vacancies-shall-be--filled--for--the unexpired--term--in--the--same-manner-as-original-appointments--Any member-of-a-board-may-be-removed-by--the--appointing--authority--for neglect--of--duty--misconduct-or-malfeasance-in-office,-after-being given-a-written-statement-of-charges-and-an-opportunity-to-be--heard thereon~~ appointed according to the constitutions and bylaws of the entity operating the vocational rehabilitation facility.

SECTION 7. AMENDMENT.) Section 25-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-15-07. DUTIES OF COMMUNITY SHELTERED-WORKSHOP VOCATIONAL REHABILITATION FACILITIES BOARD.) Subject to the provisions of this chapter and rules and regulations of the division of vocational rehabilitation, each ~~community-sheltered-workshop--board~~ vocational rehabilitation facility shall:

- 1--~~Employ--necessary--and--qualified--personnel--including--an--employee--who--will--administer--the--program--~~
- 2--~~Review--and--evaluate--the--need--for--a--sheltered-workshop--program--as--provided--for--by--this--chapter--and--report--thereon--to--the--division--of--vocational--rehabilitation--the--administrator--of--the--program--and--when--indicated--the--public--together--with--recommendations--for--additional--services--and--facilities--~~
- 3--~~Recruit--and--promote--financial--support--for--the--program--from--private--sources--such--as--community--chests--business--industrial--and--private--foundations--voluntary--agencies--and--other--lawful--sources--~~
- 4--~~Promote--arrange--and--implement--working--agreements--with--other--public--and--private--agencies--~~
- 5--~~Advise--the--administrator--of--the--sheltered-workshop--on--the--adoption--and--implementation--of--policies--to--stimulate--effective--community--relations--~~
- 6--~~Review--the--annual--plan--and--budget--and--make--recommendations--thereon~~ operate according to its established constitution and bylaws.

Approved April 7, 1979

INSURANCE

CHAPTER 340

HOUSE BILL NO. 1076
(Legislative Council)
(Interim Committee on Products Liability)

REPORTS OF PRODUCT LIABILITY CLAIMS

AN ACT relating to insurance companies, providing for the reporting of product liability claims and other information to the commissioner of insurance, and providing for the confidentiality of the reported information.

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

SECTION 1. DEFINITION.) In this Act, unless the context or subject matter otherwise requires, the term "product liability insurance" means both product liability and completed operations liability insurance and includes:

1. Any policy of insurance insuring only the insured's legal obligations arising from the product liability or completed operations exposure of the insured.
2. Any other policy of insurance in which the premium computation includes a premium charge for product liability or completed operations exposure of the insured.
3. Any other insurance policy which provides product liability or completed operations insurance.

SECTION 2. REPORTING OF PRODUCT LIABILITY INFORMATION.) Every insurance company providing product liability insurance or excess insurance above self-insurance to one or more manufacturers, sellers, or distributors in this state shall file with the commissioner of insurance, not later than the first day in April in each year, a report containing the following information for the one-year period ending December thirty-first of the previous year, except that information for the period preceding July 1, 1979, need not be reported.

1. The name of the insurance company.
2. The name of all other insurance companies associated with the company submitting the report.

3. The states in which the company has been admitted for product liability insurance.
4. The dollar amount collected in product liability earned premiums and the dollar amount of product liability incurred losses in this state and on a nationwide basis.
5. The amounts shown in answer to subsection 4 which include any other insurance delivered as part of a package which cannot be considered exclusively product liability insurance.
6. The total number of insureds, resident or located in North Dakota, for which the insurance company provided product liability insurance.
7. The total number of insureds, resident or located in North Dakota, whose product liability insurance coverage the insurance company canceled or refused to renew and the reasons therefor.
8. The percentage of product liability premiums that are incurred for the following:
 - a. Losses, including all loss adjustment expenses ratioed to premiums earned.
 - b. Commissions, ratioed to premiums written.
 - c. Taxes, ratioed to premiums written.
 - d. All other expenses, ratioed to premiums earned.
 - e. The total of all expenses included in subdivisions a through d, ratioed to premiums earned.
 - f. Profits and reserves, ratioed to premiums earned.
9. The basis upon which the company allocates premiums received and losses incurred from a multistate product liability risk, whether it be assigned to the risk's state or domicile, allocated to each state in which the risk has a physical plant, allocated to each state on the basis of sales in each state, or allocated on some other basis.

The report shall be in the format established by the commissioner of insurance and a copy of the insurance company's most recent annual report to shareholders or policyholders shall be submitted with the report. If any of the required data is estimated, that fact shall be clearly indicated.

SECTION 3. CONFIDENTIALITY.) The commissioner of insurance may make reports required by this Act available to the public, but any reports made available to the public must be made in a manner

that will not reveal the names of any person, manufacturer or seller involved.

SECTION 4. LIMITATION OF LIABILITY.) There shall be no liability on the part of, and no cause of action of any nature shall arise against any insurer reporting hereunder or its agents or employees, or the commissioner of insurance or the commissioner's employees, for any action taken by them pursuant to this Act.

Approved March 21, 1979

CHAPTER 341

SENATE BILL NO. 2446
(Nelson)

LIFE INSURANCE CONTRACT SOLICITATION

AN ACT to create and enact a new section to chapter 26-01 of the North Dakota Century Code, relating to the regulation of the solicitation of life insurance contracts.

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

* SECTION 1.) A new section to chapter 26-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

SOLICITATION OF LIFE INSURANCE - COMMISSIONER OF INSURANCE TO
ADOPT REGULATION - PROCEEDINGS TO BE GOVERNED BY CHAPTER 28-32.)

1. For the purpose of improving insurance services to the public, for the protection of the public, and for the promotion of the general welfare of the people of the state of North Dakota, it is hereby declared that insurers be required to deliver information to purchasers of life insurance which will improve the purchaser's ability to select the most appropriate plan of life insurance for his needs, which will improve the purchaser's understanding of the basic features of the policy which has been purchased or which is under consideration, and which will improve the ability of the purchaser to evaluate the relative costs of similar plans of life insurance.
2. The commissioner of insurance of the state of North Dakota shall adopt, by regulation, the NAIC (National Association of Insurance Commissioners) Model Life Insurance Solicitation Regulation of May 4, 1976, no later than six months from the effective date of this section.
3. All proceedings necessary in adopting this regulation shall be governed by the provisions of chapter 28-32.

Approved March 23, 1979

* NOTE: This section is codified as North Dakota Century Code Section 26-10-08.1.

CHAPTER 342

HOUSE BILL NO. 1511
(Timm)

FIRE INSURANCE COMPANY PREMIUM TAX

AN ACT to amend and reenact section 26-01-11 of the North Dakota Century Code, relating to the premium tax on insurance companies.

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

SECTION 1. AMENDMENT.) Section 26-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-11. COMMISSIONER OF INSURANCE TO COLLECT PREMIUM TAX - INSURANCE COMPANIES GENERALLY - DOMESTIC FIRE INSURANCE COMPANIES - COMPUTATION.) Before issuing the annual certificate required by law, the commissioner of insurance shall collect the following annual taxes from insurance companies doing business within the state:

1. From every insurance company doing business in this state except stock and mutual companies organized under the laws of this state, a tax equal in amount to two and one-half percent of the gross amount of premiums, membership fees, and policy fees received in this state during the preceding year, such tax to be payable at the time when the annual statement of business required by law is filed; provided, however, that this tax shall not apply to considerations for annuities.
2. From every domestic fire insurance company, whether mutual, stock, or otherwise, ~~other than a county mutual insurance company,~~ a tax upon its fire insurance premiums or assessments, or both, equal to one-half of one percent of the gross premiums and assessments, less return premiums on all direct business received by it, or by its agent for it, in cash or otherwise in this state. Such tax shall be collected for the purpose of assisting in the maintenance of the fire marshal's department and shall be payable on or before April first in each year.

Approved March 13, 1979

CHAPTER 343

SENATE BILL NO. 2251
(Committee on Industry, Business and Labor)
(At the request of the Insurance Department)

NEWBORN COVERAGE UNDER FAMILY HEALTH POLICY

AN ACT to provide for mandatory health insurance coverage for newborn children under an insured's family policy.

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

SECTION 1. APPLICABILITY.) All individual and group health insurance policies providing coverage on an expense incurred basis and individual and group service or indemnity type contracts issued by a nonprofit corporation which provides coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

SECTION 2. SCOPE OF COVERAGE.) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

SECTION 3. NOTIFICATION OF BIRTH.) If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within thirty-one days after the date of birth in order to have the coverage continue beyond such thirty-one day period.

Approved March 8, 1979

CHAPTER 344

HOUSE BILL NO. 1268
(Committee on Industry, Business and Labor)
(At the request of the Social Service Board)

HEALTH INSURANCE CONTRACTS

AN ACT relating to prohibited provisions in any individual or group accident and sickness insurance policies and nonprofit medical or hospital service contracts, and the responsibility of individual or group insurers and nonprofit medical or hospital service corporations to release information to the social service board of North Dakota pertaining to the coverage of an individual under an individual or group accident and sickness insurance policy or nonprofit medical or hospital service contract; and to amend and reenact section 26-38-24 of the North Dakota Century Code, relating to examinations of health maintenance organizations.

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

SECTION 1. PROVISIONS PROHIBITED IN INDIVIDUAL AND GROUP ACCIDENT AND SICKNESS INSURANCE POLICIES AND NONPROFIT MEDICAL OR HOSPITAL SERVICE CONTRACTS.)

1. Any provision in any individual or group accident and sickness insurance policy or nonprofit medical or hospital service contract issued by any insurance company or nonprofit medical or hospital service corporation licensed to do business in the state of North Dakota denying or prohibiting the insured or subscriber from assigning to the social service board of North Dakota any rights to medical benefits coverage to which the insured or subscriber is entitled under such a policy or contract shall be void; and, any individual or group insurance company or nonprofit medical or hospital service corporation is hereby required to recognize such assignment of medical benefits coverage completed by the insured or subscriber, notwithstanding any provision contained in such policy or contract to the contrary.
2. Any individual or group provision in any accident and sickness insurance policy or nonprofit medical or hospital service corporation contract issued by any insurance

company or nonprofit medical or hospital service corporation licensed to do business in the state of North Dakota which limits or excludes payments of medical benefits coverage to or on behalf of the insured or subscriber if the insured or subscriber is eligible for medical assistance benefits under chapter 50-24.1, shall be void.

SECTION 2. INDIVIDUAL OR GROUP INSURER OR NONPROFIT MEDICAL OR HOSPITAL SERVICE CORPORATION RESPONSIBILITY - RELEASE OF INFORMATION TO SOCIAL SERVICE BOARD OF NORTH DAKOTA.)

1. Any individual or group accident and sickness insurer or nonprofit medical or hospital service corporation, upon request of the social service board of North Dakota, shall provide any information contained in its records pertaining to an individual who is an applicant for or recipient of medical assistance under chapter 50-24.1, and who is covered under an accident and sickness insurance policy or nonprofit medical or hospital service corporation contract issued by the insurer or nonprofit service corporation or the medical benefits paid by or claims paid to the insured or subscriber under a policy or contract. The insurer or nonprofit medical or hospital service corporation shall make the requested records or information available upon receipt of a certification by the social service board of North Dakota that the individual is an applicant for or recipient of medical assistance under chapter 50-24.1, or is a person who is legally responsible for such an applicant or recipient.
2. The information required to be made available pursuant to this section shall be limited to information necessary to determine whether benefits under the policy or contract have been or should have been claimed and paid pursuant to an accident and sickness insurance policy or nonprofit medical or hospital service corporation contract with respect to items of medical care and services received by a particular individual for which medical assistance coverage would otherwise be available.
3. The social service board of North Dakota shall, in consultation with the commissioner of insurance, establish guidelines:
 - a. For the method of requesting and furnishing appropriate information, the time in which such information is to be provided, and method of reimbursing insurance companies and nonprofit medical or hospital service corporations for necessary costs incurred in furnishing the requested information.
 - b. To assure that information relating to an individual certified to be an applicant for or recipient of

medical assistance under chapter 50-24.1, furnished to an insurer or subscriber pursuant to this section, is used only for the purpose of identifying the records or information requested in such manner so as not to violate section 50-06-15.

SECTION 3. AMENDMENT.) Section 26-38-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-38-24. EXAMINATIONS BY COMMISSIONER AND STATE DEPARTMENT OF HEALTH - EXPENSES ASSESSED AGAINST ORGANIZATION - EXAMINATION BY OTHER STATES.) The commissioner may make an examination of the affairs of any health maintenance organization ~~and providers with whom such organization has contracts, agreements, or other arrangements pursuant to its health care plan~~ as often as he deems it necessary for the protection of the interests of the people of this state but not less frequently than once every three years.

The state department of health may make an examination concerning the quality of health care services of any health maintenance organization ~~and providers with whom such organization has contracts, agreements, or other arrangements pursuant to its health care plan~~ as often as it deems it necessary for the protection of the interests of the people of this state but not less frequently than once every three years.

~~Every health maintenance organization and provider shall submit its books and records relating to the health care plan to such examinations and in every way facilitate them.~~ For the purpose of examinations, the commissioner and the state department of health may administer oaths to, and examine the officers and agents of the health maintenance organization and the principals of such providers ~~concerning their business with whom such organization has contracts, agreements, or other arrangements pursuant to its health care plan.~~ To the extent that such examinations may require the disclosure of personally identifying information relating to either financial transactions or medical information concerning a plan enrollee in the records of the health maintenance organization or the records of a provider with whom such organization has contracts, agreements, or other arrangements pursuant to its health care plan, such information is to be used for the sole purpose of assessing the quality of care provided and the degree of compliance with provisions of this chapter. Such information is to be held in confidence and shall not be disclosed except upon the express consent of the enrollee, or pursuant to a court order for the production of evidence or the discovery thereof, or in the event of a claim or litigation between the enrollee and the health maintenance organization wherein such information is pertinent.

The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the commissioner or the state department of health for whom the examination is being conducted.

In lieu of such examination, the commissioner or the state department of health may accept the report of an examination made by the commissioner or the state department of health of another state or jurisdiction.

Approved March 19, 1979

CHAPTER 345

SENATE BILL NO. 2194
(Lips)

COORDINATION OF HEALTH INSURANCE BENEFITS

AN ACT to create and enact a new section to chapter 26-03 of the North Dakota Century Code, relating to the coordination of benefits by insurance companies, hospital service corporations, or medical service corporations.

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

SECTION 1.) A new section to chapter 26-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

COORDINATION OF BENEFITS - LIMITATIONS.) No group or individual policy of accident and sickness insurance offered for sale in this state shall be issued or renewed by any insurer or hospital service corporation or medical service corporation transacting business in this state which by the terms of the policy excludes or reduces the benefits payable or services to be rendered to or on behalf of any insured because benefits have been paid or are also payable under any individually underwritten and individually issued contract or plan of insurance which provides exclusively for accident and sickness benefits, irrespective of the mode or channel of premium payment, with or without payroll deduction, to the insurer and regardless of any reduction in the premium by virtue of the insured's membership in any organization or of his status as an employee.

Nothing in this section shall affect the practice of coordination of benefits between group policies as provided in sections 26-03-48, 26-26-15, and 26-27-15.

Approved March 8, 1979

CHAPTER 346

SENATE BILL NO. 2115
(Lips)

COVERAGE TIMES OF INSURANCE POLICIES

AN ACT to amend and reenact section 26-03-49 of the North Dakota Century Code, relating to the inception and expiration dates for insurance policies; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 26-03-49 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-03-49. INCEPTION AND EXPIRATION OF POLICIES.) Policies of insurance shall cover the insured at 12:01 a.m. on the day on which coverage begins and shall expire at 12:01 a.m. ~~following~~ on the day of expiration of such policy.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 7, 1979

CHAPTER 347

HOUSE BILL NO. 1637
(Representatives Unhjem, Reed)
(Senators Reiten, Holmberg)

OPTIONS REQUIRED IN GROUP POLICIES

AN ACT to create and enact a new section to chapter 26-03.1 and chapter 26-27 of the North Dakota Century Code, relating to options required to be offered to persons who are insured for medical care coverage by insurance companies and nonprofit medical service corporations; and to amend and reenact section 26-03.1-08 of the North Dakota Century Code, relating to the applicability of the provisions of chapter 26-03 to blanket and group insurance policies.

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

SECTION 1.) A new section to chapter 26-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CERTAIN OPTIONS REQUIRED IN GROUP POLICIES.) No insurance company authorized to do business in this state shall deliver, issue, execute, or renew any policy of health insurance which includes coverage of medical benefits on a group, blanket, franchise, or association basis unless the insurer makes available, at the option of the insured, the following coverages for which an additional premium may be charged:

1. All drugs and medicines prescribed by the provider of health services.
2. Services rendered and care administered by chiropractors licensed under chapter 43-06.

SECTION 2. AMENDMENT.) Section 26-03.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-03.1-08. NONAPPLICATION TO CERTAIN POLICIES.) Nothing in this chapter shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or

contract of reinsurance; or (3) any blanket or group policy of insurance, except that the provisions of section 1 of this Act shall apply to such policies; or (4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

SECTION 3.) A new section to chapter 26-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

CERTAIN OPTIONS REQUIRED IN GROUP POLICIES.) No nonprofit medical service corporation authorized to do business in this state shall deliver, issue, execute, or renew any medical service contract on a group, blanket, franchise, or association basis unless the medical service corporation makes available, at the option of the subscriber, the following coverages for which an additional premium may be charged:

1. All drugs and medicines prescribed by the provider of health services.
2. Services rendered and care administered by chiropractors licensed under chapter 43-06.

Approved March 19, 1979

CHAPTER 348

HOUSE BILL NO. 1408
(Wald)

INSURANCE AGENCY CONTRACT TERMINATION

AN ACT to create and enact a new section to chapter 26-07 of the North Dakota Century Code, relating to requirements for termination of fire or casualty insurance agency contracts.

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

SECTION 1.) A new section to chapter 26-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

TERMINATION OF FIRE AND CASUALTY INSURANCE AGENCY CONTRACTS.) Any insurance company authorized to transact fire or casualty business in this state shall, upon termination of an agent's appointment by the company, permit the renewal and endorsement of all contracts of insurance written by the agent for a period of one year from the date of the termination, as determined by the individual underwriting requirements of the company. If any contract does not meet the underwriting requirements, the company shall give the agent sixty days' notice of its intention not to renew the contract. This section does not apply if the contract is terminated because of the agent's failure, after receiving a written demand, to pay over moneys due the insurer.

Approved March 8, 1979

CHAPTER 349

HOUSE BILL NO. 1166
(Kloubec)

DOMESTIC INSURANCE COMPANY INVESTMENTS

AN ACT to amend and reenact subsection 3 of section 26-08-11 of the North Dakota Century Code, relating to authorized investments of domestic insurance companies with respect to notes secured by mortgages on improved unencumbered real estate.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 26-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notes secured by mortgages on improved unencumbered real estate, including leaseholds substantially having and furnishing the rights and protection of a first real estate mortgage, within this state or within any state in which such company is, or becomes, authorized and licensed to transact business, or within any state contiguous to the state of North Dakota. No loan shall may be made under this subsection, ~~unless the property mortgaged is worth double the amount of the loan secured by the mortgage, except that where a loan is amortized on the basis of a final maturity twenty-five years or less from the date of the loan, it may be made in an amount not exceeding seventy-five percent of the value of the property mortgaged.~~ However, a loan on a single-family dwelling where the loan is amortized on the basis of a final maturity twenty-five years or less from the date of the loan may be made in an amount not exceeding eighty percent of the value of the property mortgaged. The loan on a single-family dwelling may be made in an amount exceeding eighty percent so long as any amount over eighty percent of the value of the property mortgaged is insured by private mortgage insurance through an insurance company authorized to do business in this state. Buildings shall not be included in the valuation of such property unless they are insured and the policies are made payable to the company as its interest may appear. In no event shall a

loan be made in excess of the amount of insurance carried on the buildings plus the value of the land. No insurance company shall hold less than the entire loan represented by such bonds or notes described in this subsection except that a company may own part of an aggregate obligation if all other participants in the investment are insurance companies authorized to do business in North Dakota or banks whose depositors are insured by the federal deposit insurance corporation or savings and loan associations whose members are insured by the federal savings and loan insurance corporation or unless the security of said bonds or notes, as well as all collateral papers, including insurance policies, executed in connection therewith, are made to and held by a trustee, which trustee shall be a solvent bank or trust company having a paid-in capital of not less than two hundred and fifty thousand dollars, except in case of banks or trust companies incorporated under the laws of the state of North Dakota, wherein a paid-in capital of not less than one hundred thousand dollars shall be required, and that in case of proper notification of default such trustee, upon request of at least twenty-five percent of the holders of the bonds outstanding, and proper indemnification, shall proceed to protect the rights of such bondholders under the provisions of the trust indentures.

Approved March 8, 1979

CHAPTER 350

HOUSE BILL NO. 1171
(Kingsbury, Olson)

LIABILITY INSURANCE CONTRACTS

AN ACT to amend and reenact sections 26-15-01.1 and 26-15-02.1 of the North Dakota Century Code, relating to liability insurance contracts made by county mutual insurance companies.

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

SECTION 1. AMENDMENT.) Section 26-15-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-15-01.1. LIABILITY INSURANCE CONTRACTS - LIMITATIONS.) Any company organized under the provisions of this chapter may make contracts of insurance against loss, expense, or liability by reason of bodily injury or death by accident, disability, sickness, or disease suffered by others for which the insured may be liable or may have assumed liability, except no liability insurance contracts against any or all loss or expense resulting from the ownership, maintenance, or use of any motor vehicle normally operated, intended to be operated, or designed for use, upon any highway, road, or street in this state, shall be made. ~~No contracts authorized under this section shall be accepted unless such contracts are totally reinsured with a company or companies authorized and licensed to write such insurance in the state of North Dakota.~~

SECTION 2. AMENDMENT.) Section 26-15-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-15-02.1. MAXIMUM AMOUNT OF INSURANCE ON SINGLE RISK.) The maximum amount of insurance which a county mutual insurance company shall retain on a single risk other than under a liability insurance contract, after deduction of applicable reinsurance, shall not exceed ten percent of the admitted assets of the county mutual insurance company or thirty thousand dollars, whichever is the larger amount. The maximum amount of insurance which a county mutual insurance company shall retain on a single risk under a liability insurance contract shall not exceed one percent of the surplus maintained by the company.

Approved March 7, 1979

CHAPTER 351

HOUSE BILL NO. 1284
(Committee on Industry, Business and Labor)
(At the request of the Insurance Department)

INSURANCE BROKER BONDS

AN ACT to amend and reenact section 26-17.1-17 of the North Dakota Century Code, relating to the bonding of insurance brokers and surplus lines insurance brokers.

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

SECTION 1. AMENDMENT.) Section 26-17.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-17.1-17. LICENSE REQUIREMENT - INSURANCE BROKER AND SURPLUS LINES INSURANCE BROKER - BOND - MAY BE WAIVED FOR NONRESIDENT INSURANCE BROKER.) Prior to issuance of a license as an insurance broker ~~or surplus lines insurance broker~~, the applicant shall file with the commissioner, and thereafter, for as long as the license remains in effect, shall keep in force a bond in the penal sum of not less than ~~twenty~~ two thousand dollars with authorized corporate surety approved by the commissioner. Prior to issuance of a license as a surplus lines insurance broker, the applicant shall file with the commissioner, and thereafter, for as long as the license remains in effect, shall keep in force a bond in the penal sum of not less than an amount equal to the taxes paid to the commissioner the previous year as required by section 26-09.2-07, with a minimum bond of five hundred dollars and a maximum bond of twenty thousand dollars required. The bond for surplus lines insurance brokers not previously licensed or whose license has lapsed, shall be set at the discretion of the commissioner, but shall not be less than five hundred dollars nor greater than twenty thousand dollars. The aggregate liability of the surety for any and all claims on any such bond shall in no event exceed the penal sum thereof. No such bond shall be terminated unless at least thirty days' prior written notice thereof is given by the surety to the licensee and the commissioner. Upon termination of the license for which the bond was in effect, the commissioner shall notify the surety within ten working days. Any licensee who is the holder of both an insurance broker's license and a surplus lines insurance broker's license shall may satisfy the above bonding requirements as

to each license by a single bond in the penal sum of not less than twenty thousand dollars.

Notwithstanding other provisions of this chapter, no new bond shall be required for a nonresident insurance broker if the commissioner is satisfied that the existing bond covers his insurance business in this state.

Approved March 8, 1979

CHAPTER 352

HOUSE BILL NO. 1671
(Rued, Crabtree)

STATISTICAL DATA FROM FIRE INSURERS

AN ACT to require certain insurers doing business in North Dakota to file certain information with the commissioner of insurance; and to amend and reenact section 26-01-06 of the North Dakota Century Code, relating to the power of the commissioner of insurance to issue certificates of authority to insurers.

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

SECTION 1. FIRE INSURERS TO REPORT STATISTICAL DATA - EFFECT OF FAILURE TO REPORT - EXCEPTIONS TO REPORTING REQUIREMENTS.) Each insurance company issuing fire insurance policies covering property in this state shall annually report information setting forth the amount of earned premiums in this state for policies covering insured property located in this state and the amount of claims incurred. This information shall be reported on a form prescribed by the commissioner of insurance. The insurance company shall file the form with the commissioner or shall certify to the commissioner that the information has been reported directly to a rating organization that predicates the majority of the fire insurance rates for North Dakota. The form or certification shall accompany the annual statement required under section 26-07-05. The commissioner shall forward information filed under this section to the rating organization that predicates a majority of the fire insurance rates for North Dakota. The commissioner shall revoke the certificate of authority of an insurance company failing to file the information required by this section. The information required to be reported by this section does not include personal lines or farm property insurance. Each rating organization filing rates pursuant to chapter 26-29 shall utilize the information contained in the documents filed with it pursuant to subsection 1 in making rates.

SECTION 2. AMENDMENT.) Section 26-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-06. DUTY OF COMMISSIONER OF INSURANCE BEFORE GRANTING CERTIFICATE OF AUTHORITY OR RENEWAL THEREOF.) Before granting a certificate of authority to an insurance company to issue policies

or make contracts of insurance, the commissioner of insurance shall be satisfied by such examination and evidence as he sees fit to make and require that such company is legally qualified to transact business in this state ~~under the laws thereof~~, including compliance with section 1 of this Act. Each certificate of authority issued under any provision of this title shall expire on the thirtieth day of April succeeding the date of its issue, and before furnishing a renewal of any such certificate, the commissioner shall be satisfied that the documents required by section 1 of this Act have been filed and the statements and evidences of investment required of the company applying for such renewal have been furnished, and that the required capital, securities, and investments remain secure.

Approved March 21, 1979

CHAPTER 353

HOUSE BILL NO. 1431
(Wald)

FIRE AND TORNADO FUND REPORTS

AN ACT to amend and reenact section 26-24-13 of the North Dakota Century Code, relating to additional premium assessments for the state fire and tornado fund and the reporting of premiums and losses pertaining to the state fire and tornado fund.

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

SECTION 1. AMENDMENT.) Section 26-24-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-13. ASSESSMENTS AND REPORTING.) If the reserve balance ~~shall have been depleted below the sum of~~ is less than twelve million dollars, the commissioner shall determine the amount of money ~~which may be~~ necessary to bring the ~~said~~ reserve balance up to ~~the sum of~~ twelve million dollars and ~~he thereupon~~ the commissioner shall then levy an assessment against each and every policy in force with the fund on all public property. ~~Said~~ The assessment shall be computed as follows:

The eighty percent or ninety percent coinsurance rate established by the ~~fire underwriters inspection bureau insurance services office~~ for each insured property to which ~~said~~ the eighty percent or ninety percent coinsurance rate may be applicable, and the full rate established for properties to which the ~~said eighty percent or ninety percent~~ coinsurance rate is not applicable under the rules of the said fire underwriters inspection bureau insurance services office, shall be applied to the amount of insurance provided in each policy and the result of the application of ~~said~~ the rate to the amount of insurance shall set the tentative assessment to be made against ~~such~~ the policy. The total of all such tentative assessments shall then be ascertained. The percentage of such assessment necessary to restore the reserve balance to the sum of twelve million dollars shall then be computed and collected on each policy, provided that until the reserve balance shall reach twelve million dollars, the assessment shall be in such amount as may be determined by the commissioner but in no event in excess of sixty percent of the rates set by the ~~fire~~

~~underwriters--inspection-bureau~~ insurance services office unless the reserve balance shall be depleted below three million dollars. In case of a fractional percentage the next higher whole percent shall be used in such computation.

The commissioner of insurance shall submit not later than December thirty-first of each odd-numbered year, all data concerning premiums written and losses incurred during the previous biennium ending July thirty-first to the insurance services office so that the experience of the state fire and tornado fund may be included in the computation of rates to apply to the classes of business written by the fund.

Approved March 13, 1979

CHAPTER 354

HOUSE BILL NO. 1481
(Wald, Dietz, Gerl)

FIRE AND TORNADO FUND REINSURANCE

AN ACT to amend and reenact section 26-24-22 of the North Dakota Century Code, relating to the minimum specifications for reinsurance with the state fire and tornado fund.

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

SECTION 1. AMENDMENT.) Section 26-24-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-22. INSURANCE REQUIRED.) The commissioner of insurance shall procure and he shall keep in force, an excess of loss reinsurance contract naming the state fire and tornado fund as the reinsured. ~~Such~~ The reinsurance contract shall meet the following minimum specifications:

- ←1) 1. Reimburse the state fire and tornado fund for all losses in excess of ~~five-hundred--thousand~~ one million dollars incurred by the state fire and tornado fund under policies issued by the fund and arising out of each occurrence of a peril included in the state fire and tornado fund policies;
- ←2) 2. The limit of liability of such reinsurance contract shall be no less than ~~twenty-five~~ sixty million dollars for each loss occurrence and ~~twenty-five~~ sixty million dollars as respects all loss ~~occurrence~~ occurrences during each twelve-month period;
- ←3) 3. A sixty-day cancellation notice. The cost of such excess of loss reinsurance shall be paid out of the premium income of the state fire and tornado fund. This excess of loss reinsurance shall be procured by the commissioner and the state fire and tornado fund only through bids as hereinafter provided and shall be written only ~~in~~ by a company or companies authorized to do business within the state of North Dakota. The contract shall be negotiated with and countersigned by a licensed North Dakota resident

insurance agent. On or before the third Monday in June of each odd-numbered year the commissioner of insurance shall publish in the official newspaper of Burleigh County, North--Dakota, a notice that on the last Monday in June of ~~such~~ that year the insurance commissioner will accept bids at his office in the state capitol ~~in--the--city--of~~ Bismarck,--North-Dakota. A copy of ~~such~~ the notice shall also be posted at the office of the state fire and tornado fund. A copy of ~~such~~ the notice shall also be mailed to each insurance company licensed to write fire insurance in the state of North Dakota. On the ~~said~~ last Monday in June of each odd-numbered year, the commissioner of insurance, with the approval of the industrial commission, shall contract for such excess of loss reinsurance with the company or group of companies submitting the lowest and best bid ~~therefor~~ for the two-year period commencing on the ensuing first day of August. The commissioner of insurance, with the approval of the industrial commission, may disregard the provisions of this section after he and they have studied the available bids for the reinsurance required by this section.

Approved March 18, 1979

CHAPTER 355

HOUSE BILL NO. 1233
(Meiers)

BENEVOLENT SOCIETY MEMBERSHIP CONTRACTS

AN ACT to amend and reenact section 26-25-15 of the North Dakota Century Code, relating to the maximum benefits and assessments under a benevolent society membership contract.

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

SECTION 1. AMENDMENT.) Section 26-25-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-25-15. CERTIFICATE OF MEMBERSHIP AND APPLICATION THEREFOR - CONTENTS - APPROVAL - MAXIMUM BENEFITS - EXPENSE DEDUCTIONS.) The certificate of membership issued by a benevolent society shall state fully the conditions on which the benefit shall be paid, and it, together with the application therefor, shall constitute the entire contract between the society and the member. Every such certificate and application shall have printed or stamped thereon in red ink and in ten-point boldfaced type "This is not an insurance policy. The society maintains no reserve. All benefits are dependent upon voluntary assessments from members"-."" and shall be approved as to form by the commissioner of insurance prior to the issuance or use thereof. The benefits under any such certificate shall be confined to a death benefit to the beneficiary of the deceased member in an amount not to exceed ~~one~~ two thousand dollars, and the certificate shall provide for an assessment on the membership in an amount not exceeding ~~two~~ four dollars to be paid by the members after notice and proof of death. The proceeds of the assessment, less an amount not exceeding ten percent thereof as an allowance for expenses, shall be paid to the beneficiary of the deceased member. In no event shall a death benefit exceed the maximum amount stated in the certificate.

Approved March 3, 1979

CHAPTER 356

HOUSE BILL NO. 1503
(I. Jacobson)

NO-FAULT INSURERS ASSIGNED CLAIMS PLAN

AN ACT to create and enact two new subsections to section 26-41-19 of the North Dakota Century Code, relating to economic loss compensation eligibility of injured persons under the assigned claims plan as a result of motor vehicle accidents.

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

SECTION 1.) Two new subsections to section 26-41-19 of the North Dakota Century Code are hereby created and enacted to read as follows:

Any person who sustains accidental bodily injury while an occupant in or as a result of being struck by any motor vehicle shall not be eligible for benefits under the assigned claims plan if such person owned a motor vehicle on the date of loss and had failed to provide continuous security for the motor vehicle as required by section 26-41-04.

Any person who requests suspension of coverage in accordance with section 26-41-04.1 shall not be ineligible for assigned claims plan benefits while the suspension is in effect if bodily injury is sustained while an occupant in or as a result of being struck by a motor vehicle not owned by that person.

Approved March 13, 1979

CHAPTER 357

JUDICIAL BRANCH
OF GOVERNMENTHOUSE BILL NO. 1605
(Richie)SERVICE OF PROCESS BY
UNITED STATES MARSHALS

AN ACT to authorize service of process by mail by federal marshals;
and declaring an emergency.

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

SECTION 1.) In addition to the methods provided in rule 4 of the North Dakota Rules of Civil Procedure, service of process may be made by registered or certified mail, but only by United States marshals engaged in the service of process of United States courts. Service by mail is made pursuant to this section by registered or certified mail, return receipt requested. Proof of service by mail must be made by filing an affidavit of mailing completed by the United States marshal, stating that a copy of the process, pleading, order of court, or other paper was deposited by the affiant, with postage prepaid, in the United States mail and directed to the party shown in the affidavit to be served at his last known post-office address, showing the date and place of depositing. A return receipt signed by the person to be served, and no other person, must be attached to the affidavit.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 3, 1979

CHAPTER 358

HOUSE BILL NO. 1441
(Representatives Kretschmar, Mushik, Richie)
(Senators Holmberg, Melland, Redlin)

JUDICIAL SALARIES

AN ACT to amend and reenact sections 27-02-02 and 27-05-03 of the North Dakota Century Code, relating to salaries of the judges of the supreme and district courts.

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

SECTION 1. AMENDMENT.) Section 27-02-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-02-02. SALARIES OF JUDGES OF SUPREME COURT.) Each judge of the supreme court shall receive an annual salary commencing July 1, 1979 of ~~thirty-six--thousand--eight~~ thirty-nine thousand two hundred dollars and commencing on July 1, 1980 an annual salary of forty-one thousand seven hundred dollars except that the chief justice of the supreme court shall receive an additional one thousand five hundred dollars per annum.

SECTION 2. AMENDMENT.) Section 27-05-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-05-03. SALARIES AND EXPENSES OF DISTRICT JUDGES.) Each district judge of this state shall receive an annual salary commencing July 1, 1979 of ~~thirty-four-thousand-five-hundred~~ thirty-six thousand seven hundred fifty dollars and commencing on July 1, 1980 of thirty-nine thousand one hundred dollars and his actual travel expenses, which shall include mileage and subsistence while engaged in the discharge of his official duties outside the county in which his chambers are located. Such salary and expenses shall be payable monthly in the manner provided by law.

Each district judge who has been appointed by the supreme court to act as presiding judge of a judicial district shall receive an additional one thousand two hundred dollars per annum.

Approved March 8, 1979

CHAPTER 359

HOUSE BILL NO. 1665
(Conmy, Stenehjem)

DISTRICT COURT REPORTERS

AN ACT to amend and reenact sections 27-06-01, 27-06-03, 27-06-04, 27-06-05, 27-06-06, 27-06-07, and 27-06-08 of the North Dakota Century Code, relating to district court reporters.

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

SECTION 1. AMENDMENT.) Section 27-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-01. DISTRICT COURT REPORTER - APPOINTMENT, OATH, TERM, SUBSTITUTES, QUALIFICATIONS.) Each ~~judge--of--the~~ district ~~judge~~ ~~court--in--each--judicial--district,--whenever--in--his--judgment--it--will~~ expedite the public business, may shall appoint a ~~competent--person~~ qualified shorthand reporter to the office of court reporter ~~within~~ ~~his--district.~~ The order of appointment shall be filed in the office of the clerk and entered upon the records of the court in each county of the district. The person so appointed shall take and subscribe the oath required of other civil officers and shall file the same in the office of the secretary of state. He ~~The~~ reporter shall hold ~~his~~ office and discharge the duties thereof in person until the order ~~for--his~~ of appointment is revoked, or until another person is appointed to ~~such~~ the office. If ~~such~~ the reporter shall be incapacitated from acting, ~~such~~ the judge may appoint some ~~suitable--person~~ other qualified shorthand reporter to act ~~in--his~~ place, whose minutes notes, transcripts, and certificates shall have the same force and effect as though made by ~~such~~ the official reporter, but the certificates made by ~~such~~ the person shall be under oath. A qualified shorthand reporter shall be a person who is the holder of a registered professional reporter certificate issued by the national shorthand reporters association or an official shorthand reporter appointed on or before the effective date hereof.

SECTION 2. AMENDMENT.) Section 27-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-03. DUTIES OF DISTRICT COURT REPORTERS.) Each district court reporter shall attend the district court sessions ~~within--of~~

~~without--the--district~~ whenever the appointing judge ~~appointing-him~~ shall so direct and shall take in shorthand all testimony given orally by the witnesses, all objections and rulings made and exceptions taken, any instructions given orally by the court, and all other proceedings at the hearing or trial not otherwise reduced to writing or as directed by the judge. District court reporters shall perform such other duties relating to the court as the appointing district-court judge may designate directs.

SECTION 3. AMENDMENT.) Section 27-06-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-04. FILING OF SHORTHAND MINUTES NOTES TAKEN BY DISTRICT COURT REPORTERS.) The original shorthand minutes notes taken by a district court reporter, together with an endorsement thereon in longhand over the signature of the reporter giving the title of the action and stating the contents, ~~time date~~, and place of taking, shall be filed in every case at the conclusion of the trial, or as soon thereafter as practicable, in the office of the clerk of the district court of the county in which the action is pending. ~~Such minutes,--for~~ For a reasonable period of time, the reporter's shorthand notes may be withdrawn by ~~such-reporter~~ from the clerk's office of such-clerk by the reporter for the purpose of ~~transcribing them~~ transcription.

SECTION 4. AMENDMENT.) Section 27-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-05. TRANSCRIPT PREPARED BY COURT REPORTER.) The court reporter of any district court in which a criminal or civil action or proceeding has been tried shall prepare a transcript of the original shorthand minutes notes of ~~such the~~ action or proceeding, or of any part thereof, whenever he is requested to do so by any party thereto and upon payment of ~~his the~~ fees as provided by law. ~~Such~~ The transcript shall be typewritten ~~or-prepared-in-longhand~~ and shall be delivered to the party requesting it. ~~A-transcript-of--the original--shorthand-minutes-of-a-criminal-action-or-proceeding-tried in-such-court-or-of-any-part-thereof-similarly-shall-be-prepared--by such--reporter--whenever--the--judge--of--such--court--shall-order-a transcript-to-be-made-at-the-expense-of-the-county-~~

SECTION 5. AMENDMENT.) Section 27-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-06. TRANSCRIPT IN CRIMINAL ACTION PREPARED AT EXPENSE OF COUNTY - FILING AND USE OF TRANSCRIPT.) A judge of a district court in which a criminal action or proceeding has been tried, on his own motion or on the application of the defendant or the state's attorney of the county, may order a transcript of the original shorthand minutes notes of ~~such the~~ action or proceeding, or of any part thereof, to be made by the reporter at the expense of the county expense whenever ~~in-his-judgment~~ there is reasonable cause therefor. Such transcript, when prepared, shall consist of one copy to be filed in the office of the clerk of such court, and--shall--be

~~available--alike--to--either--party--to--such--action--or--proceeding~~ one copy for each party separately represented, and, if parole or probation be granted, one copy to the state parole and probation department. For the preparation of such transcript, the court reporter shall receive compensation in accordance with the provisions of section 27-06-08.

SECTION 6. AMENDMENT.) Section 27-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-07. CERTIFICATION OF TRANSCRIPT.) Each transcript prepared by a district court reporter shall be certified by the reporter ~~to--the--effect--that--it--is--a--correct--transcript--of--his--original--shorthand--minutes--and--a--full--true--and--complete--statement--of--the--testimony--and--other--proceedings--which--it--purports--to--contain--~~ in the following form:

CERTIFICATE OF COURT REPORTER

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF -----)

I, -----, a duly appointed official court reporter,

DO HEREBY CERTIFY that I recorded in shorthand the foregoing proceedings had and made of record at the time and place indicated.

I DO HEREBY FURTHER CERTIFY that the foregoing and attached ----- typewritten pages contain an accurate transcript of my shorthand notes then and there taken.

Dated at -----, North Dakota, this ----- day of -----, 19---

Official Court Reporter

If the person preparing such the transcript has ceased to hold his office as court reporter ~~of--the--court,~~ he--must--make--such the certificate must be made under oath.

SECTION 7. AMENDMENT.) Section 27-06-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-06-08. FEES FOR TRANSCRIPTS.) For the preparation of a transcript, a court reporter shall be entitled to receive compensation at the rate of one dollar ten cents per page for the original, thirty-five cents per page for the first copy, and fifteen cents per page for each additional copy. A page shall consist of not less than twenty-five lines written on paper at least eight and one-half inches by eleven inches in size, prepared for binding on

the left side, with margins of not more than one and three-fourths inch on the left nor three-eighths inch on the right. Type shall be standard pica with ten letters to the inch. Questions and answers shall each begin a new line. Indentations for speakers or paragraphs shall not be more than ten spaces from the left margin. Pages shall be numbered consecutively. Transcripts shall be indexed as to witnesses and exhibits. ~~Such~~ The reporter's compensation shall be paid by the party requesting the transcript or by the county chargeable with the costs of the action, when the transcript is ordered prepared, by the judge, at such county's expense.

Approved March 7, 1979

CHAPTER 360

HOUSE BILL NO. 1460
(Conmy, Dotzenrod, Kelly)

DISTRICT COURT REPORTER AND JUVENILE SUPERVISOR COMPENSATION

AN ACT to amend and reenact section 27-06-02 and subsection 2 of section 27-20-05 of the North Dakota Century Code, relating to salary and expenses of court reporters and juvenile supervisors.

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

SECTION 1. AMENDMENT.) Section 27-06-02 of the 1977 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 an annual salary commencing July 1, 1979, not to exceed ~~nineteen~~ twenty thousand ~~five eight~~ hundred dollars ~~per-annum~~ and commencing on July 1, 1980, an annual salary not to exceed twenty-two thousand one hundred dollars, 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.

SECTION 2. AMENDMENT.) Subsection 2 of section 27-20-05 of the 1977 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 a an annual salary as may be fixed from time to time by the judge who appointed him, or by his successor. Such salary shall not exceed ~~twenty-one~~ twenty-two thousand four hundred dollars per annum and commencing on July 1, 1980, an annual salary not to exceed twenty-three thousand eight hundred dollars. In addition, the juvenile supervisor shall be paid reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to county officials.

Approved March 7, 1979

CHAPTER 361

HOUSE BILL NO. 1412
(Freborg)ESTATE AND GUARDIANSHIP PETITION
FILING FEES

AN ACT to amend and reenact section 27-07-40 of the North Dakota Century Code, relating to the fees for filing estate and guardianship petitions.

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

SECTION 1. AMENDMENT.) Section 27-07-40 of 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 the 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 amount of ~~fifteen~~ twenty dollars, except that the filing fee for applications in joint tenancy to determine estate tax shall be in the sum amount of ten dollars ~~and--such.~~ The filing fee for applications in joint tenancy to determine estate tax shall not be subject to the provisions of section 27-07-41.

Approved March 18, 1979

CHAPTER 362

HOUSE BILL NO. 1399
(Conmy)SALARIES OF JUDGES OF COUNTY COURTS 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 1977 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 AND PAYMENT.) A county judge of a county court of this state having increased jurisdiction shall receive the following salary: twenty-one thousand dollars in counties having a population not exceeding ten thousand inhabitants; twenty-one thousand five hundred dollars in counties having a population exceeding ten thousand inhabitants but not exceeding eighteen thousand inhabitants; twenty-two thousand eight hundred dollars in counties having a population exceeding eighteen thousand inhabitants but not exceeding forty thousand inhabitants; and twenty-seven thousand six hundred dollars in counties having a population exceeding forty 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. On July 1, 1979, the salary of each judge of a county court of increased jurisdiction, or interim associate district judge in the event House Bill 1066 of the forty-sixth legislative assembly becomes law, shall be increased six and one-half percent over the total base salary and discretionary increase actually being paid such judge as of June 30, 1979. On July 1, 1980, the salary of each judge of a county court of increased jurisdiction, or interim associate district judge in the event House Bill 1066 of the forty-sixth legislative assembly becomes law, shall be increased six and one-half percent over the total base salary and discretionary increase actually being paid such judge as of June 30, 1980.

Approved April 3, 1979

CHAPTER 363

HOUSE BILL NO. 1462
(Berg)

SMALL CLAIMS COURT HEARINGS AND JUDGMENTS

AN ACT to amend and reenact sections 27-08.1-03 and 27-08.1-06 of the North Dakota Century Code, relating to informal hearings before the small claims court and the examination of judgment debtors, and execution of judgments.

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

SECTION 1. AMENDMENT.) Section 27-08.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-03. INFORMAL HEARING - ANSWER AND COUNTERCLAIM - FILING AND SERVICE FEES - EXAMINATION OF DEBTOR.) No formal pleadings other than the claim affidavit and order for appearance shall be required, and the hearing and disposition of 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 five hundred dollars where the action was commenced in the office of the county justice, and one thousand dollars where the action was commenced in an office of the county court with increased jurisdiction, 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 five hundred dollars in county justice court, and one thousand dollars in county court with increased jurisdiction. 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. After the court has found that money is owing by any party to the proceeding, the court may, in the presence of the prevailing party, inquire of the debtor as to plans for payment of the debt. The court may examine the debtor concerning the property owned by the debtor, at the hearing, as would be made under the provisions of chapter 28-25. The examination may be made without first having issued an execution

against the property of the debtor and without further notice as otherwise provided in chapter 28-25. A trial by jury shall not be allowed in small claims court. A fee of two dollars shall be charged for filing the claim affidavit, or counterclaim affidavit, plus one dollar for each defendant served.

SECTION 2. AMENDMENT.) Section 27-08.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-08.1-06. JUDGMENT UNSATISFIED - DOCKETING - EXECUTION.) If 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, may issue an execution to the county sheriff as if issued by the clerk of the district court under the provisions of chapter 28-21, and the execution shall invoke all the powers of the sheriff in the same manner as an execution of the judgment under chapter 28-21, or 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 without payment of a filing fee, and the clerk, thereupon, must enter the judgment in the judgment book and upon the judgment docket. From the time of such the docketing, it becomes a judgment of such the 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 the judgment is filed.

Approved March 15, 1979

CHAPTER 364

SENATE BILL NO. 2159
(Committee on Judiciary)
(At the request of the Social Service Board)

CUSTODY OF MINORS

AN ACT to amend and reenact subsection 1 of section 27-20-13, subsection 2 of section 27-20-37, and section 50-25.1-08 of the North Dakota Century Code, relating to informal adjustment of minors, to taking minors into custody, to the modification or vacation of orders of the juvenile court, and to the appointment of guardians ad litem.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 27-20-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A child may be taken into custody:
 - a. Pursuant to an order of the court under this chapter;
 - b. Pursuant to the laws of arrest;
 - c. By a law enforcement officer or a juvenile supervisor, or by order of the juvenile supervisor made pursuant to subsection 1 (h) of section 27-20-06, if there are reasonable grounds to believe (1) that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal is necessary, or (2) that the child has run away from his parents, guardian, or other custodian.

An order of the juvenile supervisor made pursuant to this subsection shall be reduced to writing within twenty-four hours of its issuance.

SECTION 2. AMENDMENT.) Subsection 2 of section 27-20-37 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Except an order committing a delinquent or unruly child to the state industrial school, an order terminating parental rights, or an order of dismissal, an order of the court may also be changed, modified, or vacated on the ground that changed circumstances so require in the best interest of the child. An order terminating parental rights and the parent and child relationship 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 vacation of the decree. An order granting probation to a child found to be delinquent or unruly may be revoked on the ground that the conditions of probation have not been observed.

SECTION 3. AMENDMENT.) Section 50-25.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-08. GUARDIAN AD LITEM.) The court, in every case involving an abused or neglected child which results in a judicial proceeding ~~or proceedings for informal adjustment under 27-20-10,~~ shall appoint a guardian ad litem for the child in those proceedings.

Approved April 7, 1979

CHAPTER 365

SENATE BILL NO. 2394
(Farrington, Sands)

ACCESS TO JUVENILE COURT RECORDS

AN ACT to create and enact a new subsection to section 27-20-51 of the North Dakota Century Code, relating to the confidentiality of juvenile court records and files and the inspection of those files by certain school officials.

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

SECTION 1.) A new subsection to section 27-20-51 of the North Dakota Century Code is hereby created and enacted to read as follows:

Upon leave of the court, the principal of any public or private school which is a member of the North Dakota high school activities association, or the superintendent of any school district which has one or more schools involved in the association, but only to the extent necessary to enforce the rules and regulations of the North Dakota high school activities association.

Approved March 15, 1979

CHAPTER 366

HOUSE BILL NO. 1055
 (Legislative Council)
 (Interim Committee on Criminal Justice System)

DISPOSITION OF JUVENILE COURT RECORDS

AN ACT to amend and reenact section 27-20-54 of the North Dakota Century Code, relating to the sealing and disposal of juvenile records; and to repeal section 27-20-54.1 of the North Dakota Century Code, relating to the destruction of juvenile records.

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

SECTION 1. AMENDMENT.) Section 27-20-54 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

27-20-54. SEALING AND DISPOSAL OF JUVENILE RECORDS AND FILES - WITH AND WITHOUT HEARINGS - FINDINGS NECESSARY - NOTICE - REOPENING RECORDS.)

1. The court shall, upon its own motion, shall order the sealing of the its files and records of ~~all children that~~ every child who were subjects was the subject of proceedings a proceeding as a delinquent child or an unruly child under sections 27-20-30 27-20-10, 27-20-31, and or 27-20-32, or under juvenile court proceedings commenced before July 1, 1969, including records kept pursuant to sections 27-20-52, 27-20-53, and 12-46-15, when if the court finds any of the following:

a. That ~~the child is twenty-one years of age.~~

~~b. That~~ two years have passed elapsed since the expiration of any informal adjustment or final order of disposition or and the final discharge of the child; or

~~e. b.~~ That the petition against the child has been dismissed for lack of jurisdiction or failure of proof.

~~2. On application of a person who has been adjudicated deprived, delinquent, or unruly, and after a hearing, the~~

court--may--order--the--sealing--of--files--and--records--in--the--proceedings,--including--those--specified--in--sections 27-20-52--and--27-20-53,--if--the--court--finds--any--of--the following:

a.---Since--the--final--discharge--the--applicant--has--not--been convicted--of--a--felony,--or--of--a--misdemeanor--involving moral--turpitude,--or--adjudicated--a--delinquent--or--unruly child,--and--no--proceeding--is--pending--seeking--conviction or--adjudication.

b.---The--applicant--has--been--rehabilitated--or--there--is--a convincing--likelihood--of--no--future--offenses.

c.---Supervision--of--a--deprived--child--is--no--longer--necessary or--that--the--child--has--been--adopted.

d.---The--findings--or--order--of--disposition--have--been reversed--on--appeal.

e.---The--existence--of--the--record--is--not--in--the--best interest--of--the--child.

3.---On--application--of--a--child--or--his--parent--or--guardian,--and after--a--hearing,--the--court--may--order--the--sealing--of--files and--records--kept--by--law--enforcement--agencies--or--by--any representative--of--the--state--or--a--state--agency,--if--the court--finds--any--of--the--following:

a.---The--child--was--not--referred--to--the--juvenile--court.

b.---The--child--was--subject--to--informal--law--enforcement disposition.

c.---The--child--was--released--to--his--parents.

d.---There--is--a--convincing--likelihood--of--no--future--offenses and--the--existence--of--the--records--is--not--in--the--best interest--of--the--child.

4.---For--purposes--of--this--section--records--are--defined--as--all documents--relating--to--the--apprehension,--detention, adjudication,--or--disposition--of--a--child.

2. When two years have elapsed since the expiration of any informal adjustment or final order of disposition and final discharge of a child whose files and records are subject to an order of sealing under subsection 1, the court, on application of the child, or his parent or guardian, by order may direct the destruction of all orders, records, and papers, and the disposal of all exhibits, relating to the child and contained in the files of the juvenile supervisor and the court, if the court finds, after a hearing, that since the expiration of any

informal adjustment or final order of disposition and the final discharge of the child, the person who was the subject of the informal adjustment or final order of disposition has not been convicted of a felony, or of a misdemeanor involving moral turpitude, or adjudicated a delinquent child or unruly child, and no proceeding is pending seeking his conviction or adjudication.

5- 3. Reasonable notice of the hearing under subsection 2 shall be given to:

- a. The state's attorney of the county.
- b. The authority granting the discharge if the final discharge was from an institution or from parole.
- c. The law enforcement agencies or any representative of the state or state agency having custody of the files and records specified in sections 27-20-52, 27-20-53, and 12-46-15, and which are included in the application or motion.

4. When ten years have elapsed since the expiration of any informal adjustment or final order of disposition and the final discharge of a child whose files and records are subject to an order of sealing under subsection 1, the court on its own motion, unless earlier ordered by the court under subsection 2, shall order the destruction of all orders, records, and papers, and the disposal of all exhibits, relating to the child and contained in the files of the juvenile supervisor and the court.

6- 5. Upon entry of ~~the~~ an order under subsection 2 or 4, the proceeding shall be treated as if it never occurred. All index references shall be deleted, and upon inquiry in any matter the ~~person~~ child, the court, law enforcement officers, and representatives of state agencies shall properly reply that no record exists with respect to the ~~person~~ child. Copies of the order shall be sent to each agency or official therein named. ~~Inspection--of--the sealed--files--and--records--thereafter--may--be--permitted--by court--order--upon--petition--by--the--subject--of--the--records and--only--by--these--persons--named--in--the--order.~~ Each law enforcement agency and law enforcement officer, upon receipt of a copy of the order, shall destroy all files, records, and references to the child pertaining to his apprehension, detention, and referral to the juvenile court and any record of disposition made by the juvenile court.

6. The juvenile court may retain documents and records for the purpose of administration, planning, research, and statistical information provided all names have been expunged from documents and records subject to an order under subsection 2 or 4.

SECTION 2. REPEAL.) Section 27-20-54.1 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 7, 1979

CHAPTER 367

SENATE BILL NO. 2072
(Legislative Council)
(Interim Committee on Judicial System)

APPOINTMENT OF TEMPORARY JUDGES

AN ACT to create and enact chapter 27-26 of the North Dakota Century Code, relating to the appointment of temporary judges; and declaring an emergency.

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

* SECTION 1.) Chapter 27-26 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-26-01. APPOINTMENT OF ELIGIBLE PERSON TO TEMPORARY JUDGESHIP.)

1. The supreme court may appoint any eligible person to serve as temporary judge in any court other than the supreme court, whenever the supreme court determines that the appointment is reasonably necessary and will promote the more efficient administration of justice. A person is eligible for appointment if the person is a resident of this state and has been engaged in the active practice of law in this state for a period of at least three years next preceding the appointment.
2. An appointment under this section shall be made by order of the supreme court. The supreme court shall provide, to the extent it deems necessary or desirable, rules and regulations for appointments under this section. No appointment made pursuant to this chapter shall be for a duration longer than thirty calendar days.
3. An appointment under this section shall not become effective until the appointee subscribes and files in the office of the secretary of state an oath or affirmation substantially as follows:

"I do solemnly swear (or affirm) that I will support the constitutions of the United States and the state of North Dakota, and that I will faithfully discharge

* NOTE: This chapter is codified as North Dakota Century Code Chapter 27-24.

the duties of the office of judge of the state of North Dakota to the best of my ability."

27-26-02. TRANSFER, CHALLENGE, DISQUALIFICATION, AND SUPERVISION OF PERSON APPOINTED.)

1. A temporary judge appointed as provided in this chapter to serve in any court, other than the supreme court, in any county or judicial district may, at any time while serving under the appointment, be transferred and assigned by the supreme court to serve as temporary judge in any one or more other counties or judicial districts during the term of the appointment.
2. Each temporary judge appointed and qualified as provided in section 27-26-01 has, in the city, county, or judicial district assigned, all the judicial powers, duties, jurisdiction and authority, while serving under the appointment, of a regularly elected or appointed judge of the appropriate court.
3. The eligibility, appointment, or qualification of an appointee under section 27-26-01, or the appointee's right to hold the position of temporary judge in any particular city, county, or judicial district while serving under the appointment, is subject to challenge only in a direct proceeding instituted for that purpose as provided by law. The proceeding may be instituted in the supreme court if it consents to take original jurisdiction thereof.
4. A temporary judge appointed as provided in section 27-26-01 is subject to demand for change of judge as provided in section 29-15-21 of the North Dakota Century Code.
5. A temporary judge appointed as provided in section 27-26-01 or assigned as provided in subsection 1 of this section to a district court with one or more regularly elected or appointed and qualified judges on active duty shall be subject to the directions of the regular presiding judge of the district court in respect to the assignment of cases and the general administration of the business of the court. A temporary judge assigned to any other court shall be under the supervision of the supreme court.

27-26-03. EXTENSION AND TERMINATION OF APPOINTMENT OF TEMPORARY JUDGE - ELIGIBILITY TO APPEAR AS AN ATTORNEY.)

1. It is the duty of a temporary judge appointed as provided in section 27-26-01 to hear, decide, and dispose of all cases and matters submitted to the judge as promptly as the nature of the questions involved will permit. The powers, jurisdiction, and judicial authority of the

temporary judge in respect to any case or matter tried or heard while serving under the appointment shall continue beyond the expiration of the appointment so far as may be necessary to:

- a. Decide and dispose of any case or matter on trial or held under advisement.
 - b. Hear and decide any motion for a new trial or for a judgment notwithstanding the verdict, or objections to any cost bill, that may be filed in the case.
 - c. Settle a transcript for appeal and grant extensions of time therefor.
2. The supreme court at any time by order may terminate the term of appointment of a temporary judge as of a date specified in the order, but termination does not affect the validity of any judgment, decree, order or other action of the temporary judge before the effective date of the termination.
 3. A temporary judge appointed as provided in section 27-26-01 is not eligible to appear as attorney in the court to which the judge was appointed in any case tried by a jury selected from the same jury panel which was in existence during the time which he served as temporary judge.

27-26-04. COMPENSATION AND EXPENSES OF PERSONS APPOINTED TEMPORARY JUDGE.)

1. A temporary judge appointed as provided in section 27-26-01 shall receive as compensation for each day of service in the performance of duties under the appointment an amount equal to five percent of the gross monthly salary of a regularly elected or appointed judge of the court in which the temporary judge is to serve, or one-half of that daily compensation for services of one-half day or less. The daily compensation of any temporary judge who is receiving retirement benefits from a retirement program funded in all or part by the state, excluding federal social security benefits, shall be reduced by an amount equal to five percent of the gross monthly benefits received from any such retirement program. The compensation shall be paid upon the certificate of the temporary judge that the services were performed for the number of days shown in the certificate, and shall be paid in the same manner as the salaries of the regularly elected or appointed judges are paid.
2. A temporary judge appointed as provided in section 27-26-01 or assigned as provided in section 27-26-02 to serve outside the county in which the judge resides or

maintains an office shall receive, in addition to daily compensation, reimbursement for travel expenses necessarily incurred in the performance of duties as temporary judge. The expenses shall be reimbursed upon the certification by the temporary judge that the expenses were actually incurred, in the same manner as like expenses of regularly elected or appointed judges are paid.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 7, 1979

JUDICIAL PROCEDURE, CIVIL

CHAPTER 368

HOUSE BILL NO. 1075
(Legislative Council)
(Interim Committee on Products Liability)

PRODUCTS LIABILITY ACT

AN ACT to restrict and regulate products liability actions by establishing a statute of limitations, granting limited immunity to manufacturers or sellers of products against actions based on products liability, providing tests for determining whether or not a product shall be deemed to be defective or unreasonably dangerous, establishing rebuttable presumptions of freedom from defects, and precluding certain evidence from admission in products liability actions.

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

SECTION 1. SHORT TITLE.) This Act shall be known and may be cited as the "North Dakota Products Liability Act".

SECTION 2. DECLARATION OF LEGISLATIVE FINDINGS AND INTENT.)

1. The legislative assembly finds that the number of lawsuits and claims for damages and the amount of judgments and settlements arising from defective products has substantially increased in recent years. Because of these increases, the insurance industry has drastically increased the cost of products liability insurance. The effect of increased insurance premiums and increased claims has increased product cost through manufacturers, wholesalers, and retailers passing the cost of premiums to the consumer. Certain product manufacturers are discouraged from continuing to provide and manufacture certain products because of the high cost and possible unavailability of products liability insurance.
2. Because of these recent trends, and for the purpose of alleviating the adverse effects which these trends are producing in the manufacturing industry, it is necessary to protect the public interest by enacting measures designed to encourage private insurance companies to continue to provide products liability insurance.

3. It is the purpose of this Act to provide a reasonable time within which actions may be commenced against manufacturers, while limiting the time to a specific period for which products liability insurance premiums can be reasonably and accurately calculated; and to provide other procedural changes to expedite early evaluation and settlement of claims.

SECTION 3. STATUTE OF LIMITATION.)

1. There shall be no recovery of damages for personal injury, death, or damage to property caused by a defective product unless the injury, death or damage occurred within ten years of the date of initial purchase for use or consumption, or within eleven years of the date of manufacture of a product, where that action is based upon, or arises out of, any of the following:
 - a. Breach of any implied warranties.
 - b. Defects in design, inspection, testing, or manufacture.
 - c. Failure to warn.
 - d. Failure to properly instruct in the use of a product.
2. The provisions of this section shall apply to all persons, regardless of minority or other legal disability, but shall not apply to any cause of action where the personal injury, death, or damage to property occurs within two years after the effective date of this Act.
3. If a manufacturer, wholesaler, or retailer issues a recall of a product in any state, modifies a product, or becomes aware of any defect in a product at any time, and fails to notify or warn a user of the product who is subsequently injured or damaged as a result of the defect, the provisions of subsection 1 shall not bar any action against the manufacturer, wholesaler, or retailer based upon, or arising out of, the defect.

SECTION 4. LIMITATION ON AD DAMNUM CLAUSE.) If a complaint filed in a products liability action against a manufacturer, wholesaler, or retailer prays for a recovery of money in an amount equal to or less than fifty thousand dollars, the amount shall be stated. If a recovery of money in an amount greater than fifty thousand dollars is demanded, the pleading shall state merely that recovery of reasonable damages in an amount greater than fifty thousand dollars is demanded. This section may be superseded by an amendment to the rules of civil procedure adopted after July 1, 1979.

SECTION 5. ALTERATION OR MODIFICATION OF PRODUCT IS DEFENSE TO ACTION.) No manufacturer or seller of a product shall be held liable for any injury, death, or damage to property sustained as a result of an alleged defect, failure to warn or protect, or failure to properly instruct in the use or misuse of that product, where a substantial contributing cause of the injury, death, or damage to property was an alteration or modification of the product, which occurred subsequent to the sale by the manufacturer or seller to the initial user or consumer, and which changed the purpose, use, function, design, or intended use or manner of use of the product from that for which the product was originally designed, tested, or intended.

SECTION 6. DETERMINATION OF DEFECTIVE PRODUCT AND REBUTTABLE PRESUMPTION AGAINST DEFECTS.)

1. No product shall be considered to have a defect or to be in a defective condition, unless at the time the product was sold by the manufacturer or other initial seller, there was a defect or defective condition in the product which made the product unreasonably dangerous to the user or consumer.
2. As used in this Act, "unreasonably dangerous" means that the product was dangerous to an extent beyond which would be contemplated by the ordinary and prudent buyer, consumer, or user of that product in that community considering the product's characteristics, propensities, risks, dangers, and uses, together with any actual knowledge, training, or experience possessed by that particular buyer, user, or consumer.
3. There is a rebuttable presumption that a product is free from any defect or defective condition where the alleged defect in the plans or designs for the product or the methods and techniques of manufacturing, inspecting, and testing the product were in conformity with government standards established for that industry which were in existence at the time the plans or designs for the product or the methods and techniques of manufacturing, inspecting, and testing the product were adopted.

Filed March 30, 1979

NOTE: This bill was vetoed by the Governor and subsequently approved by a two-thirds majority of the members of the House of Representatives and the Senate.

CHAPTER 369

HOUSE BILL NO. 1589
(Unhjem, Marsden, Stenehjem)

PRODUCTS LIABILITY ACTIONS REGULATED

AN ACT to regulate products liability actions by providing for the indemnification of the seller by the manufacturer and requiring the manufacturer to assume the defense of the seller in certain actions.

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

SECTION 1. DEFINITIONS.) For purposes of this Act:

1. "Manufacturer" means a person or entity who designs, assembles, fabricates, produces, constructs, or otherwise prepares a product or a component part of a product prior to the sale of the product to a user or consumer. The term includes any seller who has actual knowledge of a defect in a product or a seller of a product who creates and furnishes a manufacturer with specifications, relevant to the alleged defect, for producing the product or who otherwise exercises some significant control over all or a portion of the manufacturing process or who alters or modifies a product in any significant manner after the product comes into his possession and before it is sold to the ultimate user or consumer. The term also includes any seller of a product who is owned in whole or significant part by the manufacturer or who owns, in whole or significant part, the manufacturer. A seller not otherwise a manufacturer shall not be deemed to be a manufacturer merely because he places or has placed a private label on a product if he:
 - a. Does not otherwise specify how the product shall be produced; or
 - b. Does not control, in some significant manner, the manufacturing process of the product,and the seller discloses the actual manufacturer.

2. "Product liability action" means any action brought against a manufacturer or seller of a product, regardless of the substantive legal theory or theories upon which the action is brought, for or on account of personal injury, death, or property damage caused by or resulting from the manufacture, construction, design, formula, installation, preparation, assembly, testing, packaging, labeling, or sale of any product, or the failure to warn or protect against a danger or hazard in the use, misuse, or unintended use of any product, or the failure to provide proper instructions for the use of any product.
3. "Seller" means any individual or entity, including a manufacturer, wholesaler, distributor, or retailer, who is engaged in the business of selling or leasing any product for resale, use, or consumption.

SECTION 2. INDEMNITY OF SELLER.) If a product liability action is commenced against a seller, and it is alleged that a product was defectively designed, contained defectively manufactured parts, had insufficient safety guards, or had inaccurate or insufficient warnings; that such condition existed when the product left the control of the manufacturer; that the seller has not substantially altered the product; and that the defective condition or lack of safety guards or adequate warnings caused the injury or damage complained of; the manufacturer from whom the product was acquired by the seller shall be required to assume the cost of defense of the action, and any liability that may be imposed on the seller.

Approved March 13, 1979

CHAPTER 370

HOUSE BILL NO. 1583
(Lardy, Brokaw, Hanson, Melby)

JUDGMENT EXEMPTIONS

AN ACT to create and enact a new section to chapter 28-22 of the North Dakota Century Code, relating to heads of families; and to amend and reenact sections 28-22-01 and 28-22-05 of the North Dakota Century Code, relating to exemptions for heads of families and single persons.

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

SECTION 1.) A new section to chapter 28-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

HEAD OF FAMILY DEFINED.) The phrase "head of a family" as used in this chapter means:

1. The husband or wife when the claimant is a married person.
2. Every person who has residing on the premises with him and under his care and maintenance, any of the following:
 - a. His child or the child of his deceased spouse, whether by birth or adoption.
 - b. A minor brother or sister or the minor child of a deceased brother or sister.
 - c. A father, mother, grandfather, or grandmother.
 - d. The father or mother or grandfather or grandmother of a deceased husband or wife.
 - e. Any other of the relatives mentioned in this section who have attained the age of majority and are unable to take care of or support themselves.
3. Every person who provides support for unmarried minor children of a previous marriage of the person, even though

the children do not reside on the premises with the person.

SECTION 2. AMENDMENT.) Section 28-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-01. PROPERTY EXEMPT FROM ALL PROCESS.) Except as hereinafter ~~otherwise~~ provided, the property mentioned in this chapter is exempt to the head of a family, as defined by ~~chapter 47-18-of-the-title-Property~~ section 2 of this Act, from attachment or mesne process and from levy and sale upon execution and from any other final process issued from any court.

SECTION 3. AMENDMENT.) Section 28-22-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-05. EXEMPTIONS OF A SINGLE PERSON.) A In addition to the absolute exemptions mentioned in section 28-22-02, except in subsection 8 thereof, a single person, in person or by his agent, ~~in addition-to-his-wearing-apparel,~~ may select from his other personal property, goods, chattels, merchandise, money, or other personal property not exceeding in value the sum of ~~one~~ two thousand five hundred dollars, which shall be exempt.

Approved March 13, 1979

CHAPTER 371

HOUSE BILL NO. 1584
(Lardy, Brokaw, Hanson, Melby)

JUDGMENT EXEMPTION LIMITATION

AN ACT to amend and reenact section 28-22-16 of the North Dakota Century Code, relating to limitations of exemptions.

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

SECTION 1. AMENDMENT.) Section 28-22-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-22-16. EXEMPTIONS LIMITED IN CERTAIN CASES.) In addition to the absolute exemptions against process+

~~1. In an action for the collection of the bill of a nurse for professional services, or in an action for the collection of a bill for board, medicine, or attendants furnished patients at any hospital in this state, or in an action for the collection of a bill for groceries and other provisions, there shall be allowed as exempt household and kitchen furniture, stoves, and two cows, the value of which shall not exceed five hundred dollars, and~~

2. On on a judgment for forfeiture of an undertaking or bond or of recognizance taken in criminal cases, there shall be allowed as exempt property, property of any kind to the value of five hundred dollars.

Approved March 3, 1979

CHAPTER 372

HOUSE BILL NO. 1190
(Conmy)

AWARD OF COSTS IN FRIVOLOUS ACTIONS

AN ACT to amend and reenact subsection 2 of section 28-26-01 of the North Dakota Century Code, relating to the awarding of costs in frivolous actions.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 28-26-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In civil actions the court may, in its discretion, upon a finding that ~~the--pleading~~ a claim for relief was frivolous, award reasonable actual or statutory costs, or both, including reasonable attorney's fees to the prevailing party. Such costs may be awarded regardless of the good faith of the attorney or client making the claim for relief if there is such a complete absence of actual facts or law that a reasonable person could not have thought a court would render judgment in their favor, providing the prevailing party has in responsive pleading alleged the frivolous nature of the claim.

Approved March 15, 1979

CHAPTER 373

HOUSE BILL NO. 1041
(Representatives Unhjem, Stenehjem)

ADMINISTRATIVE CODE DISTRIBUTION

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to distribution of the North Dakota Administrative Code to each member of the legislative assembly; to amend and reenact section 28-32-03.2 of the North Dakota Century Code, relating to printing, sales, and distribution of the administrative code; and providing an appropriation.

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

SECTION 1. AMENDMENT.) Section 28-32-03.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

28-32-03.2. PRINTING, SALES, AND DISTRIBUTION OF CODE AND CODE SUPPLEMENT.)

1. The secretary of state shall distribute the code and code supplement, and shall distribute copies of the code, revisions thereto, and the code supplement without charge to the following:
 - a. Governor, one copy.
 - a- b. Attorney general, one copy.
 - b- c. Each supreme court judge, one copy.
 - e- d. Each district court judge, one copy.
 - d- e. Each county auditor of this state, for the use of county officials and the public, one copy.
 - e- f. Supreme court library, one copy.
 - f- g. State library, one copy.

- g- h. Law library of the university of North Dakota, one copy.
- h- i. Secretary of state, one copy.
- i- j. North Dakota legislative council, ~~one copy~~ two copies.
- k. Each member of the legislative assembly, one copy, upon request.
2. The office of the legislative council, each county auditor in the state, and the librarians for the supreme court library, the state library, and the university of North Dakota law library shall maintain a complete, current set of the code, including revisions thereto and additions or changes published in the code supplement.
 3. The secretary of state shall make copies of and subscriptions to the code, revisions thereto, and the code supplement available to any person at prices fixed to cover publication and distribution costs.
 4. The office of the legislative council shall determine the cost of supplying copies of the code, revisions thereto, and the code supplement. Such cost shall be the approximate cost of printing or duplicating and distributing. However, a uniform price per page or group of pages may be established without regard to differences in the cost of printing different parts of the code, revisions thereto, and the code supplement.
 5. All fees collected by the secretary of state shall be deposited in the general fund of the state treasury.
 6. The administrative code, revisions thereto, and the code supplement shall be considered sixth class printing under sections 46-02-04 and 46-02-09.

SECTION 2.) A new section to chapter 54-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

CODE DISTRIBUTED TO EACH LEGISLATOR - RETENTION.) Each member of the legislative assembly is entitled to receive a current set of the North Dakota Administrative Code as provided in section 28-32-03.2. The legislator is entitled to current supplements and volumes as provided in section 28-32-03.2 to maintain the code during the legislator's service. The code received by a legislator under this section is not subject to section 46-04-04. After a legislator's service in the legislative assembly is terminated, the secretary of state shall inform the legislator how to obtain a subscription to maintain the legislator's code.

SECTION 3. 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 secretary of state for the purpose of distributing copies of the administrative code and code supplement, without charge, to each member of the legislative assembly for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 3, 1979

CHAPTER 374

SENATE BILL NO. 2412
(Jones)

APPOINTMENT OF INTERPRETERS TO ASSIST DEAF

AN ACT to provide for the appointment of interpreters to assist deaf persons in judicial and administrative proceedings.

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

SECTION 1. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Appointing authority" means the presiding judge of any court, the chairman of any board, commission, or authority, and the director or commissioner of any department or agency before which a qualified interpreter is required pursuant to this Act.
2. "Deaf person" means any person whose hearing is totally impaired or whose hearing is so seriously impaired as to prohibit the person from understanding voice communication, or the English language including, but not limited to, a person who is deaf, mute, deaf-mute, or deaf-blind.
3. "Principal party in interest" means a person in any proceeding in which he is a named party or a person with respect to whom the decision or action which may be taken in any proceeding directly affects.
4. "Qualified interpreter" means an interpreter certified by the national registry of interpreters for the deaf or North Dakota association for the deaf, or an interpreter who has been approved by the superintendent of the school for the deaf, or, in the event such an interpreter is not available, any other interpreter whose actual qualifications have otherwise been appropriately determined.

SECTION 2. INTERPRETER REQUIRED.)

1. At all stages of any judicial or administrative proceedings pursuant to chapter 28-32 of the North Dakota Century Code in which a deaf person is a principal party in interest, the appointing authority shall appoint a qualified interpreter to interpret or to translate the proceedings to the deaf person and to interpret or translate his testimony.
2. Immediately after a deaf person is arrested for any alleged violation of criminal law where the penalty may include imprisonment or a fine in excess of one hundred dollars, or both, an interpreter shall be appointed. No attempt to interrogate or take a statement from such person shall be permitted until a qualified interpreter is appointed for the deaf person and then only through the use of the interpreter.

SECTION 3. PROOF OF DISABILITY.) An appointing authority may require a person requesting the appointment of an interpreter to furnish reasonable proof of his disability when the appointing authority has reason to believe that the person is not so disabled. In no event is a failure of a party or witness to request an interpreter to be deemed a waiver of the right.

SECTION 4. OATH OF INTERPRETER.) Every interpreter appointed pursuant to the provisions of this Act shall take an oath that he will make a true interpretation in an understandable manner to the person for whom he is appointed and that he will repeat the statements of such person in the English language to the best of his skill and judgment.

SECTION 5. COMPENSATION.) An interpreter appointed under the provisions of this Act shall be compensated at a reasonable rate to be determined by the appointing authority, including travel expenses. Nothing in this section shall be construed to prevent any state department, board, commission, agency, or licensing authority or any political subdivision of the state from employing an interpreter on a full-time basis or under contract.

SECTION 6. PRIVILEGED COMMUNICATIONS.) Whenever a deaf person communicates through an interpreter to any person under such circumstances that the communication would be privileged and the deaf person could not be compelled to testify as to the communications, the privilege shall apply to the interpreter as well.

SECTION 7. VISUAL RECORDING.) In any judicial proceeding, the appointing authority, on his own motion or on the motion of a party to the proceedings, may order that the testimony of the deaf person and the interpretation thereof be visually recorded for use in verification of the official transcript of the proceedings.

SECTION 8. COORDINATION OF INTERPRETER REQUESTS.)

1. Whenever an appointing authority receives a valid request for the services of an interpreter or on his own motion, the authority shall request the superintendent of the school for the deaf to furnish the authority with a list of sources of qualified interpreters at the time and place specified by the authority.
2. When requested by an appointing authority to provide assistance in providing an interpreter, the national registry of interpreters for the deaf or the North Dakota association of the deaf or the superintendent of the North Dakota school for the deaf shall supply a list of sources and do all necessary to assist the appointing authority in obtaining a qualified interpreter; providing, however, if the choice of qualified interpreter does not meet the needs of the deaf person, the appointing authority shall appoint another qualified interpreter.

Approved April 7, 1979

JUDICIAL PROCEDURE, CRIMINAL

CHAPTER 375

HOUSE BILL NO. 1631
(Kretschmar)

UNIFORM CRIMINAL EXTRADITION ACT

AN ACT to create and enact a new chapter of the North Dakota Century Code, relating to criminal extradition; to repeal chapter 29-30 of the North Dakota Century Code, relating to fugitives from justice; and providing a penalty for the violation of the rights of an accused person.

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

SECTION 1. DEFINITIONS.) Where appearing in this Act, the term "governor" includes any person performing the functions of governor by authority of the law of this state. The term "executive authority" includes the governor, and any person performing the functions of governor in a state other than this state, and the term "state", referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

SECTION 2. FUGITIVES FROM JUSTICE - DUTY OF GOVERNOR.) Subject to the provisions of this Act, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

SECTION 3. FORM OF DEMAND.) No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 6 of this Act, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof,

together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

SECTION 4. GOVERNOR MAY INVESTIGATE CASE.) When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

SECTION 5. EXTRADITION OF PERSONS IMPRISONED OR AWAITING TRIAL IN ANOTHER STATE OR WHO HAVE LEFT THE DEMANDING STATE UNDER COMPULSION.) When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged in the manner provided in section 23 of this Act with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

SECTION 6. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING STATE AT TIME OF COMMISSION OF CRIME.) The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 3 of this Act with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this Act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

SECTION 7. ISSUE OF GOVERNOR'S WARRANT OF ARREST - ITS RECITALS.) If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution

thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

SECTION 8. MANNER AND PLACE OF EXECUTION.) Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Act to the duly authorized agent of the demanding state.

SECTION 9. AUTHORITY OF ARRESTING OFFICER.) Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

SECTION 10. RIGHTS OF ACCUSED PERSON - APPLICATION FOR WRIT OF HABEAS CORPUS.) No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state; provided, however, that the warrant of the governor and the papers submitted by the demanding state shall be considered prima facie sufficient and the burden of proof shall be on the prisoner; and, further provided, that the personal presence of witnesses from the demanding state shall ordinarily not be required and the testimony can be established by affidavit or other means.

SECTION 11. PENALTY FOR NONCOMPLIANCE WITH PRECEDING SECTION.) Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a class B misdemeanor.

SECTION 12. CONFINEMENT IN JAIL WHEN NECESSARY.) The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

SECTION 13. ARREST PRIOR TO REQUISITION.) Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in cases arising under section 6 of this Act, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under section 6 of this Act, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

SECTION 14. ARREST WITHOUT A WARRANT.) The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

SECTION 15. COMMITMENT TO AWAIT REQUISITION - BAIL.) If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged and, except in cases arising under section 6, that he has fled from justice, the magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused shall give bail as provided in the next section, or until he shall be legally discharged.

SECTION 16. BAIL - IN WHAT CASES - CONDITIONS OF BOND.) Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a magistrate in this state may admit the person arrested to bail in such sum as he deems proper, conditioned upon his appearance before him at a time specified, and for his surrender, to be arrested upon the warrant of the governor of this state; provided, however, that the prisoner shall not be entitled to bail after issuance of the warrant of the governor of this state.

SECTION 17. EXTENSION OF TIME OF COMMITMENT - ADJOURNMENT.) If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a magistrate may again take bail for his appearance and surrender, as provided in section 16 of this Act; provided, however, that the prisoner or his attorney of record may waive any of the time limitations provided in this Act expressly or by requesting that the matter be continued or by release on bail.

SECTION 18. FORFEITURE OF BAIL.) If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bail, the magistrate by proper order, shall declare the bail forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bail in the name of the state as in the case of other bail given by the accused in criminal proceedings within this state.

SECTION 19. PERSONS UNDER CRIMINAL PROSECUTION IN THIS STATE AT TIME OF REQUISITION.) If a criminal prosecution has been instituted against such person under the laws of this state and is still pending the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

SECTION 20. GUILT OR INNOCENCE OF ACCUSED - WHEN INQUIRED INTO.) The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a

charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

SECTION 21. GOVERNOR MAY RECALL WARRANT OR ISSUE ALIAS.) The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

SECTION 22. FUGITIVES FROM THIS STATE - DUTY OF GOVERNORS.) Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

SECTION 23. APPLICATION FOR ISSUANCE OF REQUISITION - BY WHOM MADE - CONTENTS.)

1. When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged in which application shall be stated the name of the person so charged, the crime charged against him, the approximate time, place, and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.
2. When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

3. The application shall be verified by affidavit, shall be executed in triplicate and shall be accompanied by three certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in triplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

SECTION 24. COSTS AND EXPENSES.) When the punishment of the crime shall be the confinement of the criminal in the penitentiary, the expenses shall be paid out of the state treasury, on the certificate of the governor and warrant of the auditor; and in all other cases they shall be paid out of the county treasury in the county wherein the crime is alleged to have been committed. The expenses shall be the fees paid to the officers of the state pursuant to section 44-08-04.

SECTION 25. IMMUNITY FROM SERVICE OF PROCESS IN CERTAIN CIVIL ACTIONS.) A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

SECTION 26. WRITTEN WAIVER OF EXTRADITION PROCEEDINGS.) Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole may waive the issuance and service of the warrant provided for in sections 7 and 8 of this Act and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 10 of this Act. Nothing herein shall prevent such judge from determining at such hearing that the prisoner executed a waiver of extradition before leaving the demanding state as a condition of his release, bail, probation or parole and that such waiver is legally

valid and binding on the prisoner and in that event the judge shall order his immediate confinement and delivery as set forth in the next paragraph.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

SECTION 27. NONWAIVER BY THIS STATE.) Nothing in this Act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crime committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this Act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

SECTION 28. NO RIGHT OF ASYLUM - NO IMMUNITY FROM OTHER CRIMINAL PROSECUTIONS WHILE IN THIS STATE.) After a person has been brought back to this state by, or after waiver of extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

SECTION 29. INTERPRETATION.) The provisions of this Act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

SECTION 30. SHORT TITLE.) This Act may be cited as the Uniform Criminal Extradition Act.

SECTION 31. REPEAL.) Chapter 29-30 of the North Dakota Century Code is hereby repealed.

Approved April 3, 1979

UNIFORM PROBATE CODE

CHAPTER 376

HOUSE BILL NO. 1202
(Winkjer)

INTERNATIONAL WILLS

AN ACT to provide for the execution, validity, and registration of international wills.

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

SECTION 1. DEFINITIONS.) In this Act:

1. "Authorized person" and "person authorized to act in connection with international wills" mean a person who by section 8, or by the laws of the United States, including members of the diplomatic and consular service of the United States designated by foreign service regulations, is empowered to supervise the execution of international wills.
2. "International will" means a will executed in conformity with sections 2 through 5.

SECTION 2. INTERNATIONAL WILL - VALIDITY.)

1. A will is valid in form, irrespective of the place where it is made, of the location of the assets and of the nationality, domicile, or residence of the testator, if it is made in the form of an international will complying with the requirements of this chapter.
2. The invalidity of the will as an international will does not affect its formal validity as a will of another kind.
3. This Act does not apply to the form of testamentary dispositions made by two or more persons in one instrument.

SECTION 3. INTERNATIONAL WILL - REQUIREMENTS.)

1. The will must be made in writing. It need not be written by the testator himself. It may be written in any language, by hand or by any other means.
2. The testator shall declare in the presence of two witnesses and of a person authorized to act in connection with international wills that the document is his will and that he knows the contents thereof. The testator need not inform the witnesses, or the authorized person, of the contents of the will.
3. In the presence of the witnesses, and of the authorized person, the testator shall sign the will or, if he has previously signed it, shall acknowledge his signature.
4. If the testator is unable to sign, the absence of his signature does not affect the validity of the international will if the testator indicates the reason for his inability to sign and the authorized person makes note thereof on the will. In that case, it is permissible for any other person present, including the authorized person or one of the witnesses, at the direction of the testator, to sign the testator's name for him if the authorized person makes note of this on the will, but it is not required that any person sign the testator's name for him.
5. The witnesses and the authorized person shall there and then attest the will by signing in the presence of the testator.

SECTION 4. INTERNATIONAL WILLS - OTHER POINTS OF FORM.)

1. The signatures must be placed at the end of the will. If the will consists of several sheets, each sheet must be signed by the testator or, if he is unable to sign, by the person signing on his behalf or, if there is no such person, by the authorized person. In addition, each sheet must be numbered.
2. The date of the will must be the date of its signature by the authorized person. That date must be noted at the end of the will by the authorized person.
3. The authorized person shall ask the testator whether he wishes to make a declaration concerning the safekeeping of his will. If so and at the express request of the testator, the place where he intends to have his will kept must be mentioned in the certificate provided for in section 5.
4. A will executed in compliance with section 3 is not invalid merely because it does not comply with this section.

SECTION 5. INTERNATIONAL WILL - CERTIFICATE.) The authorized person shall attach to the will a certificate to be signed by him establishing that the requirements of this Act for valid execution of an international will have been fulfilled. The authorized person shall keep a copy of the certificate and deliver another to the testator. The certificate must be substantially in the following form:

CERTIFICATE

I, _____ (name, address, and capacity), a person authorized to act in connection with international wills, certify that on _____ (date) at _____ (place) _____ (name, address, date and place of birth of testator) in my presence and that of the witnesses _____ (name, address, date and place of birth of first witness) and _____ (name, address, date and place of birth of second witness) has declared that the attached document is his will and that he knows the contents thereof.

I further certify that in my presence and in that of the witnesses the testator has signed the will or has acknowledged his signature previously affixed or that following a declaration of the testator stating that he was unable to sign his will for the following reason _____, I have mentioned this declaration on the will, and the signature has been affixed by _____ (name and address).

I further certify that the witnesses and I have signed the will; each page of the will has been signed by _____ and numbered [to be completed if appropriate]; I have satisfied myself as to the identity of the testator and of the witnesses as designated above; the witnesses met the conditions requisite to act as such according to the law under which I am acting; the testator has requested me to include the following statement concerning the safekeeping of his will [to be completed if appropriate]:
_____.

_____ (Place of execution)
_____ (Date)
_____ (Signature)

SECTION 6. INTERNATIONAL WILL - EFFECT OF CERTIFICATE.) In the absence of evidence to the contrary, the certificate of the authorized person is conclusive of the formal validity of the instrument as a will under this Act. The absence or irregularity of a certificate does not affect the formal validity of a will under this Act.

SECTION 7. INTERNATIONAL WILL - REVOCATION.) An international will is subject to the ordinary rules of revocation of wills.

SECTION 8. PERSONS AUTHORIZED TO ACT IN RELATION TO INTERNATIONAL WILL - ELIGIBILITY - RECOGNITION BY AUTHORIZING AGENCY.) Individuals who have been admitted to practice law before the courts of this state and are currently licensed so to do are authorized persons in relation to international wills.

SECTION 9. INTERNATIONAL WILL INFORMATION REGISTRATION.) The secretary of state shall establish a registry system by which authorized persons may register in a central information center, information regarding the execution of international wills, keeping that information in strictest confidence until the death of the maker and then making it available to any person desiring information about any will who presents a death certificate or other satisfactory evidence of the testator's death to the center. Information that may be received, preserved in confidence until death, and reported as indicated is limited to the name, social security or any other individual identifying number established by law, address, and date and place of birth of the testator, and the intended place of deposit or safekeeping of the instrument pending the death of the maker. The secretary of state, at the request of the authorized person, may cause the information it receives about execution of any international will to be transmitted to the registry system of another jurisdiction as identified by the testator, if that other system adheres to rules protecting the confidentiality of the information similar to those established in this state.

Approved March 15, 1979

CHAPTER 377

HOUSE BILL NO. 1161
(Winkjer)

RENUNCIATION OF SUCCESSION

AN ACT to amend and reenact sections 30.1-10-01 and 30.1-21-03 of the North Dakota Century Code, relating to renunciation of succession and closing estates under the uniform probate code; and to provide for retroactivity.

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

SECTION 1. AMENDMENT.) Section 30.1-10-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

30.1-10-01. (2-801) RENUNCIATION OF SUCCESSION.)

1. A person, or the representative of an incapacitated or protected person, who is an heir, devisee, person succeeding to a renounced interest, beneficiary under a testamentary instrument, or appointee under a power of appointment exercised by a testamentary instrument may renounce, in whole or in part, the right of succession to any property or interest therein, including a future interest, by filing a written renunciation under this section. The right to renounce does not survive the death of the person having it. The instrument shall:
 - a. Describe the property or interest renounced.
 - b. Declare the renunciation and the extent thereof.
 - c. Be signed by the person renouncing.
2.
 - a. An instrument renouncing a present interest shall be filed not later than ~~six~~ nine months after the death of the decedent or the donee of the power.
 - b. An instrument renouncing a future interest shall be filed not later than ~~six~~ nine months after the event that determines that the taker of the property or

interest is finally ascertained and his interest indefeasibly vested.

- c. The renunciation shall be filed in the county court of the county in which proceedings have been commenced for the administration of the estate of the deceased owner or deceased donee of the power or, if they have not been commenced, in which they could be commenced. A copy of the renunciation shall be delivered in person or mailed by registered or certified mail to any personal representative, or other fiduciary of the decedent or donee of the power. If real property or an interest therein is renounced, a copy of the renunciation may be recorded in the office of the register of deeds of the county in which the real estate is situated.
3. Unless the decedent or donee of the power has provided otherwise, the property or interest renounced devolves as though the person renouncing predeceased the decedent or, if the person renouncing is designated to take under a power of appointment exercised by a testamentary instrument, as though the person renouncing predeceased the donee of the power. A future interest that takes effect in possession or enjoyment after the termination of the estate or interest renounced takes effect as though the person renouncing predeceased the decedent or the donee of the power. A renunciation relates back for all purposes to the date of the death of the decedent or the donee of the power.
4. a. The right to renounce property or an interest therein is barred by any of the following:
- (1) An assignment, conveyance, encumbrance, pledge, or transfer of the property or interest, or a contract therefor.
 - (2) A written waiver of the right to renounce.
 - (3) An acceptance of the property or interest or benefit thereunder.
 - (4) A sale of the property or interest under judicial sale made before the renunciation is effected.
- b. The right to renounce exists notwithstanding any limitation upon the interest of the person renouncing in the nature of a spendthrift provision or similar restriction.
- c. The renunciation or the written waiver of the right to renounce is binding upon the person renouncing or

person waiving and all persons claiming through or under that person.

5. This section does not abridge the right of a person to waive, release, disclaim, or renounce property or an interest therein under any other statute.
6. An interest in property existing on or after July 1, 1977, as to which the time for filing a renunciation under this section would have begun to run were this section in effect when the interest was created, may be renounced prior to April 1, 1980.

SECTION 2. AMENDMENT.) Section 30.1-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

30.1-21-03. (3-1003) CLOSING ESTATES - BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.)

1. Unless prohibited by order of the court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court, ~~no earlier than six months after the date of original appointment of a general personal representative for the estate,~~ a verified statement stating that he, or a prior personal representative whom he has succeeded, has or have:
 - a. ~~Published notice to creditors as provided by section 30.1-19-01 and that the first publication occurred more than six months prior to the date of the statement.~~
 - b. Fully administered the estate of the decedent by making payment, settlement, or other disposition of all claims which were presented, expenses of administration, and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement shall state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or it shall state in detail other arrangements which have been made to accommodate outstanding liabilities.
 - e. b. Sent a copy thereof to all distributees of the estate and to all creditors or other claimants of whom he is aware whose claims are neither paid nor barred and has furnished a full account in writing of his administration to the distributees whose interests are affected thereby.

If the personal representative has published notice to creditors as provided by section 30.1-19-01, he may not file the verified statement until six months after the date of the first publication.

2. If no proceedings involving the personal representative are pending in the court one year after the closing statement is filed, the appointment of the personal representative terminates.

SECTION 3. RETROACTIVITY OF SECTION 1.) The provisions of section 1 of this Act are retroactive and effective as of July 1, 1977.

Approved March 3, 1979

CHAPTER 378

SENATE BILL NO. 2304
(Fritzell)

**INFORMAL PROBATE OR APPOINTMENT
PROCEDURE FORMS**

AN ACT to amend and reenact section 30.1-14-01.1 of the North Dakota Century Code, relating to forms to be provided by a county court and county courts with increased jurisdiction to an applicant for informal probate or informal appointment proceedings under the Uniform Probate Code.

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

SECTION 1. AMENDMENT.) Section 30.1-14-01.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

30.1-14-01.1. DUTY OF COURT TO PROVIDE FORMS TO AN APPLICANT.) The court shall provide the necessary forms to an applicant who requests aid in using the informal probate or appointment procedure. The forms and explanatory materials shall be prepared by the state court administrator and provided at cost with charge to an applicant not represented by counsel. ~~The North Dakota judicial council shall approve standard printed forms to be used under this chapter.~~

Approved March 15, 1979

CHAPTER 379

HOUSE BILL NO. 1571
(Winkjer)

ERROR IN DEED OF DISTRIBUTION

AN ACT to create and enact a new section to chapter 30.1-20 of the North Dakota Century Code, relating to errors in a deed of distribution of assets.

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

SECTION 1.) A new section to chapter 30.1-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

DEED OF DISTRIBUTION - ERROR IN DESCRIPTION.) If a deed of distribution contains an error in its description of the property distributed or its ownership, the distributee may petition a court of proper jurisdiction to issue an ex parte order allowing an amendment of the deed of distribution to correct the error.

Approved March 19, 1979

CHAPTER 380

HOUSE BILL NO. 1466
(Weber)

PROPERTY COLLECTIBLE BY AFFIDAVIT

AN ACT to amend and reenact subsection 1 of section 30.1-23-01 of the North Dakota Century Code, relating to the value of estates that may be collected as personal property by affidavit.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 30.1-23-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Thirty days after the death of a decedent, any person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall make payment of the indebtedness or deliver the tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action to a person claiming to be the successor of the decedent upon being presented an affidavit made by or on behalf of the successor stating that:
 - a. The value of the entire estate, wherever located, less liens and encumbrances, does not exceed ~~five~~ fifteen thousand dollars.
 - b. Thirty days have elapsed since the death of the decedent.
 - c. No application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction.
 - d. The claiming successor is entitled to payment or delivery of the property.

Approved March 7, 1979

JUDICIAL REMEDIES

CHAPTER 381

SENATE BILL NO. 2186
(Committee on Judiciary)
(At the request of the Attorney General)

POLITICAL SUBDIVISION LIABILITY FUND

AN ACT to create the political subdivision liability fund, to provide for limitations on payments from such fund; providing an appropriation; and declaring an emergency.

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

SECTION 1. DECLARATION OF LEGISLATIVE FINDINGS AND INTENT.)
The legislative assembly hereby finds and declares as follows:

1. The legislative assembly has previously provided for the payment of certain claims against the political subdivisions of this state in S.L. 1975, ch. 295 and that such Act by its own terms expired on July 1, 1977, and is no longer of any force and effect.
2. Such Act created the political subdivisions liability fund in response to a court decision abrogating the doctrine of governmental immunity, and such Act further provided that certain claims for damages against political subdivisions could be paid from such fund provided that the cause of action covered under such Act arose prior to July 1, 1977, that notice of a claim be given within ninety days after such cause of action arose and that a lawsuit on such cause of action be filed under the terms of the Act within three years thereafter.
3. That although an appropriation made to the liability fund was intended by the legislative assembly to be available for payment of such claims and judgments filed under the terms of the Act, that such appropriation to the liability fund did by operation of law revert to the general fund and that as a result no appropriations currently exist for the payment of valid claims which have been filed or may be filed under the terms of the Act, the further result being that legal actions may be brought against political subdivisions of this state which subdivisions have insufficient resources to pay any claims and judgments.

4. The legislative assembly declares it to be in the public interest of this state to see that the intentions of the previous assembly are carried out and that claims and judgments made valid under the terms of and within the limitations set forth in S.L. 1975, ch. 295 may be paid. To this end, the legislative assembly creates the political subdivision liability fund for the purpose of paying claims and judgments made or to be made valid under the provisions of S.L. 1975, ch. 295. By creating such fund the legislative assembly declares its intention not to create a new cause of action against any political subdivision of this state or against the political subdivision liability fund hereby created, or in any way to effect the existing sovereignty of the state of North Dakota.

SECTION 2. POLITICAL SUBDIVISION LIABILITY FUND CREATED - LIMITATION.) There is hereby created in the office of the state treasurer a political subdivisions liability fund which shall be used to pay compromised claims and judgments and final judgments against any political subdivision of this state under the provisions of S.L. 1975, ch. 295, and which shall be administered by the attorney general. No payment from the fund for a compromised claim or judgment or a final judgment against a political subdivision shall exceed the liability limitations imposed by such Act. The fund shall not be liable for any claims which would not have been covered by the terms of such Act.

SECTION 3. APPROPRIATIONS.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, to the political subdivisions liability fund for the purpose of paying compromised claims and judgments and final judgments according to the provisions of this Act.

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.

SECTION 5. EXPIRATION DATE.) The provisions of this Act shall remain in effect through June 30, 1981, and shall thereafter be of no force and effect.

Approved March 25, 1979

LABOR AND EMPLOYMENT

CHAPTER 382

HOUSE BILL NO. 1360
(Martinson, Conmy, Meiers)

DISCRIMINATION IN EMPLOYMENT PRACTICES PROHIBITED

AN ACT to prohibit discrimination in employment practices.

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

SECTION 1. EMPLOYMENT DISCRIMINATION - DECLARATION OF POLICY - LIMITATION OF ACTIONS.) It is the policy of North Dakota to prohibit discrimination because of race, color, religion, sex, or national origin in all employment practices including hiring, firing, promotion, compensation and other terms, privileges, and conditions of employment. The department of labor shall receive complaints under this Act and shall have sixty days to negotiate settlements to the extent acceptable to the parties involved. Notwithstanding the provisions of chapter 28-01, any action or proceeding under this Act must be commenced within three years after the act of alleged discrimination occurs unless discovery of the alleged act of discrimination was prevented by the fraudulent conduct of the person who allegedly perpetrated the discrimination. This Act shall not apply to employers with fifteen or fewer employees.

SECTION 2. DISTRICT COURT JURISDICTION.) The district courts of the state of North Dakota shall have jurisdiction to try actions claiming a violation of section 1 hereof.

Approved April 7, 1979

CHAPTER 383

HOUSE BILL NO. 1154
(Tinjum)

ASSIGNMENT OF WAGE CLAIMS

AN ACT to amend and reenact section 34-14-08 of the North Dakota Century Code, relating to assignment of wage claims to the commissioner of labor for recovery by civil action.

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

SECTION 1. AMENDMENT.) Section 34-14-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

34-14-08. ASSIGNMENT OF WAGE CLAIMS TO COMMISSIONER OF LABOR FOR RECOVERY BY CIVIL ACTION.) The commissioner of labor or his deputy shall have power and authority to take assignments of wage claims, and rights of action for penalties provided by section 34-14-09, ~~not to exceed one thousand dollars in any case of any one claim~~ without being bound by any of the technical rules with reference to the validity of such assignments; and shall have power and authority to prosecute actions for the collection of such claims on behalf of persons who, in the judgment of the commissioner or his deputy, are entitled to the services of the commissioner or his deputy and who, in his judgment, have claims which are valid and enforceable in the courts. The commissioner or his deputy shall have power to join various claimants in one preferred claim or lien, and in case of suit to join them in one cause of action.

Approved March 7, 1979

LIENS

CHAPTER 384

SENATE BILL NO. 2101
(Melland)

REPAIRMAN'S LIEN

AN ACT to amend and reenact sections 35-13-01, 35-13-02, 35-13-03, and 35-13-04 of the North Dakota Century Code, relating to authorization for a repairman's lien, contents of a lien statement and requirement of filing, inclusion of separate articles in one statement, and priority of liens.

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

SECTION 1. AMENDMENT.) Section 35-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-13-01. REPAIRMAN'S LIEN AUTHORIZED.) Any blacksmith, machinist, farm equipment dealer, welder, garage keeper, mechanic, or aviation operator, having an established place of business within this state who makes, alters, or repairs any automobile, truck, engine, ~~threshing--machine,~~ combine, tractor, ~~power-driven~~ farm equipment, well machine, or aircraft at the request of the owner or legal possessor of the property shall have a lien thereon, and on any accessories and parts placed upon the same property, for his reasonable charges for work done and materials furnished, until the charges are paid. If the cost of repair would exceed one thousand dollars or twenty-five percent of the value of the property, in its repaired condition, whichever is greater, and the repairman intends to have the entire repair bill constitute a lien with priority over the mortgage or financing statement of record, the repairman shall give notice by registered or certified mail to the record holder of the mortgage or financing statement of the proposed repair, the estimated cost of repair, and the estimated value of the property in its repaired condition.

SECTION 2. 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 who retains possession of the property made, altered, or repaired, he shall not be required to file any statement to perfect his the lien,

~~but--when--he--shall--relinquish.~~ If the possession of the property so made, altered, or repaired, he is relinquished, the person shall file, within one-hundred-twenty ninety days after the materials are furnished or the labor is performed, shall file completed, in the office of the register of deeds of the county in which the owner or legal possessor of the property resides, a verified written 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~~ A person filing a verified statement shall within twenty days serve notice of the filing, by registered or certified mail, upon the owner or legal possessor of the property. A person entitled to the lien ~~shall file such~~ who fails to file a verified statement within the time limited in this section, ~~he shall be is~~ deemed to have waived his the right to a lien.

SECTION 3. 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~~ Any person entitled to a lien under this chapter who 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~~ ninety 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 4. 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, but if the repairman has failed to notify the record holder of the mortgage or financing statement as provided in section 35-13-01, or if such~~

notice was given and the holder of the mortgage or financing statement, within five days after receiving such notice, communicated in writing to the repairman an objection to all the proposed repair costs becoming a lien against the property with priority over the mortgage or financing statement, then only that portion of the mechanic's lien up to one thousand dollars or twenty-five percent of the retail value, whichever is greater, in its repaired condition, shall have priority over the mortgage or financing statement.

Approved March 12, 1979

CHAPTER 385

SENATE BILL NO. 2300
(Lips)

PERSONS ENTITLED TO MECHANIC'S LIEN

AN ACT to amend and reenact section 35-27-02 of the North Dakota Century Code, relating to the claiming of a mechanic's lien by a contractor who contracts with an agent of the owner of real estate.

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

SECTION 1. AMENDMENT.) Section 35-27-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

35-27-02. WHO PERSONS ENTITLED TO MECHANIC'S LIEN.) Any person who improves real estate by the contribution of labor, skill, or materials, whether under contract with the owner of such real estate or under contract with any agent, trustee, contractor or subcontractor of the owner, shall have a lien upon the improvement, and upon the land on which it is situated or to which it may be removed, for the price or value of such contribution. Provided, however, that the amount of the lien shall only be for the difference between the price paid by the owner or agent and the price or value of the contribution. If the owner or agent has paid the full price or value of the contribution, no lien shall be allowed. ~~No person shall have a lien for improving real estate resulting from extending credit to or making a contract with any agent, trustee, contractor, or subcontractor of such owner, unless such person first notifies the owner in writing of the provisions of chapter 35-27 and obtains a copy of the contract by which the owner authorizes his agent, trustee, contractor, or subcontractor to seek credit or make contracts in the owner's name, or by which the owner personally assumes responsibility for payment upon default by the owner's agent, trustee, contractor, or subcontractor. In all latter cases, any person claiming a lien for improving real estate shall first proceed by judicial action against the owner's agent, trustee, contractor, or subcontractor and exhaust his remedies of collection upon obtaining judgment before he shall have a lien upon the improvement, or upon the land on which it is situated or to which it may be removed~~ Provided further that if the owner or an agent of

the owner has received a waiver of lien signed by the person who improves the real estate by the contribution of labor, skill or materials, no lien shall be allowed.

Any person who extends credit or makes a contract with any agent, trustee, contractor, or subcontractor of the owner for the improvement of real estate, shall, upon demand, have the right to request and secure evidence of the legal description of the real estate upon which the improvement shall be located, including the name of the title owner of the real estate.

Approved March 19, 1979

CHAPTER 386

HOUSE BILL NO. 1675
(Winkjer)

UNIFORM FEDERAL LIEN REGISTRATION ACT

AN ACT to create and enact the Uniform Federal Lien Registration Act, as chapter 35-28.1 of the North Dakota Century Code, relating to the filing and recording of federal tax liens and other federal liens; and to repeal chapter 35-28 of the North Dakota Century Code, relating to the filing and recording of federal tax liens.

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

* SECTION 1.) Chapter 35-28.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

35-28.1-01. SCOPE.) This chapter applies only to federal tax liens and to other federal liens notices of which under any Act of Congress or any regulation adopted pursuant thereto are required or permitted to be filed in the same manner as notices of federal tax liens.

35-28.1-02. PLACE OF FILING.)

1. Notices of liens, certificates, and other notices affecting federal tax liens or other federal liens must be filed in accordance with this chapter.
2. Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the register of deeds of the county in which the real property subject to the liens is situated.
3. Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed as follows:
 - a. If the person against whose interest the lien applies is a corporation or partnership whose principal

* NOTE: This chapter is codified as North Dakota Century Code Chapter 35-29.

executive office is in this state, as these entities are defined in the internal revenue laws of the United States, in the office of the secretary of state.

- b. In all other cases, in the office of the register of deeds of the county where the person against whose interest the lien applies resides at the time of filing of the notice of lien.

35-28.1-03. EXECUTION OF NOTICES AND CERTIFICATES.) Certification of notices of liens, certificates, or other notices affecting federal liens by the secretary or the treasury of the United States or the secretary's delegate, or by any official or entity of the United States responsible for filing or certifying of notice of any other lien, entitles them to be filed and no other attestation, certification, or acknowledgment is necessary.

35-28.1-04. DUTIES OF FILING OFFICER.)

1. If a notice of federal lien, a refiling of a notice of federal lien, or a notice of revocation of any certificate described in subsection 2 is presented to a filing officer who is:
 - a. The secretary of state, the secretary shall cause the notice to be marked, held, and indexed in accordance with the provisions of subsection 4 of section 41-09-42 as if the notice were a financing statement within the meaning of title 41; or
 - b. Any other officer described in section 35-28.1-02, the officer shall endorse thereon the officer's identification and the date and time of receipt and immediately file it alphabetically or enter it in an alphabetical index showing the name and address of the person named in the notice, the date and time of receipt, the title and address of the official or entity certifying the lien, and the total amount appearing on the notice of lien.
2. If a certificate of release, nonattachment, discharge, or subordination of any lien is presented to the secretary of state for filing the secretary shall do all of the following:
 - a. Cause a certificate of release or nonattachment to be marked, held, and indexed as if the certificate were a termination statement within the meaning of title 41, but the notice of lien to which the certificate relates may not be removed from the files.
 - b. Cause a certificate of discharge or subordination to be marked, held, and indexed as if the certificate

were a release of collateral within the meaning of title 41.

3. If a refiled notice of federal lien referred to in subsection 1 or any certificate or notice referred to in subsection 2 is presented for filing to any other filing officer specified in section 35-28.1-02, the officer shall permanently attach the refiled notice or the certificate to the original notice of lien and enter the refiled notice or the certificate with the date of filing in any alphabetical lien index on the line where original notice of lien is entered.
4. Upon request of any person, the filing officer shall issue the officer's certificate showing whether there is on file, on the date and hour stated therein, any notice of lien or certificate or notice affecting any lien filed under this chapter or chapter 35-28 as it existed prior to enactment of this chapter, naming a particular person, and if a notice or certificate is on file, giving the date and hour of filing of each notice or certificate. The fee for a certificate is one dollar and twenty-five cents for each notice or certificate reported therein. Upon request, the filing officer shall furnish a copy of any notice of federal lien, or notice or certificate affecting a federal lien, for a fee of one dollar, plus seventy-five cents for the second and each succeeding page.

35-28.1-05. FEES.)

1. The fee for filing and indexing each notice of lien is:
 - a. For a lien on real estate, five dollars, plus two dollars for the second and each succeeding page.
 - b. For a lien on tangible and intangible personal property, three dollars.
 - c. For a certificate of discharge or subordination, there is no fee.
 - d. For all other notices, including a certificate of release or nonattachment, there is no fee.
2. The officer shall not file or record an instrument under this chapter unless the person offering the instrument for filing or recording has first paid the requisite filing or recording fee.

35-28.1-06. SHORT TITLE.) This chapter may be cited as the Uniform Federal Lien Registration Act.

SECTION 2. REPEAL.) Chapter 35-28 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

LIVESTOCK

CHAPTER 387

SENATE BILL NO. 2120
(Committee on State and Federal Government)
(At the request of the State Livestock Sanitary Board)

LIVESTOCK SANITARY BOARD COMPENSATION

AN ACT to amend and reenact section 36-01-04 of the North Dakota Century Code, relating to the compensation and expenses of members of the board.

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

SECTION 1. AMENDMENT.) Section 36-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-04. COMPENSATION AND EXPENSES OF MEMBERS OF BOARD.) Each member of the state livestock sanitary board shall receive as compensation for his services the sum of ~~fifteen~~ fifty dollars per day for each day employed, and his actual expenses incurred in attending the meetings of the board. Such sum shall be paid out of the state treasury upon vouchers of the board duly certified by the ~~president-and-secretary~~ executive officer thereof.

Approved March 13, 1979

CHAPTER 388

SENATE BILL NO. 2290
(Lashkowitz, Iszler)

GIFTS OF ANIMALS

AN ACT to amend and reenact section 36-21.1-09 of the North Dakota Century Code, relating to restrictions on giving away animals.

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

SECTION 1. AMENDMENT.) Section 36-21.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-21.1-09. USE OF ~~CERTAIN--BIRDS~~ ANIMALS AS ADVERTISING DEVICES.)

1. No person shall sell, offer for sale, raffle, offer, or give as a prize, premium, or use 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. Persons 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.
2. A person may not give away any live animal, other than those authorized under subsection 1, as:
 - a. A prize for, or as an inducement to enter any contest, game, or other competition;
 - b. An inducement to enter a place of amusement; or
 - c. As an incentive to enter into any business agreement where the offer was for the purpose of attracting trade.
3. The provisions of subsection 2 do not apply to a person or organization that gives away an animal:
 - a. As a project for the promotion of the equine and livestock industry of North Dakota;
 - b. As a project for the promotion of conservation of animals and wildlife in North Dakota; or
 - c. Which is intended for slaughter.

Approved March 8, 1979

MILITARY

CHAPTER 389

HOUSE BILL NO. 1135
(Committee on Judiciary)
(At the request of the Adjutant General)

CLAIMS AGAINST THE NATIONAL GUARD

AN ACT creating a new section relating to claims against the North Dakota national guard resulting from state active duty.

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

SECTION 1. CLAIMS AGAINST THE STATE.)

1. Any individual injured by an activity of the North Dakota national guard may submit a claim to the adjutant general. As used in this section, "claim" means a monetary demand upon the state for personal injury or property damage arising from activities of the national guard while on state active duty.
2. The adjutant general may approve a claim for less than two thousand five hundred dollars. If the claim is approved by the adjutant general, he shall apply to the emergency commission for an amount from the contingency fund sufficient to pay the claim. It shall be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and the commission shall direct the transfer of the requested amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
3. The adjutant general shall forward any claim exceeding two thousand five hundred dollars to the emergency commission with his recommendation. If the claim is approved by the emergency commission, it shall be conclusively presumed that an emergency exists, and the commission shall direct the transfer of the approved amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.

4. Decisions of the adjutant general or the emergency commission partially or totally denying a claim may not be appealed to any court of this state.
5. Claims may not be submitted to the legislative assembly unless the claim has been partially or totally denied by the adjutant general or the emergency commission.

Approved March 3, 1979

CHAPTER 390

HOUSE BILL NO. 1136
 (Committee on State and Federal Government)
 (At the request of the Adjutant General)

NATIONAL GUARD FACILITIES

AN ACT to amend and reenact sections 37-03-08, 37-10-01, 37-10-03, 37-10-03.3 and 37-10-03.4, and to repeal sections 37-10-05 and 37-10-06 of the North Dakota Century Code, relating to national guard facilities and military property.

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

SECTION 1. AMENDMENT.) Section 37-03-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-03-08. UNSUITABLE MILITARY PROPERTY - DISPOSAL.) All military property of this state found unsuitable after proper inspection shall be disposed of ~~in--the--same--manner--as--surplus--property--of--the--state~~ by the adjutant general, by sealed bid or at public auction, after advertisement of the same shall have been published once each week for three consecutive weeks in the official newspaper of the county where the sale is to take place, or it may be sold at private sale when ordered by the governor. In the case of scrap material it may be sold to established scrap dealers at current prices. The adjutant general shall suspend the sale whenever, in his opinion, better prices may or should be obtained. The adjutant general shall deposit all sale revenues in the state treasury and it shall be credited to the national guard improvement fund established by section 37-03-13, which shall not be subject to the provisions of section 54-44.1-11.

SECTION 2. AMENDMENT.) Section 37-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-01. ~~COMMANDING-OFFICER-OF-COMPANY,-TROOP,-OR-BATTERY-TO-PROVIDE-DRILL-ROOM-FOR-ORGANIZATION-)-)-The--commanding--officer--of--each--company--troop--or--battery--shall--provide--suitable--rooms--at--a--convenient--place--in--the--municipality--where--each--organization--is--located--or--stationed--with--the--necessary--furniture--fuel--lights--drawers--lockers--closets--and--gun--racks--for--an--armory--assembly--and--drill--room--for--such--organization--Such--room--shall--be--under--the~~

~~exclusive control of the commanding officer.~~ ADJUTANT GENERAL TO PROVIDE NATIONAL GUARD FACILITIES FOR UNITS.) The adjutant general shall provide adequate facilities for each unit of the North Dakota national guard. All national guard facilities shall be under the exclusive control of the adjutant general or any officer designated by him.

SECTION 3. 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 NATIONAL GUARD FACILITIES.) The adjutant general shall fix for each unit of the national guard, within the limits of legislative appropriations, 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. , shall provide for the acquisition and maintenance of national guard facilities, and may lease property for national guard facilities, but no lease shall exceed fifty years.

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 NATIONAL GUARD FACILITIES.) ~~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.~~ The adjutant general may participate with political subdivisions to match federal funds for the construction of national guard facilities by contributing, subject to legislative appropriations, up to fifty thousand dollars for a single unit facility or one hundred thousand dollars for a multiple unit facility, but the state contribution shall not exceed the amount provided by political subdivisions.

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 NATIONAL GUARD FACILITIES.) ~~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.~~ The adjutant general or his designee shall be the contracting officer for the state concerning the construction of national guard facilities. Governing bodies of political subdivisions may, by resolution, also designate the adjutant general or his designee as their contracting officer for the construction of national guard facilities.

SECTION 6. REPEAL.) Sections 37-10-05 and 37-10-06 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

CHAPTER 391

HOUSE BILL NO. 1657
(Unhjem, Martinson)

NATIONAL GUARD TUITION GRANTS

AN ACT to provide for tuition grants to national guard members who enroll in private nonprofit colleges and universities.

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

SECTION 1. NATIONAL GUARD TUITION GRANTS - TERMS OF GRANTS.) Any member of the national guard who shall enroll in any private nonprofit college or university in North Dakota granting a four-year baccalaureate degree shall, subject to the limitations of available appropriated funds and subject to national guard regulations which may be promulgated by the adjutant general, be entitled to receive a grant in the amount of fifty percent of the tuition fees charged by the school, but not in excess of the tuition for similar courses and credit hours at the university of North Dakota. Any private nonprofit college or university which shall agree to participate in such a program shall waive tuition for qualifying national guardsmen in an amount equal to twenty-five percent of the tuition for similar courses and credit hours at the university of North Dakota. The use of the grant shall not be restricted to the payment of such tuition fees by the member of the national guard. These grants shall be distributed according to rules and regulations promulgated by the adjutant general and shall be available only so long as the member maintains satisfactory performance with the guard and pursues a course of study which satisfies the normal requirements of the school. As used in this Act the word "tuition" has the same meaning as provided in section 37-07.1-02.

SECTION 2. LIMITATION.) The grants provided by this Act shall not be available to any member of the national guard who shall have less than one year of service obligation to the national guard remaining at the beginning of each semester or academic term for which a grant is requested.

SECTION 3. APPLICATION FOR GRANT.) It shall be the responsibility of the individual member of the national guard to request the grant on an application provided by the adjutant general at the time of enrollment for each semester or academic term for

which a grant is requested. The grants provided for in this Act shall be paid from such funds as may be appropriated for tuition payment purposes in accordance with chapter 37-07.1.

SECTION 4. REGULATIONS.) The adjutant general may adopt, amend, and rescind any national guard regulations, pursuant to chapter 28-32, deemed necessary to implement and administer this Act.

Approved March 26, 1979

CHAPTER 392

SENATE BILL NO. 2225
(Committee on Social Welfare and Veterans Affairs)
(At the request of the Adjutant General)

NATIONAL GUARD MEMBER BENEFITS

AN ACT to amend and reenact sections 37-11-01 and 37-11-02 and to repeal sections 37-11-04, 37-11-06 and 37-11-07 of the North Dakota Century Code, relating to compensation for disability or death of members of the North Dakota national guard.

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

SECTION 1. AMENDMENT.) Section 37-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-11-01. MEMBERS OF MILITIA AND NATIONAL GUARD AND DEPENDENTS MAY BE GIVEN PENSION.) Every member of the militia or national guard who has been or who shall be wounded or disabled or the surviving dependents of such member in case of the member's death from such wound or disability while:

1. In the service of this state in case of riot, tumult, breach of the peace, resistance to process, invasion, disaster relief, the protection of life or property, or insurrection, or imminent danger thereof; or
2. Engaged in any lawfully ordered parade, drill, encampment, or inspection; or
3. Acting pursuant to call in aid of the civil authorities, or
4. Otherwise ordered to state active duty by the governor,

shall be taken care of and provided for at the expense of this state in the manner provided in this chapter.

SECTION 2. AMENDMENT.) Section 37-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-11-02. COMPENSATION FOR DISABILITY OR DEATH.) Applications for compensation for disability or death of any member

of the militia or member of the national guard under conditions as specified in section 37-11-01 shall be made by such member or his surviving dependents to the workmen's compensation bureau. The workmen's compensation bureau shall process such application in the manner set forth in title 65 and shall make determinations of eligibility and disability in the same manner and upon the same basis as provided in such title. In the event the workmen's compensation bureau shall determine a member of the militia or national guard has been disabled under the provisions of section 37-11-01 and title 65 or valid claims of surviving dependents of such member exist in accordance with section 37-11-01 and title 65, it shall certify to the adjutant general the type and amount or percentage of disability or the names of any approved claims of surviving dependents together with any other necessary information.

The adjutant general shall immediately make a determination of the amount of such claim or claims that will be payable during the current biennium in accordance with the provisions of section 37-11-04 and shall apply to the emergency commission for a grant of funds from the contingency fund in an amount sufficient to pay such claim or claims during the balance of the biennium. It shall be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and such commission shall forthwith grant and direct the transfer to the credit of the national guard from the contingency fund any amount equal to that certified in the application by the adjutant general. The adjutant general shall immediately thereafter pay all accumulated moneys due upon such claim or claims and thereafter make payments in accordance with the provisions of section 37-11-04.

The adjutant general shall submit to the legislative assembly at its next session, at the same time as other requests for appropriations for the national guard are submitted, a request for sufficient appropriated funds to make all payments due upon such claim or claims during the subsequent biennium and shall do so each biennium thereafter until such claim or claims are liquidated. The amount of any claims paid by the adjutant general pursuant to this chapter shall be reduced by an amount equal to any benefits payable by the government of the United States to the member or his surviving dependents because of his disability or death or payable under the provisions of section 37-11-07 to a disabled member pay the claim pursuant to title 65.

SECTION 3. REPEAL.) Sections 37-11-04, 37-11-06 and 37-11-07 of the North Dakota Century Code are hereby repealed.

Approved March 18, 1979

CHAPTER 393

HOUSE BILL NO. 1363
(Strinden)

VETERAN'S PREFERENCE IN PUBLIC EMPLOYMENT

AN ACT to amend and reenact subsection 2 of section 37-19.1-02 of the North Dakota Century Code, relating to the preference given to qualified veterans in public employment.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 37-19.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. When a veteran shall apply for appointment or employment under subsection 1, the officer, board, or person whose duty it is to appoint or employ a person to fill the available position shall, except where the veteran has been qualified for the position applied for under a personnel system, investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall appoint or employ him the veteran.

Approved March 3, 1979

MINING AND GAS AND OIL PRODUCTION

CHAPTER 394

SENATE BILL NO. 2156
(Committee on Natural Resources)
(At the request of the Industrial Commission)

NATURAL GAS WELL STATUS DETERMINATIONS

AN ACT to authorize the industrial commission or its designee to make natural gas well status determinations and findings pursuant to the Natural Gas Policy Act of 1978 and to make oil well status determinations and findings pursuant to any future federal legislation or rules; and declaring an emergency.

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

SECTION 1. NATURAL GAS WELL STATUS DETERMINATIONS AND FINDINGS.) The industrial commission or its designee is hereby authorized to make natural gas well status determinations and findings in accordance with the Natural Gas Policy Act of 1978 and subsequent amendments thereto, rules and regulations of the federal energy regulatory commission now or hereinafter promulgated, and such rules and regulations as the industrial commission may promulgate. The right of appeal from such determinations shall be as specified in the Natural Gas Policy Act of 1978 and subsequent amendments thereto. In the event that similar federal legislation or federal rules are adopted that require or permit oil well status determinations and findings by a state regulatory authority, the industrial commission or its designee is hereby designated as the state regulatory authority and authorized to make such determinations and findings in accordance with such legislation or rules.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 13, 1979

CHAPTER 395

HOUSE BILL NO. 1180
(Committee on Natural Resources)
(At the request of the Industrial Commission)

INDUSTRIAL COMMISSION EMERGENCY RULES

AN ACT to amend and reenact subsection 3 of section 38-08-11 of the North Dakota Century Code, relating to emergency rules of the industrial commission.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 38-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than ~~fifteen~~ forty days.

Approved March 3, 1979

CHAPTER 396

HOUSE BILL NO. 1198
(Representatives Murphy, Backes, Richard)
(Senator Jacobson)

OIL AND GAS PRODUCTION DAMAGE COMPENSATION

AN ACT to provide for the award of damages for harm caused by activities associated with the exploration for, the development, and production of oil and gas.

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

SECTION 1. LEGISLATIVE FINDINGS.) The legislative assembly finds the following:

1. It is necessary to exercise the police power of the state to protect the public welfare of North Dakota which is largely dependent on agriculture, and to protect the economic well-being of individuals engaged in agricultural production.
2. Exploration for and development of oil and gas reserves in this state interferes with the use, agricultural or otherwise, of the surface of certain land.
3. Owners of the surface estate and other persons should be justly compensated for injury to their persons or property and interference with the use of their property occasioned by oil and gas development.

SECTION 2. PURPOSE AND INTERPRETATION.) It is the purpose of this Act to provide the maximum amount of constitutionally permissible protection to surface owners and other persons from the undesirable effects of development of minerals. This Act is to be interpreted in light of the legislative intent expressed herein. Sections 4 and 5 of this Act shall be interpreted to benefit surface owners, regardless of whether the mineral estate was separated from the surface estate and regardless of who executed the document which gave the mineral developer the right to conduct drilling operations on the land. Sections 6 through 10 of this Act shall be interpreted to benefit all persons.

SECTION 3. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Agricultural production" means the production of any growing grass or crop attached to the surface of the land, whether or not the grass or crop is to be sold commercially, and the production of any farm animals, whether or not the animals are to be sold commercially.
2. "Drilling operations" means the exploration for or drilling of an oil and gas well which requires entry upon the surface estate and was commenced subsequent to June 30, 1979, and the production operations ensuing therefrom.
3. "Mineral developer" means the person who acquires the mineral estate or lease for the purpose of extracting or using the minerals for nonagricultural purposes.
4. "Mineral estate" means an estate in or ownership of all or part of the minerals underlying a specified tract of land.
5. "Minerals" means oil and gas.
6. "Surface estate" means an estate in or ownership of the surface of a particular tract of land.
7. "Surface owner" means the person who has possession of the surface of the land either as an owner or as a tenant.

SECTION 4. SURFACE DAMAGE AND DISRUPTION PAYMENTS.) The mineral developer shall pay the surface owner a sum of money equal to the amount of damages sustained by the surface owner for loss of agricultural production and income, lost land value, and lost value of improvements caused by drilling operations. The amount of damages may be determined by any formula mutually agreeable between the surface owner and the mineral developer. When determining damages, consideration shall be given to the period of time during which the loss occurs and the surface owner may elect to be paid damages in annual installments over a period of time; except that the surface owner shall be compensated for harm caused by exploration only by a single sum payment. The payments contemplated by this section shall only cover land directly affected by drilling operations. Payments under this section are intended to compensate the actual surface owner for damage and disruption; any reservation or assignment of such compensation apart from the surface estate except to a tenant of the surface estate is prohibited.

SECTION 5. NOTICE OF DRILLING OPERATIONS.) Except for exploration activities governed by chapter 38-08.1, the mineral developer shall give the surface owner written notice of the drilling operations contemplated. This notice shall be given to the record surface owner at his address as shown by the records of the county register of deeds at the time the notice is given. This notice shall sufficiently disclose the plan of work and operations

to enable the surface owner to evaluate the effect of drilling operations on the surface owner's use of the property. Included with this notice shall be a form prepared by the state geologist advising the surface owner of his rights and options under the Act.

SECTION 6. OTHER RESPONSIBILITIES OF MINERAL DEVELOPER.) The mineral developer shall be responsible for all damages to person or property, real or personal, resulting from the lack of ordinary care by the mineral developer. The mineral developer shall also be responsible for all damages to person or property, real or personal, resulting from a nuisance caused by drilling operations.

SECTION 7. NOTIFICATION OF INJURY.) Any person, to receive compensation, under sections 8 and 9, shall notify the mineral developer of the damages sustained by the person within two years after the injury occurs or would become apparent to a reasonable man.

SECTION 8. AGREEMENT - OFFER OF SETTLEMENT.) Unless both parties provide otherwise by written agreement, within sixty days after the mineral developer receives notice of damages the mineral developer shall make a written offer of settlement to the person seeking compensation for the damages. The person seeking compensation may accept or reject any offer so made.

SECTION 9. REJECTION - LEGAL ACTION - FEES AND COSTS.) If the person seeking compensation receives a written rejection, rejects the offer of the mineral developer, or receives no reply, that person may bring an action for compensation in the court of proper jurisdiction. If the amount of compensation awarded by the court is greater than that which had been offered by the mineral developer, the court shall award the person seeking compensation reasonable attorney fees and any costs assessed by the court.

SECTION 10. APPLICATION OF ACT.) The remedies provided by this Act shall not preclude any person from seeking other remedies allowed by law. This Act does not apply to the operation, maintenance, or use of a motor vehicle upon the highways of this state as these terms are defined in section 39-01-01.

Approved April 7, 1979

CHAPTER 397

HOUSE BILL NO. 1250
(Committee on Natural Resources)
(At the request of the Industrial Commission)

SUBSURFACE MINERAL REGULATION

AN ACT to amend and reenact section 38-12-01, section 38-12-02 and section 38-12-03 of the North Dakota Century Code, relating to subsurface mineral regulation.

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

SECTION 1. AMENDMENT.) Section 38-12-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-12-01. DEFINITIONS.) As used in this chapter, unless the context otherwise requires:

1. "Subsurface minerals" means and includes all naturally occurring elements, and their compounds, natural mineral salts of boron, bromine, calcium, fluorine, helium, iodine, lithium, magnesium, nitrogen, phosphorus, potassium, sodium, thorium, uranium, and sulfur, and their compounds.
2. "Commission" means the industrial commission of the state of North Dakota.
3. "Person" means and includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof; the masculine gender, in referring to a person, includes the feminine and the neuter genders.
4. "Extraction facility" means any well or mine or other extractive process operated for the purpose of recovering subsurface minerals.

5. "Operator" means any person who, duly authorized, is in charge of the development of a lease or the operation of a producing property.
6. "Owner" means the person who has the right to explore for, develop and produce subsurface minerals and to appropriate the subsurface minerals he produces either for himself or for himself and others.
7. "Producer" means the owner of an extraction facility which is or has been capable of producing subsurface minerals.

SECTION 2. AMENDMENT.) Section 38-12-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-12-02. JURISDICTION OF COMMISSION.) The commission has jurisdiction and authority over all persons and property, public and private, necessary to enforce effectively the provisions of this chapter. The state geologist shall act as a supervisor charged with the duty of enforcing the regulations and orders of the commission applicable to the subsurface mineral resources of this state and the provisions of this chapter. The commission has authority to make such investigations as it deems proper to determine whether facts exist which justify action by the commission. The commission acting through the office of the state geologist has the authority:

1. To require:

- a. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules and regulations of the industrial commission prescribed to govern the exploration, development and production of subsurface minerals on state and private lands within the state of North Dakota.
- b. The delivery, free of charge, to the state geologist of the basic ~~drilling~~ exploration data collected by the operator, within thirty days of field collection of such data. This data shall include:
 - (1) Sample cuts, core chips, or whole cores;
 - (2) Sample logs, radioactivity logs, resistivity logs, or other types of electrical or mechanical logs;
 - (3) Elevation and location information on the data collection points; and
 - (4) Other pertinent information as may be requested by the state geologist.

The data so submitted shall be confidential for a period of one year when so requested by the operator and such period may be further extended upon approval by the commission.

- c. The filing of monthly production reports in the manner prescribed by the commission, and any other reports deemed necessary by the commission.
 - d. The conducting of all exploration, development and production operations in such a manner as to prevent pollution of freshwater supplies, to provide for the protection of the environment and public safety, and to ensure the optimum recovery of the mineral resource.
 - e. The reclamation of all land disturbed by operations regulated by this Act to a condition consistent with prior land-use and productive capacity.
2. To regulate the drilling, and plugging abandonment of exploration test holes and producing wells and all other operations---governing---the---method---of---production---of subsurface minerals exploration, development, production and reclamation operations.
 3. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes and the intent of this chapter.
 4. To inspect all ~~drilling~~ exploration, development and production sites. For the purposes of this subsection, the state geologist or his representative shall have access to all ~~drilling~~ exploration, development or production installations for purposes of inspection and shall have the authority to require the operator's aid if same is necessary and is requested.

SECTION 3. AMENDMENT.) Section 38-12-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-12-03. ~~DRILLING PERMIT REQUIRED.~~) It shall be unlawful to commence operations ~~for drilling~~ for the exploration, development or production of subsurface minerals without first obtaining a permit from the state geologist, under such rules and regulations as may be prescribed by the commission and paying to the commission a fee for each such permit in an amount to be prescribed by the commission.

Approved March 15, 1979

CHAPTER 398

HOUSE BILL NO. 1262

(Committee on Natural Resources)

(At the request of the North Dakota Public Service Commission)

MINE REGULATION AMENDMENTS

AN ACT to create and enact subsection 5 to section 38-12.1-04 of the North Dakota Century Code, relating to the jurisdiction of the Industrial Commission; to create and enact a new section under chapter 65-11 of the North Dakota Century Code, relating to the promulgation of rules by the Workmen's Compensation Bureau regarding mine foremen; to amend and reenact sections 38-12.1-05, 38-12.1-08, and 38-16-06, subsections 2 and 4 of section 38-18-06, subsection 1 of section 38-18-07, and subsections 1 and 2 of section 38-18-08 of the North Dakota Century Code, relating to the necessity of a drilling permit, penalties, exemptions from surface mining operation reporting requirements, requirement of surface owner consent to surface mining operations, payment of damages sustained by the surface owner, and financial obligation of the mineral developer to pay the costs of reclamation; and to repeal chapters 38-03, 38-05, 38-06, and 38-07, and sections 38-01-01 and 38-01-08 of the North Dakota Century Code, relating to the state mine inspector, mine foreman examinations and qualifications, protection of the health and safety of miners, maps or surveys of mines, regulation of surface coal mining and reclamation operations, definitions, and penalties.

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

SECTION 1.) Subsection 5 of section 38-12.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

5. Notwithstanding any of the other provisions of this section, the commission acting through the office of the state geologist shall require that any lands substantially disturbed in coal exploration, including excavations, roads, drill holes, and the removal of necessary facilities and equipment be reclaimed in accordance with the applicable performance standards of section 38-14.1-24. Reclamation shall be accomplished so as to

protect environmental quality, general health and safety, and economic values.

SECTION 2. AMENDMENT.) Section 38-12.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-12.1-05. NOTICE AND DRILLING PERMIT REQUIRED - EXCEPTIONS - LIMITS ON COAL REMOVAL.)

1. It shall be unlawful to commence operations for drilling for the exploration for coal without first obtaining a permit from the state geologist, under such rules and regulations as may be prescribed by the commission, and paying to the commission a fee of one hundred dollars for each such permit area. The permit application shall include a description of the exploration area, and the period of proposed exploration. The permit shall be granted within thirty days after proper application is submitted therefor.
2. This permit shall not be required:
 - a. In an area where a permit to ~~surface-mine-land~~ conduct surface coal mining operations is in effect pursuant to chapter ~~38-14~~ 38-14.1;
 - b. For holes drilled to guide excavating equipment in an operating mine; or
 - c. In areas where a drill hole is required by any other state agency.
3. No person shall remove more than two hundred fifty tons of coal pursuant to an exploration permit without first obtaining a permit from the public service commission.

SECTION 3. AMENDMENT.) Section 38-12.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-12.1-08. PENALTY.) ~~Any person who fails to perform any act required by this chapter or any person who reports information required by this chapter falsely or any person violating any of the rules, regulations, or orders promulgated under this chapter shall, upon conviction, be guilty of a class A misdemeanor.~~

1. Any person who violates this chapter, or any permit condition or regulation implementing this chapter shall be subject to a civil penalty not to exceed five thousand dollars per day of such violation.
2. Any person who knowingly violates this chapter, or any permit condition or regulation implementing this chapter

or who knowingly reports information required by this chapter falsely shall be subject, upon conviction, to a criminal penalty of not more than ten thousand dollars or by imprisonment for not more than one year.

SECTION 4. AMENDMENT.) Section 38-16-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

38-16-06. SURFACE MINING OPERATIONS EXEMPT FROM REPORTING REQUIREMENTS.) The reporting requirements of this chapter shall not apply to a surface mining operation which is subject to a requirement by a department or agency of the state that the person conducting the surface mining operation obtain a written release from the landowner approving the condition of the affected land upon completion or abandonment of the surface mining operation. Nothing in this chapter shall be construed to be applicable to a surface mining operation which is regulated under the provisions of chapter ~~38-14~~ 38-14.1.

SECTION 5. AMENDMENT.) Subsections 2 and 4 of section 38-18-06 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The public service commission shall not issue a permit to surface mine land unless the permit application is accompanied by statements of consent, executed by each surface owner whose land is included within the permit area, to have surface mining conducted upon his land. The requirement established by this section is in addition to the requirements of chapter ~~38-14~~ 38-14.1.
4. If the mineral developer desires to have his permit amended to cover additional land, he must file either consent statements or surface or mineral leases executed by the surface owners of such additional land as required by this section with the application to amend the permit to cover additional land. If, in addition, all of the requirements of chapter ~~38-14~~ 38-14.1 are met, the public service commission may issue the amended permit.

SECTION 6. AMENDMENT.) Subsection 1 of section 38-18-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Unless the mineral lease, surface lease, or consent statement executed by the surface owner provides for payments to the surface owner, the mineral developer shall annually pay to the surface owner a sum of money equal to the amount of damages sustained by the surface owner for loss of agricultural production caused by mining activity, provided that it can be shown that the land disturbed or to be disturbed has regularly been used for agricultural production. The amount of damages may be determined by

any formula mutually agreeable between the surface owner and the mineral developer. The payments contemplated by this section shall only cover land actually mined, disturbed, or to be mined during the year or years during which agricultural production was actually interrupted and which land has not been restored to the level of agricultural productivity required by the plan submitted pursuant to chapter ~~38-14~~ 38-14.1. The payments to be made hereunder shall be made before December thirty-first of that calendar year in which the loss occurred.

SECTION 7. AMENDMENT.) Subsections 1 and 2 of section 38-18-08 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

38-18-08. FINANCIAL OBLIGATION TO RECLAIM.)

1. It is hereby declared to be the financial obligation of the mineral developer to pay the entire cost of the surface reclamation necessitated by that developer's mining operation. This obligation shall in no way be limited by the amount of the bond required of an "operator" by chapter ~~38-14~~ 38-14.1.
2. If a mineral developer fails to begin reclamation of the land disturbed by a mining operation within one year after the completion of the mining operation in accordance with the plan submitted to the public service commission pursuant to chapter ~~38-14~~ 38-14.1 and regulations promulgated thereunder, the surface owner may notify the public service commission, which commission shall take all of the necessary action lawfully authorized to obtain complete compliance with the reclamation plan.

SECTION 8.) A new section to chapter 65-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

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 9. REPEAL.) Chapters 38-03, 38-05, 38-06, and 38-07, and section 38-01-01 of the North Dakota Century Code and section 38-01-08 of the 1977 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 19, 1979

CHAPTER 399

HOUSE BILL NO. 1252

(Committee on Natural Resources)

(At the request of the North Dakota Public Service Commission)

SURFACE MINING AND RECLAMATION

AN ACT to create and enact chapter 38-14.1 of the North Dakota Century Code, relating to surface mining and reclamation operations; the designation of areas unsuitable for mining; the necessity of a mining permit; permit terms; permit application requirements; mining and reclamation plans; extended mining plans; performance bonds; release of performance bonds; informal conference procedures; permit renewals; environmental protection performance standards; prohibited mining practices; inspections and monitoring; enforcement procedures; formal hearings; permit revocation; bond forfeitures; administrative review of regulations; judicial review; small operators; conflict of interest; citizen suits; cooperation with federal and state agencies and penalties; and to repeal chapter 38-14, relating to the regulation of surface coal mining operations.

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

SECTION 1.) Chapter 38-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-14.1-01. DECLARATION OF FINDINGS AND INTENT.) The legislative assembly finds and declares that:

1. Many surface coal mining operations may result in disturbances of surface areas that adversely affect the public welfare by diminishing the utility of land for commercial, industrial, residential, cultural, educational, scientific, recreational, agricultural, and forestry purposes, by causing erosion, by polluting the water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water, other natural resources, and cultural resources.

2. The expansion of coal mining to meet the nation's energy needs makes even more urgent the establishment of appropriate standards to minimize damage to the environment and to productivity of the soil and to protect the health and safety of the public.
3. Surface mining and reclamation technology as now developed requires effective and reasonable regulation of surface coal mining operations in accordance with the requirements of this chapter to minimize so far as practicable the adverse social, economic, and environmental effects of such mining operations.
4. Surface coal mining operations contribute to the economic well-being, security, and general welfare of the state and should be conducted in an environmentally sound manner.
5. Surface coal mining and reclamation operations should be so conducted as to aid in maintaining and improving the tax base, to provide for the conservation, development, management, and appropriate use of all the natural resources of affected areas for compatible multiple purposes, and to insure the restoration of affected lands designated for agricultural purposes to the level of productivity equal to or greater than that which existed in the permit area prior to mining.
6. Warrantless inspections are necessary in this state to insure effective enforcement of surface coal mining and reclamation operation requirements.

38-14.1-02. DEFINITIONS.) Wherever used or referred to in this chapter, unless a different meaning clearly appears from the context:

1. "Alluvial valley floors" means the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities but does not include upland areas which are generally overlain by a thin veneer of colluvial deposits composed chiefly of sediment from sheet erosion, deposits by unconcentrated runoff or slope wash, together with talus, other mass movement accumulation and windblown deposits.
2. "Approximate original contour" means that surface configuration achieved by backfilling and grading an area affected by surface coal mining operations so that the reclaimed area closely resembles the general surface configuration of the land prior to being affected by surface coal mining operations and blends into and complements the surrounding undisturbed land.

3. "Coal" means a dark-colored compact and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term shall include consolidated lignitic coal, in both oxidized and nonoxidized forms, having less than eight thousand three hundred British thermal units per pound, moist and mineral matter free, whether or not the material is enriched in radioactive materials.
4. "Commission" means the public service commission, or such other department, bureau, or commission as may lawfully succeed to the powers and duties of that commission. The commission is the state regulatory authority for all purposes relating to the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1201 et seq.
5. "Extended mining plan" means a detailed written statement setting forth the matters specified in section 38-14.1-15, and covering the estimated life of the surface coal mining operation. The purpose of such plan shall be to inform the commission of conditions existing in the area proposed for mining sufficiently in advance of the commencement of operations to allow the commission to accurately assess the effects of such proposed operations.
6. "Final cut" means the last pit created in a surface mining pit sequence.
7. "High wall" and "end wall" mean those sides of the pit adjacent to unmined land.
8. "Imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before such condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself to the danger during the time necessary for abatement.
9. "Operator" means any individual, person, partnership, firm, association, society, joint stock company, company, cooperative, corporation, or other business organization, or any department, agency, or instrumentality of the state, local, or federal government, or any governmental subdivision thereof including any publicly owned utility or publicly owned corporation of state, local, or federal

government, engaged in or controlling a surface coal mining operation. Operator does not include those who remove or intend to remove two hundred and fifty tons or less of coal from the earth by coal mining within twelve consecutive calendar months in any one location or who remove any coal pursuant to reclamation operations under chapter 38-14.2.

10. "Other minerals" means clay, stone, sand, gravel, metalliferous and nonmetalliferous ores, and any other solid material or substances of commercial value occurring within five hundred feet or less of the land surface and which are excavated in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.
11. "Other suitable strata" means those portions of the overburden determined by the commission to be suitable for meeting the requirements of subsections 2 and 17 of section 38-14.1-24 and based on data submitted by the permit applicant.
12. "Overburden" means all of the earth and other materials, with the exception of suitable plant growth material, which lie above natural deposits of coal and also means such earth and other materials, with the exception of suitable plant growth material, disturbed from their natural state by surface coal mining operations.
13. "Permit" means a permit to conduct surface coal mining and reclamation operations issued by the commission.
14. "Permit applicant" means a person or operator applying for a permit.
15. "Permit area" means the area of land approved by the commission for surface coal mining operations which shall be readily identifiable by appropriate markers on the site.
16. "Permit renewal" means the extension of the permit term for areas within the boundaries of the initial or existing permit, upon the expiration of the initial or existing permit term.
17. "Permit revision" means the modification of permit provisions during the term of the permit and includes changes in the mining and reclamation plans, incidental boundary extensions, and the transfer, assignment, or sale of rights granted under the permit.
18. "Permit term" means a period of time beginning with the date upon which a permit is given for surface coal mining and reclamation operations under the provisions of this

- chapter, and ending with the expiration of the next succeeding five years plus any renewal of the permit granted under this chapter.
19. "Permittee" means a person or operator holding a permit.
 20. "Person" means an individual, partnership, firm, association, society, joint stock company, company, cooperative, corporation, or other business organization.
 21. "Pit" means a tract of land, from which overburden, or coal, or both, has been or is being removed for the purpose of surface coal mining operations.
 22. "Prime farmland" means lands as prescribed by commission regulation that have the soil characteristics and moisture supply needed to produce sustained high yields of adapted crops economically when treated and managed, including management of water, according to modern farming methods. Furthermore, such lands historically have been used for intensive agricultural purposes and are large enough in size to constitute a viable economic unit.
 23. "Prime soils" means those soils that have the required soil characteristics (including slope and moisture supply) needed to produce sustained high yields of adapted crops, as determined by the state conservationist of the U.S.D.A. Soil Conservation Service.
 24. "Reclaimed" or "reclaim" means conditioning areas affected by surface coal mining operations to make them capable of supporting the uses which they were capable of supporting prior to any mining, or higher or better uses, pursuant to subsection 2 of section 38-14.1-24.
 25. "Reclamation plan" means a plan submitted by an applicant for a permit which sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to subsection 2 of section 38-14.1-14.
 26. "Refuse" means all waste material directly connected with the production of coal mined by surface coal mining operations.
 27. "Soil amendments" means those materials added by the operator to the replaced overburden or suitable plant growth material, or both, to improve the physical or chemical condition of the soil in its relation to plant growth capability.
 28. "Soil classifier" means a professional soil classifier as defined in subsection 2 of section 43-36-01.

29. "Soil survey" means the identification and location of all suitable plant growth material within the proposed permit area and an accompanying report that describes, classifies, and interprets for use such materials.
30. "State program" means the program established by the state of North Dakota in accordance with the requirements of section 503 of the federal Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1253, to regulate surface coal mining and reclamation operations on lands within the state of North Dakota.
31. "Suitable plant growth material" means that soil material (normally the A, B, and portions of the C horizons) located within the proposed permit area which, based upon a soil survey, is found by the commission to be the most acceptable as a medium for plant growth when respread on the surface of regraded areas.
32. "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incidental to the reclamation of such operations after the date of enactment of this chapter.
33. "Surface coal mining operations" means:
 - a. Activities affecting the surface of lands in connection with a surface coal mine. Such activities include extraction of coal from coal refuse piles, excavation for the purpose of obtaining coal including such common methods as contour, strip, box cut, open pit, and area mining, the uses of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, and loading of coal at or near the mine site: except that such activities do not include the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds per centum of the tonnage of minerals removed for purposes of commercial use or sale, coal exploration subject to chapter 38-12.1, or the extraction of coal incidental to reclamation operations under chapter 38-14.2; and
 - b. The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all adjacent lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, refuse banks, dumps, stockpiles, overburden

piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, resulting from or incident to such activities.

34. "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of any violation of his permit or any requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate any violation of such permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

38-14.1-03. POWERS AND DUTIES OF THE COMMISSION.) The commission shall have and may exercise the following powers and duties:

1. To establish a program to protect society and the environment from the adverse effects of surface coal mining operations.
2. To assure that surface coal mining operations are so conducted as to protect the environment.
3. To assure that adequate procedures are undertaken to reclaim surface areas as contemporaneously as possible with the surface coal mining operations.
4. To assure that surface coal mining operations are not conducted where reclamation as required by this chapter is not feasible.
5. To assure that appropriate procedures are provided for public participation in the development, revision, and enforcement of regulations, standards, reclamation plans, or programs established by the commission under this chapter.
6. To encourage the voluntary cooperation of persons or affected groups to achieve the purposes of this chapter.
7. To encourage and support training, research, experiments and demonstrations, to utilize the expertise of other state agencies, and to collect and disseminate information relating to surface mining and reclamation of lands and waters affected by surface mining.
8. To examine and act upon all plans and specifications submitted by the permit applicant for the method of operation, backfilling, grading, and for the reclamation of the area of land affected by his operation.

9. To attach conditions to all permits and permit revisions as necessary to carry out the provisions of this chapter.
10. To issue permits for surface coal mining operations in accordance with the requirements of this chapter and the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1201, et seq.
11. To promulgate such regulations as may be necessary to carry out the purposes and provisions of this chapter and the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1201, et seq.
12. To promulgate regulations consistent with state law, in consultation with the state geologist, state health department and the state engineer for the protection of the quality and quantity of waters affected by surface coal mining operations.
13. To promulgate regulations requiring the training, examination, and certification of persons engaged in or directly responsible for blasting or use of explosives in surface coal mining and reclamation operations.
14. To exercise general supervision and administration and enforcement of this chapter and all regulations and orders promulgated thereunder and all incidental powers necessary to carry out the purposes of this chapter, including the utilization of the powers of other state agencies by delegation to those other state agencies, by cooperative agreement or regulation, certain responsibilities to avoid duplication of effort, to promote the efficient use of personnel, and to assure effective reclamation of surface mined lands in the state of North Dakota.
15. To make investigations and inspections which may be deemed necessary to insure compliance with any provision of this chapter. The commission or its authorized representatives, upon presentation of appropriate credentials, shall have the right of entry without a warrant for the purposes of such investigations or inspections.
16. To issue such orders as may be necessary to effectuate the purposes of this chapter and enforce the same by all appropriate administrative and judicial procedures.
17. To hold any hearings and informal conferences necessary for the proper administration of this chapter.
18. To reclaim, in keeping with this chapter, any land with respect to which a performance bond has been forfeited.

19. To exercise those additional powers and duties relative to the designation of lands unsuitable for surface coal mining operations granted in section 38-14.1-04.
20. To take all action necessary and appropriate including the promulgation of regulations for all provisions of this chapter to secure for this state the benefits of and to implement the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1201, et seq., and similar federal acts.
21. To advise, consult, and cooperate with other agencies of the state, other states and interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of this chapter.
22. To accept and administer loans and grants from the federal government and from other sources, public or private, for carrying out any functions pursuant to this chapter, which loans and grants shall not be expended for other than the purposes for which provided.
23. To provide by regulation standards and procedures for specific variances to any permittee so long as the permittee affirmatively demonstrates that the requested variance provides equal or greater protection to the environment and to public health and safety and will achieve reclamation consistent with the purposes of this chapter.
24. To provide by regulation for the conservation and utilization of other minerals found within the permit area during surface coal mining and reclamation operations in consultation with the state geologist, and to approve plans for the use of such other minerals outside the permit area so long as the permittee affirmatively demonstrates that such removal is lawful and will provide equal or greater protection to the environment and to public health and safety and will achieve reclamation consistent with the purposes of this chapter.
25. To exercise the full reach of the state constitutional powers wherever necessary to insure the protection of the public interest through effective control of surface coal mining operations.

38-14.1-04. POWERS AND DUTIES OF THE COMMISSION RELATIVE TO DESIGNATION OF LANDS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS.) The commission shall have the following powers and duties:

1. To be responsible for surface coal mining lands review.
2. To develop a data base and an inventory system which will permit proper evaluation of the capacity of different land

areas of the state to support and permit reclamation of surface coal mining operations.

3. To develop a method or methods for implementing land use planning decisions concerning surface coal mining operations.
4. To develop procedures insuring proper notice, opportunities for public participation, including a public hearing prior to making a designation or redesignation, pursuant to this chapter.
5. To develop procedures whereby determinations of the unsuitability of land for surface coal mining, as provided for in this chapter, are integrated as closely as possible with land use planning and regulation processes at the state and local levels.
6. To develop a planning process in order to designate which, if any, land areas are unsuitable for all or certain types of surface coal mining operations, providing said decisions are based upon competent and scientifically sound data and information and accomplished pursuant to the procedures of sections 38-14.1-05 and 38-14.1-06.

38-14.1-05. AREAS UNSUITABLE FOR ALL OR CERTAIN SURFACE COAL MINING OPERATIONS.)

1. Upon petition pursuant to section 38-14.1-06, the commission shall designate an area as unsuitable for all or certain types of surface coal mining operations if the commission determines, after hearings conducted in accordance with this chapter, that reclamation pursuant to the requirements of this chapter is not technologically and economically feasible.
2. Upon petition pursuant to section 38-14.1-06, and after hearings conducted in accordance with this chapter, the commission may designate an area as unsuitable for certain types of surface coal mining operations if such operations will:
 - a. Be incompatible with existing state or local land use plans or programs; or
 - b. Affect fragile or historic lands in which such operations could result in significant damage to important historic, cultural, scientific, and aesthetic values and natural systems; or
 - c. Affect renewable resource lands in which such operations could result in a substantial loss or reduction of productivity of long-range water supply

- or food or fiber products, and such lands include aquifers and aquifer recharge areas; or
- d. Affect natural hazard lands in which such operations could substantially endanger life and property, and such lands include areas subject to frequent flooding and areas of unstable geology.
3. Prior to designating any land area as unsuitable for surface coal mining operations, the commission shall prepare a detailed statement on:
 - a. The potential coal resources of the area;
 - b. The demand for coal resources; and
 - c. The impact of such designation on the environment, the economy, and the supply of coal.

38-14.1-06. RIGHT TO PETITION - NOTICE AND HEARING - RIGHT TO INTERVENE.)

1. Any person having an interest which is or may be adversely affected, including state agencies other than the commission, shall have the right to petition the commission to hold a hearing for the purpose of having an area designated as unsuitable for surface coal mining operations, or to have such designation terminated. Such petition shall contain allegations of facts with supporting evidence which would tend to establish the allegations.
2. Prior to designating an area as unsuitable for surface coal mining operations and within ten months after receipt of a complete petition pursuant to subsection 1 of this section, the commission shall hold a public hearing in the locality of the affected area.
3. Notice of the hearing shall be published in the official newspaper of each county wherein the affected area lies and in other daily newspapers of general circulation in the locality of the affected area at least once a week for four successive weeks prior to the hearing. The names and post-office addresses of surface and subsurface mineral rights owners shall be determined as specified by the commission from the records of the county register of deeds in each affected county. Notice of the hearing shall be sent by certified mail to the owners of surface rights and subsurface mineral rights in the affected area and to the county auditor of each county wherein such area lies no later than two weeks prior to the date of the hearing.

4. After a person having an interest which is or may be adversely affected has filed a petition and before the hearing, as required by this section, any person may intervene by filing allegations of facts with supporting evidence which would tend to establish the allegations.
5. Within sixty days after the hearing, the commission shall issue and furnish to all petitioners and any other party to the hearing, a written decision regarding the petition and reasons therefor.
6. In the event that all petitioners stipulate agreement prior to the requested hearing, and withdraw their request, such hearing need not be held.
7. If petitions are filed on lands adjacent to or in close proximity to each other, hearings required by each petition may be consolidated by the commission.

38-14.1-07. MINING IS PROHIBITED.) After the enactment of this section and subject to valid existing rights no surface coal mining operations except those which exist on the date of enactment of this section shall be permitted:

1. On any lands within the boundaries of units of the North Dakota state park system, the national park system, the national wildlife refuge systems, the national system of trails, the national wilderness preservation system, the national wild and scenic rivers system, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and national recreation areas designated by Act of the U. S. Congress.
2. On any federal lands within the boundaries of any national forest unless the requirements of 30 U.S.C. 1272 (e)(2) are met.
3. Within three hundred feet of any publicly owned park or places included in the state historic sites registry or the national register of historic sites unless approved jointly by the commission and the federal, state, or local agency with jurisdiction over the park or the historic site.
4. Within one hundred feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join such right-of-way line and except that the commission with the approval of the proper authority may permit such roads to be relocated or the area affected to lie within one hundred feet of such road, if after public notice and the opportunity for public hearing in the locality a written finding is made by the proper authority that the interests of the public and the landowners affected thereby will be protected.

5. Within five hundred feet of any occupied dwelling unless approved by the owner thereof and in accordance with the provisions of chapter 38-18, nor within three hundred feet of any public building, school, church, community, or institutional building, or within one hundred feet of a cemetery.

38-14.1-08. MINERAL EXPLORATION NOT PROHIBITED.) The designation of an area as unsuitable for all or certain types of surface coal mining operations shall not prevent the mineral exploration of such an area.

38-14.1-09. SAVINGS PROVISION.) The requirements and provisions of this chapter dealing with designation of lands unsuitable for all or certain types of surface coal mining operations (sections 38-14.1-04 through 38-14.1-08) shall not apply:

1. To lands on which surface coal mining operations are being conducted on the effective date of this chapter or under a permit issued pursuant to this chapter.
2. To lands where substantial legal and financial commitments in surface coal mining operations were in existence prior to January 4, 1977.
3. To lands where a permit application has been filed pursuant to the provisions of this chapter and the petition to have an area designated as unsuitable for surface coal mining operations has not been filed within thirty days of the last publication of the notice required by subsection 1 of section 38-14.1-18.

38-14.1-10. NECESSITY OF PERMIT.)

1. It shall be unlawful for any operator to engage in surface coal mining operations without first obtaining from the commission a permit to do so, in such form as is hereinafter provided. All existing surface coal mining operations shall on the effective date of this chapter comply with the provisions of this chapter and all regulations promulgated pursuant thereto, except that lands from which the coal has been removed prior to the effective date of this chapter shall be governed by the reclamation standards that were in effect at the time of coal removal from such lands.

38-14.1-11. REAPPLICATION FOR PERMIT UNDER APPROVED STATE PROGRAM.) No later than two months following approval of the state program in accordance with the requirements of section 503 of the federal Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1253, regardless of litigation contesting that approval, all permittees who expect to continue to conduct surface coal mining operations after the expiration of eight months from the approval of such state program, shall file an application with the

commission for a new permit in accordance with the requirements of section 38-14.1-13. Such application shall cover those lands to be surface mined after the expiration of eight months from the approval of the state program. The commission shall process such applications and grant or deny a permit within eight months after the date of approval of the state program.

38-14.1-12. PERMITS - TERM - TERMINATION.)

1. All permits for surface coal mining and reclamation operations shall comply with the standards of this chapter, any regulations promulgated thereunder, and such other requirements as the commission shall establish.
2. All permits issued pursuant to the requirements of this chapter shall be issued for a term not to exceed five years; provided, that if the applicant demonstrates that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the commission may grant a permit for such longer term.
3. A permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three years of the issuance of the permit, provided that:
 - a. The commission may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding such commencement or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee.
 - b. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface coal mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

38-14.1-13. PERMIT APPLICATIONS - GENERAL REQUIREMENTS.)

1. Any person or operator desiring to engage in surface coal mining operations shall make written application to the commission for a permit. Application for such permit shall be made upon a form furnished by the commission. Included in the application shall be:
 - a. A bond or security to attach to the lands for which a permit is sought from and after the time a permit is

granted pursuant to the requirements of section 38-14.1-16.

- b. A nonrefundable filing fee of not less than two hundred and fifty dollars or as prescribed by the commission by regulation. In establishing the amount of the fee, the commission may consider the actual or anticipated cost of reviewing, administering, and enforcing such permit. Any amount in excess of the minimum two hundred and fifty dollar fee may be refunded as prescribed by the commission by regulation.
 - c. Mining and reclamation plans and other information required to be submitted pursuant to section 38-14.1-14.
 - d. An extended mining plan as required by section 38-14.1-15.
2. Each applicant for a surface coal mining and reclamation permit shall file a copy of his application for public inspection with the office of the county auditor for each county where the mining is proposed to occur.
 3. Upon request by the permit applicant, the commission, in its discretion, may designate specific information included in the plans required by subdivisions c and d of subsection 1 of this section as exempt from disclosure under section 44-04-18, provided such specific information pertains only to the analysis of the chemical and physical properties of the coal (excepting information regarding such mineral or elemental contents which is potentially toxic in the environment). Each request shall be accompanied by a statement specifying the need for nondisclosure, which statement shall be considered part of the permit application to be filed for public inspection as specified in subsection 2 of this section. The confidential information shall be exempt for a period not to exceed seven years subsequent to the date on which the request for nondisclosure was filed.

38-14.1-14. PERMIT APPLICATIONS - MINING AND RECLAMATION PLANS.)

1. The permit application shall be submitted in a manner satisfactory to the commission and shall contain among other things:
 - a. A legal description of the land for which a permit is sought, so that it may be identified and distinguished from other lands.

- b. An identification of all lands, interests in lands, or options on such interests (both surface and subsurface) held by the applicant or pending bids on interests in lands by the applicant, which lands are contiguous to the area to be covered by the permit.
- c. The names and addresses of all of the following:
 - (1) The permit applicant.
 - (2) Every legal or equitable owner of record (surface and subsurface) of the property for which a permit is sought.
 - (3) The holders of record (surface and subsurface) of any leasehold interest in the property.
 - (4) Any purchaser of record (surface and subsurface) of the property under a real estate contract.
 - (5) The operator, if he is a person different from the permit applicant.
 - (6) If any of these are business entities other than a single proprietor, the names and addresses of the principals, officers, and resident agent.
- d. The names and addresses of the owners of record of all surface and subsurface areas adjacent to any part of the permit area as prescribed by the commission by regulation.
- e. If the applicant is a partnership, corporation, association or other business entity, the following where applicable:
 - (1) The names and addresses of every officer, partner, director, or person performing a function similar to a director, of the permit applicant.
 - (2) The name and address of any person owning of record ten per centum or more of any class of voting stock of the applicant.
 - (3) A list of all names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation within the state of North Dakota within the five-year period preceding the date of the application.
- f. A statement of any current or previous surface coal mining permits in the state of North Dakota held by

the applicant and the permit identification for said permits and for each pending application.

- g. A schedule listing any and all notices of violation of this chapter and any law or regulation of the state of North Dakota or of any department or agency of the state of North Dakota pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the three-year period prior to the date of application. The schedule shall also indicate the final resolution of any such notice of violation.
- h. A statement of whether the permit applicant, any subsidiary, affiliate, or persons controlled by or under common control with the permit applicant, has ever held any federal or state mining permit which in the five-year period prior to the date of submission of the application has been suspended or revoked, or has had a mining bond or similar security deposited in lieu of bond forfeited and, if so, a brief explanation of the facts involved.
- i. A copy of the permit applicant's advertisement as required in section 38-14.1-18.
- j. A map or plan, to an appropriate scale, clearly showing the land to be affected within the permit area upon which the applicant has the legal right to enter and commence surface coal mining operations.
- k. A copy of those documents upon which the permit applicant bases his legal right to enter and commence surface coal mining operations and whether that right is the subject of pending court litigation.
- l. A description of the type and method of surface coal mining operation that exists or is proposed, the engineering techniques proposed or used, and the equipment used or proposed to be used.
- m. The anticipated or actual starting and termination dates of each phase of the mining operations.
- n. The name of the watershed and location of the surface stream or tributary into which surface and pit drainage will be discharged, including the drainage permit application to the state engineer, if required, pursuant to other applicable state law.
- o. A determination by the permit applicant of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and

quality of water in surface and ground water systems including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the commission of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability.

- p³ The climatological factors that are peculiar to the locality of the land to be affected, including the average seasonal precipitation, the average direction and velocity of prevailing winds, and the seasonal temperature ranges.
- q. Topographic maps to an appropriate scale, as prescribed by the commission by regulation, clearly showing the land to be affected as of the date of the application. Such a map, among other things specified by the commission, shall show all of the following information:
- (1) All manmade features.
 - (2) All significant known archaeological sites existing on the date of application.
 - (3) All boundaries of the land to be affected.
 - (4) The boundary lines and names of present owners of record of all surface areas abutting the permit area.
 - (5) The location of all buildings within one-half mile of the permit area.
- r. Cross-section maps or plans of the land to be affected including the actual area to be mined, prepared by or under the direction of and certified by a registered professional engineer, or professional geologist with assistance from experts in related fields such as land surveying and landscape architecture, showing pertinent elevation and location of test borings or core samplings and depicting all of the following information:
- (1) The nature and depth of the various strata of overburden.
 - (2) The location of subsurface water, if encountered, and its quality.
 - (3) The nature and thickness of any coal or rider seam above the coal seam to be mined.

- (4) The nature of the stratum immediately beneath the coal seam to be mined.
 - (5) All mineral crop lines and the strike and dip of the coal to be mined, within the area of land to be affected.
 - (6) Existing or previous surface mining limits.
 - (7) The location and extent of known workings of any underground mines, including mine openings to the surface.
 - (8) The location of aquifers.
 - (9) The estimated elevation of the water table.
 - (10) The location of spoil, waste, or refuse areas, suitable plant growth material stockpiling areas and, if necessary, stockpiling areas for other suitable strata.
 - (11) The location of all impoundments for waste or erosion control.
 - (12) Any settling or water treatment facility.
 - (13) Constructed or natural drainways and the location of any discharges to any surface body of water on the area of land to be affected or adjacent thereto.
 - (14) Profiles at appropriate cross sections of the anticipated final surface configuration that will be achieved pursuant to the applicant's proposed reclamation plan.
- s. A statement by the applicant of the result of test borings or core samplings from the permit area including logs of the drill holes, the thickness of the coal seam found, an analysis of the chemical properties of such coal, the sulfur content of any coal seam, chemical analysis of potentially toxic forming sections of the overburden, and chemical analysis of the stratum lying immediately underneath the coal to be mined. The provisions of this subdivision may be waived by the commission with respect to the specific application by a written determination that such requirements are unnecessary.
- t. A soil survey of all the suitable plant growth material within the permit area. Such survey shall also locate and identify prime soils in the permit area. The survey shall be made by a professional soil

classifier as described in subsection 2 of section 43-36-01.

- u. Such other requirements as the commission shall prescribe by regulation.
2. Each applicant for a permit shall submit as part of the permit application a reclamation plan that shall include, in the degree of detail necessary to demonstrate that reclamation as required by this chapter can be accomplished, a statement of:
- a. The condition of the land to be covered by the permit prior to any mining including all of the following:
 - (1) The uses existing at the time of the application, and if the land has a history of previous mining, the uses which preceded any mining.
 - (2) The capability of the land prior to any mining to support a variety of uses giving consideration to soil and foundation characteristics, topography, vegetative cover and the soil survey prepared pursuant to subdivision t of subsection 1 of this section.
 - (3) The productivity of the land prior to mining, including appropriate identification of prime farmlands, as well as the average yield of food, fiber, and forage products from such lands obtained under high levels of management.
 - b. The use which is proposed to be made of the land following reclamation, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses and the relationship of such use to existing land use policies and plans, the surface owner's preferred use, and the comments of state and local governments or agencies thereof, which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.
 - c. The consideration which has been given to maximize the utilization and conservation of the coal being recovered so that re-affecting the land in the future can be minimized.
 - d. The consideration which has been given to making the surface mining and reclamation operations consistent with surface owner plans, and applicable state and local land use plans and programs.

- e. The consideration which has been given to developing the reclamation plan in a manner consistent with local physical, environmental, and climatological conditions, including the use made of hydrologic and geochemical information in addressing problems of subsurface drainage and stability.
- f. A detailed description of how the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use.
- g. The engineering techniques proposed to be used in mining and reclamation and a description of the major equipment.
- h. Plans for:
 - (1) The control of surface water drainage and of water accumulation.
 - (2) Backfilling, soil stabilization, compacting, grading, and appropriate revegetation.
 - (3) Soil reconstruction, replacement, and stabilization, pursuant to the performance standards in subsections 5 and 6 of section 38-14.1-24.
- i. A detailed description of the measures to be taken during the mining and reclamation process to assure the protection of:
 - (1) The quality of surface and ground water systems, both onsite and offsite, from adverse effects of the mining and reclamation process.
 - (2) The rights of present users to such water.
 - (3) The quantity of surface and ground water systems, both onsite and offsite, from adverse effects of the mining and reclamation process or to provide alternative sources of water where such protection of quantity cannot be assured.
- j. The steps to be taken to comply with applicable air quality and water quality and quantity laws and regulations and any applicable health and safety standards.
- k. A detailed estimated timetable for the accomplishment of each major step in the reclamation plan.

1. An estimate of the cost per acre of the reclamation, including a statement as to how the applicant plans to comply with each of the requirements set out in section 38-14.1-24.
 - m. The results of test borings which the applicant has made of the area to be covered by the permit, or other equivalent information and data, in a form satisfactory to the commission, including the location of subsurface water and an analysis of the chemical properties including toxic forming properties of the mineral and overburden.
 - n. Such other requirements as the commission shall prescribe by regulation.
3. Each applicant for a permit shall submit to the commission as part of the permit application a certificate issued by an insurance company authorized to do business in the state of North Dakota certifying that the applicant has a public liability insurance policy in force for the surface coal mining and reclamation operations for which such permit is sought. Such policy shall provide for personal injury and property damage protection in an amount adequate to compensate any persons, except employees covered by workmen's compensation insurance pursuant to chapter 65-01, damaged as a result of surface coal mining and reclamation operations including use of explosives and entitled to compensation under the applicable provisions of state law. Such policy shall be maintained in full force and effect during the terms of the permit or any renewal, including the length of all reclamation operations. The policy shall include a rider requiring that the insurer notify the commission whenever substantive changes are made in the policy, including any termination or failure to renew. All operations must cease if the policy is terminated or is not renewed.
 4. Each applicant for a surface coal mining and reclamation permit shall submit to the commission as part of the permit application a blasting plan which shall outline the procedures and standards by which the permittee will meet the provisions of subsection 13 of section 38-14.1-24.

38-14.1-15. PERMIT APPLICATIONS - EXTENDED MINING PLAN.)

1. An applicant shall submit as part of a permit application a plan identifying the lands subject to surface coal mining operations over the estimated life of those operations and the size, sequence, and timing of the subareas for which it is anticipated that individual permits will be sought. The following information shall be included, in such form and detail as prescribed by commission regulations:

- a. A legal description of the land, so that it may be identified and distinguished from other lands;
 - b. Available hydrologic data and geologic, topographic, and soils maps;
 - c. A statement of the approximate number of tons of coal to be removed from the land;
 - d. Such other information as the commission may require.
2. The permittee shall annually advise the commission of the status of the plan, and shall amend such plan if changes are made in anticipated mining operations or if updated information is available.

38-14.1-16. PERFORMANCE BOND - AMOUNT - SUFFICIENCY OF SURETY - AMOUNT OF FORFEITURE.)

1. As part of a surface coal mining and reclamation permit application, the permit applicant shall file with the commission, on a form prescribed and furnished by the commission, a bond for performance payable to the state of North Dakota and conditional upon faithful performance of all the requirements of this chapter and the requirements of all regulations promulgated pursuant to this chapter and all permit terms and conditions.
2. For areas where coal is mined and where overburden is removed or deposited, the amount of the bond shall be at a minimum one thousand five hundred dollars for each acre or portion thereof or an amount sufficient to assure the completion of the reclamation plan by the commission in the event of forfeiture, whichever is greater. For areas affected by all other activities conducted as part of a surface coal mining operation, the amount of the bond shall be at a minimum two hundred dollars for each acre or portion thereof or an amount sufficient to assure the completion of the reclamation plan by the commission in the event of forfeiture, whichever is greater. A bond that is greater than any minimum amount established by this subsection shall be required if the commission shall determine that the cost of reclamation exceeds such minimum amounts. In no case shall the bond for the entire permit area be less than ten thousand dollars.
3. The bond shall cover that area of land within the permit area upon which the permittee will initiate and conduct surface coal mining and reclamation operations for the ensuing year. Prior to initiating and conducting succeeding increments of surface coal mining and reclamation operations within the permit area, the permittee shall file with the commission an additional

- bond or bonds to cover such increments in accordance with this section.
4. Liability under the bond, subject to allowable releases under subsection 7 of section 38-14.1-17, shall be for the duration of the surface coal mining and reclamation operation and for a period coincident with the permittee's responsibility for revegetation requirements in subsection 18 of section 38-14.1-24 and until such time as the lands included in the surface coal mining operation have been approved and released by the commission. The bond shall be executed by the permit applicant and a corporate surety licensed to do business in North Dakota, except that the permit applicant may elect to deposit cash, negotiable bonds of the United States or of North Dakota, or negotiable certificates of deposit of any bank organized or transacting business in the state. The cash deposit or market value of such securities shall be equal to or greater than the amount of the bond required for the bonded area.
 5. Cash or securities so deposited shall be deposited upon the same terms as the terms upon which surety bonds may be deposited. Such securities shall be security for the repayment of such negotiable certificate of deposit.
 6. A bond filed as prescribed in subsection 2 of this section for areas not yet affected by surface coal mining and reclamation operations shall not be cancelled by the surety unless it shall give not less than ninety days notice to the commission. For lands on which surface coal mining and reclamation operations are being conducted, the bond shall not be cancelled by the surety unless a substitute surety assuming liability from the initiation of such operations is obtained and is approved by the commission.
 7. 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 permittee, 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 or security as prescribed by subsection 5 of this section. Upon failure of the permittee to make substitution of surety, the commission shall have the right to suspend the permit until such substitution has been made.
 8. The commission may accept the bond of the permit applicant itself without separate surety when the permit applicant demonstrates to the satisfaction of the commission the existence of a suitable agent to receive service of process and a history of financial solvency and continuous

operation sufficient for authorization to self-insure or bond such amount.

9. The amount of the bond or deposit required and the terms of each acceptance of the permit applicant's bond shall be adjusted by the commission from time to time as acreages affected by surface coal mining operations are increased or decreased or where the cost of future reclamation changes.
10. The amount of any forfeiture of the bond or security shall be the amount prescribed in the permit for each acre or portion thereof on which surface coal mining and reclamation operations are being conducted.

38-14.1-17. RELEASE OF PERFORMANCE
BOND - SCHEDULE - NOTIFICATION - PUBLIC HEARING.)

1. The permittee may file a request with the commission for the release of all or part of a performance bond or deposit furnished subsequent to July 1, 1975. As part of any bond release application, the permittee shall submit:
 - a. Within thirty days after filing of the request, a copy of an advertisement placed at least once a week for four successive weeks in the official newspaper of each county wherein the surface coal mining operation is located and in other daily newspapers of general circulation in the locality of the surface coal mining operation. Such advertisement shall contain notification of all of the following:
 - (1) The precise location and the number of acres of the land affected.
 - (2) The permit and the date approved.
 - (3) The amount of the bond filed and the portion sought to be released.
 - (4) The type and approximate dates of reclamation work performed and a description of the results achieved as they relate to the permittee's approved reclamation plan.
 - (5) The right to file written objections and to request a public hearing or an informal conference as specified in subsection 2 of this section.
 - b. Copies of letters which the permittee has sent to all owners of surface rights within the permit area proposed for bond release, all owners of subsurface rights within the permit area proposed for bond

release, adjoining property owners, state agencies specified in subsection 2 of section 38-14.1-21, heads of local governmental bodies, including the county commissioners and mayors of municipalities, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operations took place, notifying them of his intention to seek release from the bond. Such letters shall also contain notice of the right to file written objections and request an informal conference or a public hearing as specified in subsection 2 of this section.

2. Any person having a valid legal interest which is or may be adversely affected by release of the bond or the responsible officer or head of any state or local governmental agency which has jurisdiction by law or special expertise with respect to any environmental, social, or economic impact involved in the surface coal mining operation, or is authorized to develop and enforce environmental standards with respect to such operations shall have the right to file written objections to the proposed release from bond with the commission and to request an informal conference pursuant to the procedures established in section 38-14.1-19 or a public hearing pursuant to procedures established in subsection 3 of section 38-14.1-30 within thirty days after the last publication of the notice required in subsection 1 of this section.
3. Upon receipt of the application for bond release, the commission shall, within thirty days, conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, all of the following:
 - a. The degree of difficulty to complete any remaining reclamation.
 - b. Whether pollution of surface and subsurface water is occurring.
 - c. The probability of continuance or future occurrence of such pollution.
 - d. The estimated cost of abating such pollution.
 - e. The effectiveness of soil erosion control measures employed.
 - f. The level of bonding..

The commission shall make written findings with its ruling to release or not to release all or part of the

performance bond or deposit within sixty days from the filing of the request for bond release, if no informal conference or public hearing is held, and if there has been an informal conference or a public hearing, within thirty days thereafter.

4. Time periods established by subsection 3 of this section shall not apply if effective inspections cannot be carried out because of inclement weather.
5. If the commission disapproves the application for release of the bond or portion thereof the commission shall state the reasons for disapproval, recommend corrective actions necessary to secure said release and provide the permittee with an opportunity for a formal public hearing pursuant to the procedures of section 38-14.1-30.
6. If the commission decides to release the bond either totally or in part, the commission shall notify the county commissioners and the mayors of the municipalities in the county in which the applicable surface coal mining operation is located by certified mail, at least thirty days prior to the actual release of all or a portion of the bond.
7. The commission may release in whole or in part said bond or deposit if the commission is satisfied the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter according to the following schedule:
 - a. When the permittee completes the backfilling, regrading, and drainage control of a bonded area in accordance with the approved reclamation plan, the release of up to forty per centum of the bond or collateral for the applicable permit area.
 - b. After spreading suitable plant growth material or other suitable strata on the regraded land in accordance with the approved reclamation plan, up to an additional twenty per centum of the bond or collateral for the applicable permit area may be released.
 - c. After vegetation has been established on the regraded land in accordance with the approved reclamation plan, up to an additional twenty per centum of the bond or collateral for the applicable permit area may be released. The commission shall retain that amount of bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing vegetation and for the period specified for permittee responsibility in subsection 18 of

section 38-14.1-24 of reestablishing vegetation, provided that:

- (1) No part of the remaining bond or deposit shall be released under this subdivision so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by subsection 8 of section 38-14.1-24 or until prime farmlands affected by surface coal mining operations have been returned to a level of productivity equal to or greater than nonmined prime farmland in the surrounding area under equivalent management practices.
 - (2) Where a silt dam is to be retained as a permanent impoundment pursuant to subsection 7 of section 38-14.1-24, the portion of the remaining bond or deposit may be released under this subdivision so long as provisions for sound future maintenance by the permittee or the landowner have been made with the commission.
- d. When the permittee has completed successfully all surface coal mining and reclamation operations, the remaining portion of the bond may be released, but not before the expiration of the period specified for permittee responsibility in subsection 18 of section 38-14.1-24. No bond shall be fully released until all reclamation requirements of this chapter are fully met.
8. Until reclamation has been accomplished to the satisfaction of the commission and until the bond has been fully released pursuant to subsection 7 of this section, control of the affected lands shall remain in the commission, and the commission shall not allow use of the land which is inconsistent with reclamation.

38-14.1-18. PERMIT APPLICATION PROCEDURES - NOTICE REQUIREMENTS.)

1. At the time of filing an application for a permit, or for revision of an existing permit, the applicant shall submit to the commission a copy of the applicant's advertisement of the ownership, precise location, and boundaries of the land proposed to be affected by the permit or permit revision and the location where the application is available for public inspection. Such advertisement shall include notification to any person with an interest which is or may be adversely affected that a petition to designate an area as unsuitable for surface coal mining operations that is within the proposed permit area must be filed within thirty days of the last publication of the

notice. The permit applicant shall place such advertisement in the official newspaper of each county wherein land to be included within the permit area lies and in other daily newspapers of general circulation in the locality of the proposed surface coal mining operation at least once a week for four consecutive weeks from the date of filing the application for a permit. Affidavits of publication for all advertisements published pursuant to this subsection shall be furnished to the commission by the permit applicant.

2. The permit applicant shall also conduct a search of the records of the county register of deeds for each county for land within the proposed permit area and shall supply the commission with a list of names and addresses of all owners of surface rights of land within the proposed permit area and a list of all subsurface mineral owners within the proposed permit area. The lists shall be submitted to the commission along with the application for a permit or permit revision.
3. Upon receipt of an application for a permit, or a revision thereof, the commission shall serve notice upon state agencies specified in subsection 2 of section 38-14.1-21, city and county governmental authorities, planning agencies, sewage and water treatment authorities, and water companies in the locality of the proposed surface coal mining operation, of the permit applicant's intent to surface mine the particularly described tract of land, indicating the application's permit number and where a copy of the proposed mining and reclamation plan may be inspected, and informing them of their right to submit written comments or objections pursuant to this section with respect to the effect of the proposed surface coal mining operations on the environment within their area of responsibility.
4. In addition, the commission shall send by certified mail to all owners of surface rights of the land to be included within the permit area, a notice of the opportunity to submit comments or objections pursuant to this section on the proposed permit application and its effect on the environment and the surface owner. This notice shall also inform each surface owner of his right to request an informal conference within the time prescribed in subsection 5 of this section, and of his right to request a formal hearing within thirty days of the ruling of the commission pursuant to subsection 3 of section 38-14.1-30.
5. Any person having an interest which is or may be adversely affected including state agencies other than the commission, shall have the right to file written comments or objections to the application for a proposed initial or revised permit and to submit a request for an informal

conference pursuant to section 38-14.1-19, provided that the written comments or objections and any request for an informal hearing are made within thirty days after the last publication of the advertisement referred to in subsection 1 of this section.

6. Any comments, objections and requests for an informal conference shall immediately upon receipt be transmitted to the permit applicant by the commission and shall be made available to the public at the same location as is the permit application.

38-14.1-19. INFORMAL CONFERENCE PROCEDURES.)

1. If written objections or comments are filed and an informal conference is requested as provided in sections 38-14.1-17 or 38-14.1-18, the commission shall schedule such informal conference within thirty days of the receipt of such request but in no event prior to the expiration of the thirty-day period allowed for submission of comments, objections and requests in subsection 2 of section 38-14.1-17 or subsections 3, 4, and 5 of section 38-14.1-18.
2. The informal conference shall be held in the locality of the proposed mining if the request for such conference so specifies. Date, time and location of such informal conference shall be advertised by the commission in the official newspaper of each county wherein land included in the proposed permit area lies and in other daily newspapers of general circulation in the locality of the proposed surface coal mining operation at least two weeks prior to the scheduled conference date.
3. Upon request of any party to the informal conference, the commission may arrange with the applicant access by the requesting party to the proposed mining area for the purpose of gathering information relative to such conference.
4. An electronic or stenographic record shall be made of the informal conference proceedings, unless waived by all parties. Such record shall be maintained and shall be accessible to the parties until final release of the permittee's performance bond pursuant to this chapter.
5. In the event all parties requesting the informal conference stipulate agreement prior to the requested informal conference and withdraw their request, such informal conference need not be held.
6. The commission shall issue its written findings and ruling within thirty days of the informal conference. Along with these findings and ruling, notice shall be served upon all

persons who were parties to the informal conference, informing them of their right, within thirty days of such service, to request that a formal administrative hearing be held by the commission pursuant to section 38-14.1-30 in order to review the findings and ruling.

38-14.1-20. RULING ON PERMIT APPLICATION - TIMING AND CONTENT.)

1. If an informal conference in reference to a permit application has been held pursuant to section 38-14.1-19, the commission shall issue its written findings approving or disapproving the application in whole or in part and stating the reasons for such findings within thirty days of the informal conference. At the time of issuance, copies of the findings, reasons, and the commission's ruling shall be furnished to the permit applicant and all persons who were parties to the informal conference along with the notice of the right to request a formal hearing provided for in section 38-14.1-30.
2. If no informal conference has been held, the commission shall notify the permit applicant within a reasonable time as set forth in regulations, whether the application has been approved or disapproved in whole or in part along with notice of the right to request a formal hearing pursuant to section 38-14.1-30. In setting such reasonable time, the commission shall take into account the time needed for proper investigation of the site, the complexity of the permit application, and whether or not objections to the application have been filed.
3. Under either subsection 1 or 2 of this section: if the application is approved, a permit shall be issued only after the thirty-day period for requesting a formal hearing has elapsed without such a request being made; if the application is disapproved, specific reasons therefor must be set forth in the notification of disapproval together with the requirements for approval.

38-14.1-21. PERMIT APPROVAL OR DENIAL STANDARDS.)

1. Upon the basis of a complete mining application and reclamation plan or a revision thereof as required by this chapter and pursuant to regulations established under this chapter, the commission shall grant, require modification of, or deny the application for a permit and notify the applicant in writing within a reasonable time as established by regulation if no informal conference is held and if an informal conference is held, within thirty days of such conference. The applicant for a permit, or a revision of a permit, shall have the burden of establishing that his application is in compliance with all the requirements of this chapter. Within ten days

- after the granting of a permit, the commission shall notify the appropriate local governmental officials in the county in which the area of land to be affected is located that a permit has been issued and shall describe the location of the land.
2. The commission's approval or modification of the permit or permit revision application shall include consideration of the advice and technical assistance of the state historical society, the state department of health, the state soil conservation committee, the state game and fish department, the state forester, the state geologist, and the state engineer, and may also include those state agencies versed in soils, agronomy, ecology, geology, and hydrology, and other agencies and individuals experienced in reclaiming surface mined lands.
 3. No permit or revision application shall be approved unless the applicant affirmatively demonstrates and the commission finds in writing on the basis of the information set forth in the application or from information otherwise available which will be documented in the approval and made available to the applicant, that all the following requirements are met:
 - a. The permit application is accurate and complete and all the requirements of this chapter and of regulations promulgated by the commission have been complied with.
 - b. The permit applicant has demonstrated that reclamation as required by this chapter and by regulations promulgated by the commission can be accomplished under the reclamation plan contained in the permit application.
 - c. The assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in subdivision o of subsection 1 of section 38-14.1-14 has been made by the commission and the proposed operation thereof has been designed to prevent material damage to the hydrologic balance outside the permit area.
 - d. The area proposed to be mined is not included within an area designated unsuitable for all or certain types of surface coal mining operations pursuant to section 38-14.1-05 or is not within an area under study for such designation in an administrative proceeding, provided the petition to have an area so designated has been filed prior to or within the time period specified in subsection 1 of section 38-14.1-18, or unless in such an area as to which an administrative proceeding has commenced, the permit applicant

demonstrates that prior to January 4, 1977, he has made substantial legal and financial commitments in relation to the operation for which he is applying for a permit.

- e. The proposed surface coal mining operation, if located west of the one hundredth meridian west longitude, would:
 - (1) Not interrupt, discontinue, or preclude farming on alluvial valley floors that are irrigated or naturally subirrigated, but, excluding undeveloped range lands which are not significant to farming on said alluvial valley floors and those lands as to which the commission finds that if the farming that will be interrupted, discontinued, or precluded is of such small acreage as to be of negligible impact on the farm's agricultural production; or
 - (2) Not materially damage the quantity or quality of water in surface or underground water systems that supply these alluvial valley floors.

This subdivision shall not affect those surface coal mining operations which on the effective date of this chapter produce coal in commercial quantities and are located within or adjacent to alluvial valley floors or have obtained specific permit approval by the commission to conduct surface coal mining operations within said alluvial valley floors.

- f. In cases where the mineral estate has been severed from the surface estate, the applicant has complied with the requirements of chapter 38-18.
4. The commission may delete certain areas from a permit or revision application, reject the application, require the permit applicant to amend the application or any part of such application, including any mining plan, or require any combination of the foregoing, if:
- a. The commission finds that the overburden on any part of the area of land described in the application for a permit is such that experience in the state of North Dakota with a similar type of operation upon land with similar overburden shows that substantial deposition of sediment in stream beds, landslides, water pollution, or permanent destruction of land for agricultural purposes without approved rehabilitation for other uses cannot feasibly be prevented.
 - b. The commission finds that the proposed surface coal mining operation will constitute a hazard to a

dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake or other public or private property other than property subject to a coal lease.

- c. The commission finds that the proposed surface coal mining operation would adversely affect any historical, archaeological, or paleontological site. If mining is permitted, the commission, in consultation with the state historical society, shall establish procedures for the protection and preservation of such sites throughout the surface coal mining operation.

Whenever the commission finds that ongoing surface mining operations are causing or are likely to cause any of the conditions set forth in this subsection, it may make such changes in the permit as it may deem necessary to avoid such described conditions.

5. Where information available to the commission indicates that any surface coal mining operation owned or controlled by the permit applicant is currently in violation of this chapter in this state or such other applicable air or water environmental protection laws of this state, the permit shall not be issued until the permit applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority which has jurisdiction over such violation.
6. In addition to finding the application in compliance with other requirements of this section, if the area proposed to be mined contains prime farmland pursuant to paragraph 3 of subdivision a of subsection 2 of section 38-14.1-14, the commission shall, pursuant to regulations issued by the commission, grant a permit to mine on prime farmland if the commission finds in writing that the permit applicant has the technological capability to restore such mined area, within a reasonable time, to a level of productivity equal to or greater than nonmined prime farmland in the surrounding area under equivalent levels of management and can meet the soil reconstruction standards in subsection 6 of section 38-14.1-24. Nothing in this chapter pertaining to prime farmland shall apply to any permit issued prior to the date of enactment of this section, or to any revisions or renewals thereof, or to any existing surface coal mining operations for which a permit was issued prior to the date of enactment of this section.

38-14.1-22. PERMIT RENEWAL.)

1. Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued within a reasonable time as set forth in regulations promulgated by the commission subsequent to fulfillment of the public notice requirements of subsection 1 of section 38-14.1-18 unless it is established that and written findings are made by the commission that:
 - a. The terms and conditions of the existing permit are not being satisfactorily met; and
 - b. The present surface coal mining and reclamation operation is not in compliance with the provisions of this chapter; or
 - c. The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas; and
 - d. The permittee has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the commission might require pursuant to section 38-14.1-16; or
 - e. Any additional revised or updated information required by the commission has not been provided.
2. On application for renewal, the burden shall be on the opponents of renewal.
3. Any permit renewal shall be for a term not to exceed the period of the original permit established by this chapter. Application for permit renewal shall be made at least one hundred and twenty days prior to the expiration of the valid permit.

38-14.1-23. PERMIT REVISION.)

1. During the term of the permit the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the commission.
2. An application for a revision of a permit shall not be approved unless the commission finds that reclamation as required by this chapter can be accomplished under the revised reclamation plan. The revision shall be approved or disapproved within a reasonable time as established by commission regulation. The commission shall establish guidelines for a determination of the scale or extent of a

revision request for which all permit application information requirements and procedures, including notice and hearing, shall apply. Any revisions which propose significant alterations in the reclamation plan shall, at a minimum, be subject to the notice and hearing requirements of sections 38-14.1-18, 38-14.1-19, and 38-14.1-20.

3. Any extensions to the area covered by the permit except incidental boundary revisions must be made by application for another permit.
4. No transfer, assignment or sale of the rights granted under any permit issued pursuant to this chapter shall be made without the written approval of the commission. The commission shall deny approval to the successor in interest of the permittee if the successor in interest is unable to obtain the bond coverage of the original permittee or its equivalent. If the successor in interest is able to obtain the bond coverage of the original permittee, or its equivalent, the successor in interest may arrange for the continuation of surface mining and reclamation operations according to the approved surface mining and reclamation plan of the original permittee pending commission approval of the transfer, assignment, or sale of the rights granted under said permit and any necessary revision or modification of said permit, provided the successor in interest furnishes the necessary information to the commission within thirty days of succeeding to such interest so that the permit in issue can be properly revised or modified.
5. The commission shall within a time limit prescribed by commission regulation, review outstanding permits and may require reasonable revision or modification of the permit provisions during the term of such permit. Any such revision or modification shall be based upon a written finding and subject to notice and hearing requirements in accordance with sections 38-14.1-18, 38-14.1-19, and 38-14.1-20.
6. A permittee may withdraw any land described in either the permit application required in section 38-14.1-14 or the extended mining plan required in section 38-14.1-15, except land on which surface coal mining operations have commenced, by notifying the commission thereof. If land covered by the permit term is so withdrawn the amount of the bond or security filed by the permittee pursuant to the provisions of this chapter shall be reduced proportionately.

38-14.1-24. ENVIRONMENTAL PROTECTION PERFORMANCE STANDARDS.)

General performance standards shall be applicable to all surface

coal mining and reclamation operations and shall require the permittee at a minimum to:

1. Conduct surface coal mining operations so as to maximize the utilization and conservation of the coal being recovered so that re-affecting the land in the future through surface coal mining can be minimized.
2. Restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses approved by the commission, which may include industrial, commercial, agricultural, residential, recreational, or public facilities. In approving the postmining land use, or changes thereto, the commission shall establish by regulation postmining land use criteria that shall be demonstrated by the permittee and considered by the commission in making its decision.
3. Backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials) and grade to reshape all areas affected by surface coal mining operations to the gentlest topography consistent with adjacent unmined landscape elements in order to develop a postmining landscape that will provide for maximum moisture retention, drainage that will complement the surrounding terrain, maximum stability, minimum soil losses from runoff and erosion, with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this chapter), and with maximum postmining graded slopes that do not exceed the approximate original contour; provided, however, that:
 - a. A different contour or topography may be required by the commission to better achieve the approved postmining land use;
 - b. The permittee, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade (not to exceed the angle of repose), to provide adequate drainage, and to contain all toxic materials in order to achieve an ecologically sound land use compatible with the surrounding region, in those instances where:
 - (1) Surface coal mining operations are carried out over a substantial period of time at the same location where the operation transects the coal deposit;

- (2) The thickness of the coal deposits relative to the volume of overburden is large; and
 - (3) The permittee demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area are insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour.
4. Stabilize and protect all surface areas, including spoil piles affected by the surface coal mining and reclamation operation, to effectively control erosion and attendant air and water pollution.
 5. Remove, segregate and respread suitable plant growth material as required by the commission within the permit area. The commission may require the permittee to segregate suitable plant growth material in two or more soil layers. The commission shall determine the soil layer or layers to be removed based upon the quality and quantity of suitable plant growth material inventoried by the soil survey required in subdivision t of subsection 1 of section 38-14.1-14. Based on the soil survey, the commission shall also determine whether other suitable strata are necessary to meet revegetation requirements. If other strata can be shown to be suitable and necessary to meet revegetation requirements, the commission may require the permittee to determine the areal extent of other suitable strata within the proposed permit area, and to remove, segregate, protect and respread such material. If the suitable plant growth material or other suitable strata cannot be replaced on an approved graded area within a time short enough to avoid deterioration of such material, the permittee shall stockpile and stabilize such materials by establishing a successful cover of quick growing plants or by other means thereafter so that the suitable plant growth material or other suitable strata will be protected from wind and water erosion and will remain free from any contamination by toxic material. In the interest of achieving the maximum reclamation provided for in this chapter, the permittee may, or at the discretion of the commission shall, utilize such soil amendments as described in subsection 27 of section 38-14.1-02.
 6. For all prime farmlands as identified in paragraph 3 of subdivision a of subsection 2 of section 38-14.1-14 to be mined and reclaimed, the permittee shall, at a minimum, be required to:
 - a. Segregate the A horizon of the natural soil or a combination of the A horizon materials and other

- available suitable plant growth materials that will create a final soil having a productive capacity equal to or greater than that which existed prior to mining; and if not utilized immediately, stockpile this material and provide needed protection from wind and water erosion or contamination;
- b. Segregate the B horizon of the natural soil, or underlying C horizons or other strata, or a combination of such horizons or other strata that are shown to be physically and chemically suitable for plant growth and that can be shown to be equally or more favorable for plant growth than the B horizon, in sufficient quantities to create in the regraded final soil a root zone of comparable depth and quality to that which existed in the natural soil. If not utilized immediately, such material shall be stockpiled and provided needed protection from wind and water erosion or contamination;
 - c. Replace the material described in subdivision b of this subsection with proper compaction and uniform depth as determined by the commission over the regraded spoil material; and
 - d. Redistribute in a uniform manner as determined by the commission the surface soil described in subdivision a of this subsection.
7. Create, if authorized in the approved mining and reclamation plan and permit, as part of reclamation activities, permanent water impoundments in accordance with the requirements of the state engineer pursuant to other applicable state law and all of the following standards:
- a. The size of the impoundment will be adequate for its intended purposes.
 - b. The impoundment dam construction will be designed to achieve necessary stability with an adequate margin of safety compatible with the requirements of applicable state law.
 - c. The quality of impounded water will be suitable on a permanent basis for its intended use and discharges from the impoundment will not exceed the quality limitations imposed by the North Dakota pollutant discharge elimination system or degrade the water quality below water quality standards established pursuant to this chapter, whichever is more stringent.
 - d. The level of water will be reasonably stable.

- e. Final grading will provide adequate safety and access for maintenance and proposed water users.
 - f. Such water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.
8. Minimize the disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by:
- a. Avoiding toxic mine drainage by such measures as, but not limited to:
 - (1) Preventing water from coming in contact with, or removing water from, toxic producing deposits.
 - (2) Treating drainage to reduce toxic content which adversely affects downstream water upon being released to water courses.
 - (3) Casing, sealing, or otherwise managing boreholes and wells to keep toxic drainage from entering ground and surface waters.
 - b. Conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contribution of suspended solids to stream flow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state law.
 - c. Constructing any siltation structures pursuant to subdivision b of this subsection prior to commencement of surface coal mining operations, such structures to be certified by a registered professional engineer to be constructed as designed and as approved in the reclamation plan.
 - d. Cleaning out and removing temporary settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the commission.
 - e. Restoring recharge capacity of the mined area to approximate premining conditions to the extent possible using the best technology currently available.

- f. Avoiding natural channel deepening or enlargement in operations requiring the discharge of water from mines.
 - g. Preserving throughout the surface coal mining and reclamation process the essential hydrologic functions of alluvial valley floors.
 - h. Such other actions as the commission may prescribe.
9. Make such repairs, alterations, or construction as necessary to insure the delivery of that quality and quantity of water available prior to mining to a surface owner whose supply of water for domestic, agricultural, industrial, or other legitimate use has been disrupted or diminished in quality or quantity by the surface coal mining operation. Such repairs, alterations, or construction shall be considered to be part of reclamation and shall be made at no cost to the surface owner. Nothing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.
 10. Remove or bury all debris and other similar material resulting from the operation and bury all mine wastes and coal processing wastes unless the commission approves the surface disposal of such wastes. If the commission approves the surface disposal of such wastes, the permittee shall stabilize all waste piles in designated areas through construction in compacted layers, including the use of incombustible and impervious materials if necessary, to assure that the final contour of the waste pile will be compatible with natural surroundings and that the site can and will be stabilized and revegetated according to the provisions of this chapter.
 11. Refrain from surface coal mining within five hundred feet of underground mines in order to prevent breakthroughs; provided that the commission shall allow a permittee to mine near, through, or partially through an underground mine if such operations will result in improved resource recovery, abatement of water pollution, or elimination of hazards to the health and safety of the public.
 12. Insure that all debris, toxic materials, or materials constituting a fire hazard are treated or buried and compacted or otherwise disposed of in a manner designed to prevent contamination of ground or surface waters and that contingency plans are developed to prevent sustained combustion. If a fire hazard exists, the commission shall have the authority to require the permittee to take such actions as are necessary to abate the hazard, both inside and outside the permit area.

13. Insure that explosives are used only in accordance with existing state law and the regulations promulgated by the commission, which shall include provisions to:
 - a. Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by the publication of the planned blasting schedule in the official newspaper of each county wherein the surface coal mining operation is located and in other daily newspapers of general circulation in the locality, by mailing a copy of the proposed blasting schedule to every resident living within one-half mile of the proposed blasting site, and by providing daily notice to residents in such areas prior to any blasting.
 - b. Maintain for a period of at least three years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts.
 - c. Limit the type of explosives and detonating equipment, the size, the timing, and the frequency of blasts based upon the physical conditions of the site so as to prevent:
 - (1) Injury to persons.
 - (2) Damage to public and private property outside the permit area.
 - (3) Change in the course, channel, or availability of ground or surface water outside the permit area.
 - d. Require that all blasting operations be conducted by trained and competent persons as certified by the commission.
 - e. Provide that upon the request of a resident or owner of a manmade dwelling or structure within one-half mile of any portion of the permitted area the permittee shall conduct a pre-blasting survey of such structures and submit the survey to the commission and a copy to the resident or owner making the request. The area of the survey shall be decided by the commission and shall include such provisions as the commission may promulgate.
14. Insure that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable with the surface coal mining operations, provided that all reclamation through the initial planting

- on any land within the permit area shall be completed by the operator no later than three years from completion of surface coal mining operations on such lands, unless otherwise prescribed by the commission.
15. Insure that the construction, maintenance, and postmining conditions of haul roads and access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property.
 16. Refrain from the construction of haul roads and access roads up a stream bed or drainage channel or in such proximity to such channel so as to seriously alter the normal flow of water.
 17. Restore lands affected by the surface coal mining operation which have been designated for postmining agricultural purposes to the level of productivity equal to or greater than nonmined agricultural lands in the surrounding area under equivalent management practices. For those lands which are to be rehabilitated to native grasslands, a diverse, effective and permanent vegetative cover shall be established of the same seasonal variety native to the area to be affected and capable of self-regeneration, plant succession, and at least equal in extent of cover and productivity to the natural vegetation of the area. The level of productivity and cover attained on disturbed lands within the permit area shall be demonstrated by the permittee using comparisons with similar lands undisturbed by mining or comparable disruptive activities.
 18. Assume the responsibility for successful revegetation, as required by subsection 17 of this section, for a period of ten full years after vegetation has been established, as determined by the commission, provided that, when the commission approves a long-term intensive agricultural postmining land use, the ten-year period of responsibility for revegetation shall commence at the date of initial planting.
 19. Place all spoil material from the initial pit or other excess spoil material resulting from surface coal mining and reclamation activities in such a manner that all of the following requirements are met:
 - a. Spoil is transported and placed in a controlled manner in position for concurrent compaction and in such a way so as to assure mass stability and to prevent mass movement.
 - b. The areas of disposal are within the bonded permit areas.

- c. Appropriate surface and internal drainage systems and diversion ditches are used so as to minimize spoil erosion and movement.
 - d. The disposal area does not contain springs, natural water courses or wet weather seeps unless lateral drains are constructed from the wet areas to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented.
 - e. If placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the commission, the spoil could be placed in compliance with all the requirements of this chapter.
 - f. The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses.
 - g. Design of the spoil disposal area is certified by a registered professional engineer in conformance with professional standards.
 - h. All other provisions of this chapter are met.
20. Meet such other criteria as are necessary to achieve reclamation in accordance with the purposes of this chapter, taking into consideration the physical, climatological, and other characteristics of the site.
 21. To the extent possible using the best technology currently available, minimize disturbances and adverse impacts of the surface coal mining operation on fish, wildlife, and related environmental values, and achieve enhancement of such resources where practicable.

38-14.1-25. PROHIBITED MINING PRACTICES.)

1. No permittee shall use any coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid or solid wastes either temporarily or permanently as dams or embankments unless approved by the commission, after consultation with the state engineer.
2. No permittee shall locate any part of the surface coal mining and reclamation operations or deposit overburden, debris, or waste materials outside the permit area for which bond has been posted, except as provided in subsection 24 of section 38-14.1-03.
3. No permittee shall deposit overburden, debris, or waste materials in such a way that normal erosion or slides

brought about by natural causes will permit the same to go beyond or outside the permit area for which bond has been posted.

38-14.1-26. INTERFERENCE WITH COMMISSION EMPLOYEES.) No operator or permittee shall, except as provided by law, willfully resist, prevent, impede, or interfere with the commission or any of its agents in the performance of duties under this chapter. Whoever knowingly violates this section shall, upon conviction, be subject to the penalty provided in subsection 4 of section 38-14.1-32.

38-14.1-27. INSPECTIONS AND MONITORING.)

1. For the purpose of developing or assisting in the development, administration, and enforcement of this chapter and of regulations promulgated by the commission in accordance with this chapter or in the administration and enforcement of any permit under this chapter, or of determining whether any operator or permittee is in violation of any requirement of this chapter or the regulations promulgated by the commission in accordance with this chapter:
 - a. The commission shall require any permittee to:
 - (1) Establish and maintain appropriate records.
 - (2) Submit monthly, semiannual, annual, and other reports including information as the commission may require.
 - (3) Install, use, and maintain any necessary monitoring equipment or methods.
 - (4) Evaluate results in accordance with such methods, at such locations, intervals, or in such manner as the commission shall prescribe.
 - (5) Provide such other information relative to surface coal mining and reclamation operations as the commission deems reasonable and necessary.
 - b. For those surface coal mining and reclamation operations which remove or disturb strata that serve as aquifers which significantly insure the hydrologic balance of water use either on or off the mining site, the commission, in consultation with other appropriate state agencies, shall specify those:
 - (1) Monitoring sites to record the quantity and quality of surface drainage above and below the minesite as well as in the potential zone of influence.

- (2) Monitoring sites to record level, amount, and samples of ground water and aquifers potentially affected by the mining and also directly below the lowermost (deepest) coal seam to be mined.
- (3) Records of well logs and borehole data to be maintained.
- (4) Monitoring sites to record precipitation.

The monitoring data collection and analysis required by this section shall be conducted according to standards and procedures set forth by the commission in consultation with other appropriate state agencies in order to assure their reliability and validity.

- c. An annual map shall be submitted by the operator to the commission for each year of the permit term and until the total bond amount has been released. The map shall be in a form prescribed by the commission showing the status of surface coal mining and reclamation operations that have occurred during the year being reported, with a legend showing the number of acres affected by such operations.
 - d. The authorized representatives of the commission, without advance notice, without a warrant, and upon presentation of appropriate credentials:
 - (1) Shall have the right of entry to, upon, or through any surface coal mining and reclamation operations or any premises in which any records required to be maintained under this subsection are located; and
 - (2) May at reasonable times, and without delay, have access to and copy any records, inspect any monitoring equipment or method of operation required under this chapter.
2. The commission shall cause to be made such inspections of any surface coal mining and reclamation operation as are necessary to insure compliance with this chapter and any regulations promulgated pursuant thereto. However, the inspections by the commission shall:
- a. Occur on an irregular basis averaging not less than one partial inspection per month and one complete inspection per calendar quarter for the surface coal mining and reclamation operation covered by each permit.

- b. Occur without prior notice to the permittee or his agents or employees except for necessary onsite meetings with the permittee.
 - c. Include the filing of inspection reports adequate to enforce the requirements of and to carry out the terms and purposes of this chapter.
 - d. Occur without a warrant.
3. Each permittee shall conspicuously maintain at the entrances to surface coal mining and reclamation operations a clearly visible sign which sets forth the name, business address, and phone number of the permittee and the permit number of the surface coal mining and reclamation operation.
 4. Each inspector, upon detection of each violation of any requirement of this chapter or the regulations promulgated by the commission shall inform the operator or permittee in writing, and shall report in writing any such violations to the commission.
 5. Copies of any material records, reports, inspection materials, or information required under this section by the commission shall be filed in the office of the county auditor of the county in which the surface coal mining operations occur.

38-14.1-28. ENFORCEMENT PROCEDURES.)

1. Whenever, on the basis of any information available to it, including information from any person, the commission has reason to believe that any requirement of this chapter or of any regulation adopted by the commission under this chapter or any permit condition has not been complied with, the commission shall immediately conduct an inspection, without a warrant, of the surface coal mining operation at which the alleged violation is occurring unless the information available is a result of a previous inspection of such operation. If, based on such inspection, the commission determines enforcement measures are appropriate, it shall initiate one of the following procedures:
 - a. Cessation Order Resulting From Imminent Environmental Harm. If the commission or its authorized representative determines that any condition, practice, or violation exists which also creates an imminent danger to the health or safety of the public, or is causing, or can reasonably be expected to cause, significant, imminent environmental harm to land, air, or water resources, the commission or its authorized representative shall immediately order a cessation of

surface coal mining and reclamation operations or the portion thereof relevant to the condition, practice or violation. Such cessation order shall remain in effect until the commission or its authorized representative determines that the condition, practice, or violation has been abated, or until modified, vacated, or terminated by the commission or its authorized representative pursuant to paragraph 2 of this subdivision.

- (1) Affirmative Relief. Where the commission finds that the ordered cessation will not completely abate the imminent danger or the significant imminent environmental harm, the commission shall, in addition to the cessation order, impose any remedial measures on the operator deemed necessary to abate the imminent danger or the significant environmental harm.
 - (2) Limitation. Any cessation order issued pursuant to this paragraph shall expire within thirty days of actual notice to the operator or permittee unless a public hearing is held within that period within such reasonable proximity of the site to allow viewings of the site during the course of the hearing.
- b. Notice of Violation Fixing Abatement Period. If the commission or its authorized representative determines that any operator or permittee is in violation of any requirement of this chapter or regulations thereunder or any permit condition but it is unable to make the additional finding that a condition, practice or violation exists which also creates an imminent danger to the health or safety of the public, or is causing or can reasonably be expected to cause significant, imminent environmental harm to land, air or water resources, the commission or its authorized representative shall serve on the operator or permittee a notice of violation. The notice shall fix a reasonable time, not more than ninety days, for the abatement of the violation and shall provide opportunity for an informal conference pursuant to section 38-14.1-19 and for public hearing, if requested, pursuant to the procedures of section 38-14.1-30.
- (1) Cessation Order Resulting From Failure to Perform Remedial Measures Established in Notice of Violation. If the operator or permittee does not comply with the remedial measures set forth in the notice within the abatement period as originally fixed or subsequently extended for good cause shown and upon the written findings of

the commission or its authorized representative, the commission or its authorized representative shall immediately order a cessation of surface coal mining and reclamation operations or that portion thereof relevant to the violation. Such cessation order shall remain in effect until the commission determines that the violation has been abated, or until modified, vacated or terminated by the commission or pursuant to paragraph 2 of this subdivision.

- (2) Limitation. Any cessation order issued pursuant to this paragraph shall expire within thirty days of actual notice to the operator or permittee unless a public hearing is held within that period within such reasonable proximity of the site to allow viewings of the site during the course of the hearing.
- c. Order to Show Cause. If the commission or its authorized representative determines that a pattern of violations of any requirements of this chapter or of regulations thereunder or of any permit conditions exists or has existed and also finds that such violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions, or that such violations are willfully caused by the permittee, an order to show cause why the permit should not be suspended or revoked shall promptly issue from the commission or its authorized representative and opportunity for a hearing on such order pursuant to procedures in subsection 2 of section 38-14.1-30 shall be provided. Upon the permittee's failure to show cause why the permit should not be suspended or revoked, the commission or its authorized representative shall promptly suspend or revoke the permit.
2. Notices and Orders. Any notices and orders issued pursuant to subsection 1 of this section shall set forth with reasonable specificity the nature of the violation and any remedial action required, any period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. All such notices and orders shall be in writing, shall be signed by the commission or its authorized representative, and shall be served promptly upon the operator and permittee personally or by certified mail addressed to the permanent address of the operator and permittee.

38-14.1-29. PROCEDURES FOR IMPOSING CIVIL PENALTIES.)

1. A civil penalty shall be assessed by the commission as authorized by section 38-14.1-32 only after the operator or permittee has been given an opportunity for public hearing pursuant to the procedures specified in section 38-14.1-30.
 - a. Where such public hearing has been held, the commission shall make findings of fact and issue a written decision pursuant to subdivision g of subsection 3 of section 38-14.1-30 as to the occurrence of the violation and the amount of the penalty which is warranted, incorporating, when appropriate, an order requiring that the penalty be paid.
 - b. Where the operator or permittee charged with such violation fails to avail himself of the opportunity for a public hearing, a civil penalty shall be assessed by the commission if it determines that a violation did occur and issues a final order requiring that the penalty be paid.
2. Hearings under this section shall be consolidated with any enforcement hearings under section 38-14.1-30.
3. Any civil penalties assessed under this chapter may be recovered by the commission in a civil action in the North Dakota district court for the county in which the violation occurred or in which the party assessed has his residence or principal office in the state.

38-14.1-30. ADMINISTRATIVE REVIEW OF COMMISSION
RULINGS - FORMAL HEARINGS.)

1. Within thirty days after a permit applicant is notified of a ruling by the commission pursuant to section 38-14.1-20, or after an operator or permittee is issued a notice or order pursuant to subdivision a or b of subsection 1 of section 38-14.1-28, or after the commission disapproves an application for release of all or a portion of a performance bond under section 38-14.1-17, such applicant, or operator, or permittee, or any person with an interest which is or may be adversely affected by such ruling, notice, or order or by an order modifying, vacating, or terminating a notice or order, may request and thereby initiate formal hearing procedures before the commission. The right to such administrative review shall be forfeited if not requested within thirty days of such notification of any ruling or issuance of a notice of violation or order as provided in this subsection. The filing of an application for review under this subsection shall not operate as a stay of any order or notice.

2. Following the issuance pursuant to subdivision c of subsection 1 of section 38-14.1-28 of an order to show cause as to why a permit should not be suspended or revoked, the commission shall hold a public hearing pursuant to procedures specified in subsection 3 of this section on such order to show cause. After such public hearing, the commission shall issue a written decision concerning suspension or revocation of the permit pursuant to subdivision g of subsection 3.
 - a. If the commission issues an order of permit suspension, it shall subsequently reinstate the permit in accordance with procedures established by commission regulations, upon a showing of compliance with the condition for reinstatement as specified in the suspension order.
 - b. If the permittee fails to comply with the conditions for reinstatement as specified in an order of suspension, the commission shall, pursuant to procedures established by commission regulations, issue an order revoking the permit and forfeiting the performance bond to the state of North Dakota.
 - c. If the commission revokes a permit, all surface coal mining operations shall cease immediately in the permit area.
3. Administrative hearings pursuant to this section shall be conducted in accordance with the following procedures:
 - a. A hearing shall be held within thirty days of a request for a formal hearing under subsection 1 of this section or the issuance of an order to show cause under subsection 2 of this section.
 - b. The commission shall cause such investigation to be made as it deems appropriate in connection with any hearing under this section. Evidence taken at a hearing under this section held in connection with a permit application ruling under section 38-14.1-20 may include, but not be limited to, site inspections of the land to be affected and other surface coal mining operations carried on by the applicant for a permit in the general vicinity of the proposed operation.
 - c. Hearings held pursuant to this section shall be conducted in accordance with appropriate procedures in chapter 28-32 and shall be subject to judicial review in accordance with that chapter. However, any time requirements or other procedural requirements imposed under this section which are in conflict with requirements in chapter 28-32 shall supercede chapter 28-32.

- d. All parties to any informal conference held in reference to a permit application or application for release of performance bond under section 38-14.1-19, and all persons who submitted comments or written objections to the application for release of performance bond or the permit application under sections 38-14.1-17 and 38-14.1-18 respectively, and the permittee and other interested parties in hearings to review enforcement actions taken pursuant to section 38-14.1-28 shall be given written notice of the date, place, and time of the hearing at least twenty days prior to such hearing under this section. In case of an emergency, such notification period may be shortened, but in no event shall notice be given less than five days prior to the hearing. Time periods as provided in section 28-32-05 for any pleadings or filing of other papers before the commission in connection with the hearing shall be adjusted to accommodate time periods set by this subdivision.
- e. In addition, notice of hearings under this section shall be published in the official newspaper of each county in which the subject matter of the hearing is located and in other daily newspapers of general circulation in the general vicinity of such counties, at least once a week for two successive weeks prior to the hearing. In case of an emergency, such publication period may be shortened, but in no event shall notice be published less than five days prior to the hearing in daily newspapers of general circulation in the general locality of the subject matter involved.
- f. No person, except a commissioner, who presides at any informal conference under section 38-14.1-19 in reference to a permit application shall preside at a formal administrative hearing under this section or participate in making the final administrative decision pursuant to section 28-32-13.
- g. All final orders of the commission under this section, except those issued under subsection 4 of this section, shall be issued pursuant to the following procedures:
- (1) Whenever a formal hearing has been held, the commission shall issue a written decision pursuant to section 28-32-13, provided that the findings, conclusion and decision must be issued within thirty days after the hearing. The commission shall have no discretion to increase such time period.

- (2) In the event that no one with standing to request an administrative hearing under subsection 1 of this section avails himself of the right to a hearing as provided therein, the commission shall establish whether or not a permit should be granted or suspended or revoked; or, in enforcement proceedings, whether the violation has in fact occurred; or, in connection with an application for release of a bond, whether such application should be approved or denied, in whole or in part; and shall issue a final decision as appropriate pursuant to regulations established by the commission.
4. Pending completion of any investigation and hearing procedures being conducted under this section in connection with any notice or order issued pursuant to subdivision a or b of subsection 1 of section 38-14.1-28, the permittee may file with the commission a written request for temporary relief from such notice or order together with a detailed statement giving reasons why such temporary relief should be granted. The commission shall issue an order granting or denying such relief expeditiously as provided by commission regulations. Provided, where the permittee requests relief from a cessation order, the commission's order under this subsection shall be issued within five days of receipt of such request. The commission may grant such relief, under such conditions as it may prescribe, if:
- a. A hearing on the request for temporary relief has been held in the locality of the permit area, providing all parties with an opportunity to be heard and the requirements of subdivisions b and c of this subsection have been met; or
 - b. The permittee shows that there is substantial likelihood that the findings of the commission in the formal administrative proceedings being conducted pursuant to this section will be favorable to him; and
 - c. Such relief will not adversely affect the health or safety of the public or cause significant, imminent environmental harm to land, air, or water resources.
- An order granting or denying temporary relief pursuant to this subsection shall be final and not subject to review in any subsequent administrative or judicial proceeding since any temporary relief granted is in effect only until the investigation and hearing procedures of this section are completed.
5. Nothing in this section shall be construed to eliminate any additional enforcement rights or procedures which may

be available under state law but are not specifically enumerated herein.

38-14.1-31. CIVIL ACTION FOR INJUNCTIVE RELIEF.)

1. In addition to other relief available, the commission may without bond or other undertaking institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the North Dakota district court for the district in which the surface mining and reclamation operation is located or in which the permittee thereof has his principal office in the state, whenever such permittee or his agent:
 - a. Fails to comply with any order or decision issued by the commission under this chapter; or
 - b. Interferes with or delays the commission or its authorized representative in carrying out the provisions of this chapter; or
 - c. Refuses to admit such authorized representative to the mine; or
 - d. Refuses to permit inspection of the mine by such authorized representative; or
 - e. Refuses to furnish any information or report requested by the commission in furtherance of this chapter; or
 - f. Refuses to permit access to, and copying of, such records as the commission determines necessary in carrying out the provisions of this chapter; or
 - g. Refuses to permit inspection of monitoring equipment.
2. The court shall have jurisdiction to provide such relief as may be appropriate, including a permanent or temporary injunction or restraining order.
3. Any relief granted by the court to enforce an order or decision under subdivision a of subsection 1 of this section shall continue in effect until the completion or termination of all proceedings for administrative and judicial review of such order or decision unless the district court granting relief under this section shall set it aside or modify it prior to such final determination.
4. No liability shall accrue to the commission or its authorized representatives in proceeding against any operator or permittee pursuant to this section.

38-14.1-32. PENALTIES.)

1. Any operator or permittee who violates this chapter, or any permit condition or regulation implementing this chapter may be assessed a civil penalty not to exceed ten thousand dollars per day of such violation except that if such violation leads to the issuance of a cessation order, a civil penalty shall be assessed. Each day of continuing violation may be deemed a separate violation for purposes of penalty assessments. In determining the amount of the penalty, consideration shall be given to:
 - a. The operator's or permittee's history of previous violations at the particular surface coal mining operation;
 - b. The seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public;
 - c. Whether the operator or permittee was negligent; and
 - d. The demonstrated good faith of the operator or permittee charged in attempting to achieve rapid compliance after notification of the violation.
2. Any operator or permittee who fails to correct a violation for which a notice or order has been issued under section 38-14.1-28 within the period permitted for the accomplishment of remedial measures shall be assessed a civil penalty of not less than seven hundred and fifty dollars for each day during which such failure or violation continues.
3. Any person, operator or permittee shall, upon conviction, be punished by a fine of not more than fifteen thousand dollars or by imprisonment for not more than one year, or both, who:
 - a. Knowingly engages in surface coal mining operations without previously securing a permit as required by this chapter; or
 - b. Knowingly violates any permit condition or limitation implementing this chapter; or
 - c. Willfully makes any false statement, representation, or certification, or willfully fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter; or
 - d. Willfully falsifies, tampers with, or knowingly and willfully renders inaccurate, any monitoring device or

method required to be maintained under this chapter;
or

- e. Fails or refuses to comply with a final order by a court pursuant to section 38-14.1-35, an order issued by the commission pursuant to section 38-14.1-28, or any order incorporated in a final decision by the commission, except an order incorporated in a decision requiring the payment of a penalty.
4. Any operator or permittee who knowingly violates section 38-14.1-26 shall, upon conviction, be punished by a fine of not more than five thousand dollars or by imprisonment for not more than one year, or both.
5. Any employee of the commission who willfully violates section 38-14.1-38 shall, upon conviction, be punished by a fine of not more than two thousand five hundred dollars, or by imprisonment of not more than one year, or both.
6. Whenever a corporate permittee violates a condition of a permit or fails or refuses to comply with an order issued by the commission pursuant to section 38-14.1-28, or any order incorporated in a final decision issued by the commission, except an order incorporated in a decision requiring the payment of a penalty, any director, officer, or agent of such corporation who willfully and knowingly authorized, or carried out such violation, failure or refusal shall be subject to the same criminal and civil penalties, fines and imprisonment that may be imposed under subsections 1 and 3 of this section.
7. Any action for the collection of civil penalties under this section shall be tried in the district court for the county in which the alleged violation occurred or in which the person or operator alleged to have committed the violation has his residence or principal office in the state.

38-14.1-33. PERMIT REVOCATION - BOND FORFEITURE.)

1. The commission may institute proceedings for the revocation of the permit and forfeiture of the performance bond of a permittee for violation by the permittee of any of the provisions of this chapter or of regulations implementing this chapter. The commission shall issue an order forfeiting the bond and revoking the permit of a permittee who fails to comply with an order of the commission suspending the permit pursuant to subsection 2 of section 38-14.1-30.
2. A permittee whose bond has been forfeited and permit revoked shall immediately cease all surface coal mining operations in this state. The permittee shall not be

eligible to receive another permit unless the land for which the bond was forfeited has been reclaimed without cost to the state or the permittee has paid into the reclamation account a sum which, added to the value of the bond, the commission finds adequate to reclaim the land.

3. A permittee who refuses or willfully fails to comply with this chapter shall be ineligible for any further mining permits. After an opportunity for hearing and after a finding by the commission that the permit applicant, or operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violations of this chapter of such nature and duration that result in irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter, no permit shall be issued to said permit applicant or permittee.

38-14.1-34. ADMINISTRATIVE REVIEW OF REGULATIONS.) Any person aggrieved or adversely affected by any regulation promulgated by the commission under this chapter may petition the commission for a hearing to reconsider or amend such regulation. The commission shall grant a public hearing pursuant to procedures established in chapter 28-32.

38-14.1-35. JUDICIAL REVIEW.)

1. There shall be a right to judicial review pursuant to sections 15 through 21 of chapter 28-32 of the North Dakota Century Code:
 - a. To any applicant or any person with an interest which is or may be adversely affected who has participated in administrative proceedings under section 38-14.1-30 as an objector, and who is aggrieved by the decision of the commission.
 - b. To any person with an interest which is or may be adversely affected who has participated in the administrative proceedings if the commission fails to act within the time limits specified in this chapter or in accordance with the provisions of chapter 28-32.
 - c. To any permittee who is subject to an order by the commission implementing a final decision to suspend or revoke his permit under section 38-14.1-28 or to any operator or permittee who is subject to an order by the commission implementing a final decision imposing a penalty under section 38-14.1-29, or any person having an interest which is or may be adversely affected by such order or by any modification, vacation, or termination of such order.

- d. To any person claiming to be aggrieved or adversely affected by any regulation promulgated by the commission to carry out the provisions of this chapter or by any order of the commission or by its failure to enter an order.
2. Availability of judicial review under this section shall not be construed to limit the operation of the rights established in section 38-14.1-40 except as provided therein.

38-14.1-36. ASSESSMENT OF COSTS - ATTORNEY'S FEES.)

1. Administrative Proceedings. Whenever an order is issued as a result of any administrative proceeding under this chapter, at the request of any party, a sum equal to the aggregate amount of all costs and expenses including attorney's fees as determined by the commission to have been reasonably incurred by such party for or in connection with his participation in such proceedings, may be assessed against any party as the commission deems proper.
2. Judicial Review. The court, in issuing any final order pursuant to chapter 28-32 in review of commission proceedings under this chapter may assess costs, including attorney's fees against any party whenever the court determines such award is appropriate.
3. Citizen Suits. The court, in issuing any final order in a civil action brought under section 38-14.1-40 by any person having an interest which is or may be adversely affected to compel compliance with this chapter, may award costs of litigation, including attorney and expert witness fees, to any party whenever the court determines such award is appropriate.
4. In civil proceedings pertaining to this chapter, the provisions of this section shall govern as herein provided, rather than those provided for in section 28-26-01.

38-14.1-37. SMALL OPERATORS.)

1. The provisions of this chapter shall not apply to any of the following activities:
 - a. The extraction of coal by a landowner for his own noncommercial use from land owned or leased by him.
 - b. The extraction of coal for commercial purposes where the surface mining operations affect two acres or less.

- c. The extraction of coal as an incidental part of federal, state, or local government-financed highway or other construction under regulations established by the commission.
2. If the commission finds that the probable total annual production at all locations mined by any permit applicant will not exceed one hundred thousand tons, the determination of probable hydrologic consequences required by subdivision o of subsection 1 of section 38-14.1-14 and the statement of the result of test borings or core samplings required by subdivision s of subsection 1 of section 38-14.1-14 shall, upon the written request of the permit applicant, be performed by a qualified public or private laboratory designated by the commission. The cost of the preparation of such determination and statement shall be assumed by the commission.

38-14.1-38. CONFLICT OF INTEREST.) No employee of the commission performing any decision-making function or duty under this chapter shall have a direct or indirect financial interest in any underground or surface coal mining operation. Whoever willfully violates this section shall, upon conviction, be subject to the penalty provided in subsection 5 of section 38-14.1-32. The commission shall promulgate regulations to establish methods by which the provisions of this section will be monitored and enforced by the commission, including appropriate provisions for the filing by such employees and the review of statements and supplements thereto concerning any financial interests which may be affected by this section.

38-14.1-39. FEES AND FORFEITURES - DEPOSIT.) All permit application fees and performance bond forfeitures collected under the provisions of this chapter shall be deposited in the state treasury and credited to a special account to be designated as the surface mining and reclamation fund. This fund shall be available to the commission and, subject to legislative appropriation, may be expended for the administration and enforcement of this chapter and for the reclamation of land affected by surface coal mining operations.

38-14.1-40. CITIZEN SUITS.)

1. Any person having an interest which is or may be adversely affected may commence a civil action on his own behalf to compel compliance with this chapter, or any regulation, order, or permit issued pursuant to this chapter:
 - a. Against any person or any governmental instrumentality or agency who is alleged to be in violation of any regulation, order, or permit issued pursuant to this chapter; or

- b. Against the commission where there is alleged a failure of the commission to perform any act or duty under this chapter which is not discretionary with the commission.
2. Notice of the violation shall be given to the commission and to any alleged violator sixty days before commencement of an action under subdivision a of subsection 1 of this section. Notice of the commencement of an action under subdivision b of subsection 1 of this section shall be given to the commission in such manner as the commission shall prescribe by regulation sixty days before commencement of such action, except that such action may be brought immediately after notification if the violation or order complained of constitutes an imminent threat to the health or safety of the plaintiff or would immediately affect a legal interest of the plaintiff.
 3. No action may be commenced if the commission has commenced and is diligently prosecuting a civil action to require compliance with the provisions of this chapter, or any regulation, order, or permit issued pursuant to this chapter. In any such action, any person with an interest which is or may be adversely affected may intervene as a matter of right.
 4. Any person who is injured in his person or property through the violation by any operator or permittee of any regulation, order, or permit issued pursuant to this chapter may bring an action for damages (including reasonable attorney and expert witness fees) or for temporary or permanent equitable relief. Nothing in this subsection shall affect the rights established by or limits imposed under the state workmen's compensation laws.
 5. Any action brought under this section may be brought only in the district court in which the surface coal mining operation complained of is located. The commission, if not a party, may intervene in any such action as a matter of right.
 6. Nothing in this section shall restrict any right which any person or class of persons may have under any statute or common law to seek enforcement of any of the provisions of this chapter and the regulations thereunder, or to seek any other relief, including relief against the commission.

38-14.1-41. ADMINISTRATIVE AGENCIES PRACTICE ACT TO APPLY TO THIS CHAPTER - REGULATIONS.) Chapter 28-32 shall apply to this chapter except as otherwise provided in specific provisions of this chapter. The commission may promulgate regulations with respect to the administration of this chapter under chapter 28-32 except that if the commission determines that an emergency exists due to changes

in federal performance standards promulgated under the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 30 U.S.C. 1201, et seq., and any amendments thereto, the commission may adopt emergency regulations in accordance with the purposes of this chapter which shall be effective immediately upon approval by the attorney general. Such emergency regulations shall remain in effect for a period not to exceed ninety days unless a public hearing is held pursuant to section 28-32-02.

38-14.1-42. COOPERATION WITH FEDERAL AND STATE AGENCIES.) The commission shall have the authority to cooperate with and receive technical and financial assistance from the United States, any state, or any department, agency, or officer thereof, and to file such reports and promulgate regulations as required by federal law for any purposes relating to reclamation. In the administration, inspection, and enforcement of North Dakota's reclamation program, the commission is also authorized and encouraged to cooperate with other federal and state agencies in order to eliminate duplication of effort and unnecessary review, establish a common data base for similar reviews and timely decisions, and to promulgate rules and regulations relevant to such authorization.

38-14.1-43. SEVERABILITY.) If any provision of this chapter or the applicability thereof to any person or circumstances is held invalid, the remainder of this chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 2. REPEAL.) Chapter 38-14 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1979

CHAPTER 400

HOUSE BILL NO. 1239

(Committee on Natural Resources)

(At the request of the North Dakota Public Service Commission)

ABANDONED SURFACE MINE RECLAMATION PROGRAM

AN ACT to create and enact chapter 38-14.2 of the North Dakota Century Code, relating to the development of a reclamation program for abandoned surface mined areas.

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

SECTION 1.) Chapter 38-14.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

38-14.2-01. DECLARATION OF FINDINGS AND PURPOSE.) The legislature finds and declares that there are a substantial number of acres within the state disturbed by surface coal mining operations and non-coal mining operations on which little or no reclamation was conducted, and the impacts from these unreclaimed lands impose social and economic costs on residents in nearby and adjoining areas as well as continuing to impair environmental quality. It is, therefore, the purpose of this chapter to promote the reclamation of mined areas left without adequate reclamation prior to the enactment of this chapter and which continue, in their unreclaimed condition, to substantially degrade the quality of the environment, prevent or damage the beneficial use of land or water resources, or endanger the health or safety of the public.

38-14.2-02. DEFINITIONS.) For the purpose of this chapter:

1. "Abandoned mine reclamation plan" means a plan for the reclamation of lands and water adversely affected by past coal mining and non-coal mining practices. The plan shall generally identify all areas to be reclaimed in the state of North Dakota, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, and the specific criteria for ranking and identifying projects to be funded.
2. "Abandoned mine reclamation program" means a program established in accordance with this chapter for the

reclamation of lands and water adversely affected by past coal mining and non-coal mining practices and includes the abandoned mine reclamation plan, annual projects under the plan, and all other activities necessary in development of the program.

3. "Commission" means the public service commission, or such department, bureau, or commission as may lawfully succeed to the powers and duties of that commission. The commission is the state regulatory authority for all purposes relating to Title IV of the Surface Mining Control and Reclamation Act of 1977 [Public Law 95-87, 30 U.S.C. 1231 et seq.].
4. "Extreme danger" means a condition which could reasonably be expected to cause considerable physical harm to persons, property, or the environment and to which persons or improvements on real property are currently exposed.
5. "Fund" means the state abandoned mine reclamation fund to be used in carrying out a program of reclamation of abandoned mine lands pursuant to this chapter.
6. "Non-coal mining" means the mining of metalliferous and nonmetalliferous ores, clay, stone, sand, gravel, scoria, uranium, and other solid materials or substances of commercial value and which have been extracted in solid form from natural deposits on or in the earth, exclusive of coal and those minerals which occur naturally in liquid or gaseous form.
7. "Person" means an individual, partnership, firm, association, society, joint stock company, company, cooperative, corporation, or other business organization.

38-14.2-03. POWERS AND DUTIES OF THE COMMISSION.) The commission:

1. Shall develop an abandoned mine reclamation plan.
2. Shall submit such applications, abandoned mine reclamation plan, projects, and reports necessary to accomplish the purposes of this chapter, and to accomplish the purposes of Title IV of Public Law 95-87, 30 U.S.C. 1231, et seq.
3. Shall include in each annual request for projects the following information:
 - a. A general description of each proposed project;
 - b. A priority evaluation of each proposed project;
 - c. A statement of the estimated benefits in such terms as: number of acres restored, miles of stream

- improved, acres of surface lands protected from subsidence, population protected from subsidence, air pollution, hazards of mine and coal refuse disposal area fires;
- d. An estimate of the cost for each proposed project;
 - e. In the case of proposed research and demonstration projects, a description of the specific techniques to be evaluated or objective to be attained;
 - f. An identification of lands or interest therein to be acquired and the estimated cost;
 - g. In each year after the first in which a plan is filed under this chapter, an inventory of each project funded under the previous year's grant, which inventory shall include details of financial expenditures on such project together with a brief description of each project, including project locations, landowner's name, acreage, type of reclamation performed; and
 - h. Other information as prescribed by the commission.
4. Shall include the following costs in each proposed project:
 - a. Actual construction costs;
 - b. Actual operation and maintenance costs of permanent facilities;
 - c. Planning and engineering costs;
 - d. Construction inspection costs; and
 - e. Other necessary administrative expenses.
 5. May request and accept grants of funds or services or transfer such funds or services for the implementation of the purposes of this chapter, and of Title IV of Public Law 95-87, 30 U.S.C. 1231, et seq.
 6. May enter any property without a warrant for the purpose of conducting studies to determine the existence of adverse effects of past coal mining and non-coal mining practices.
 7. May enter and lease or acquire land adversely affected by past coal mining or non-coal mining practices for the purpose of reclaiming such lands pursuant to this chapter.

8. May engage in cooperative projects under this chapter with any federal or state agency.
9. May engage in any work and do all things necessary or expedient, including the promulgation of regulations for all provisions of this chapter, to implement and administer the provisions of this chapter and of Title IV of Public Law 95-87, 30 U.S.C. 1231, et seq., and to develop and implement an abandoned mine reclamation program.
10. May initiate, in addition to any other remedies provided for in this chapter, in any court of competent jurisdiction, an action in equity for an injunction (either temporary or permanent) to restrain any interference with the exercise of the right to enter or to conduct any work provided for in this chapter.
11. May require, by contractual agreement with the appropriate persons, the extraction of any remaining coal deposits in areas reclaimed under this chapter, in order to maximize resource recovery. The commission may promulgate such regulations as may be necessary to insure that such extraction is performed by a qualified contractor in compliance with the applicable performance standards of section 38-14.1-24 and, if warranted, provide for compensation to the person entitled thereto.

38-14.2-04. STATE ABANDONED MINE RECLAMATION FUND.) There is hereby created the state abandoned mine reclamation fund.

1. Revenue to the fund shall include:

- a. Moneys applied for and received by the commission pursuant to Title IV of Public Law 95-87, 30 U.S.C. 1231 et seq., for the purposes of this chapter.
- b. Moneys donated to the commission by persons, corporations, associations, and foundations for the purposes of this chapter.
- c. Moneys collected by the commission from charges for uses of lands acquired or reclaimed with moneys from the fund, after expenditures for maintenance have been deducted.
- d. Moneys recovered by the commission through satisfaction of liens filed against privately owned lands reclaimed with moneys from the fund.
- e. Moneys recovered by the commission from the sale of lands acquired with moneys from the fund.

- f. Such other moneys as may be deposited in the fund for use in carrying out the purposes of the abandoned mine reclamation program.
2. Moneys in the fund may be used for the following purposes:
- a. Reclamation and restoration of land and water resources as defined by section 38-14.2-06 and adversely affected by past mining, including but not limited to:
- (1) Reclamation and restoration of abandoned surface mined areas, abandoned coal processing areas, and abandoned coal refuse disposal areas;
 - (2) Reclamation of lands affected by underground mine subsidence;
 - (3) Planting of land adversely affected by past coal mining or non-coal mining to prevent erosion and sedimentation;
 - (4) Prevention, abatement, treatment, and control of water pollution created by coal mine or non-coal mine drainage including restoration of stream beds, and construction and operation of water treatment plants;
 - (5) Prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ;
 - (6) Prevention, abatement, and control of coal mine subsidence.
- b. Acquisition or lease of land as provided for in this chapter.
- c. Studies by the commission by contract with public and private organizations to provide information, advice, and technical assistance, including research and demonstration projects, conducted for the purposes of this chapter.
- d. All other necessary expenses to accomplish the purposes of this chapter, including administrative expenses and costs incurred in the development of the abandoned mine reclamation plan and the abandoned mine reclamation program.

38-14.2-05. CONSTRUCTION OF PUBLIC FACILITIES.) Upon reclamation of all abandoned coal mine areas and all abandoned non-coal areas pursuant to the provisions of this chapter, if there is a need for the construction of specific public facilities in

communities impacted by coal development and if impact funds which may be available are inadequate, the governor of the state of North Dakota shall certify to the existence of such conditions to the secretary of the interior and funds may be allocated and expended for such construction upon the approval of the specific public facilities by the commission.

38-14.2-06. ELIGIBLE LANDS AND WATER.) Lands and water eligible for reclamation or drainage abatement expenditures under this chapter are those which were mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to the date of enactment of this chapter, and for which there is no continuing reclamation responsibility under other state laws. Lands and water which were mined or affected by mining for minerals and materials other than coal shall also be eligible for reclamation under this chapter if such reclamation is necessary to protect the public health, safety, general welfare and property and such non-coal abandoned mine lands were left in an inadequate reclamation status prior to the date of enactment of this chapter, and for which there is no continuing reclamation responsibility under other state laws.

38-14.2-07. COMMISSION AUTHORIZED TO ADMINISTER ABANDONED MINE RECLAMATION PROGRAM - OBJECTIVES - PRIORITIES.) The commission is hereby authorized to develop, administer, and enforce an abandoned mine reclamation program. Expenditure of funds for the projects under this program shall reflect priorities in the order stated:

1. Administrative expenses and costs incurred in the development of the abandoned mine reclamation plan and the abandoned mine reclamation program.
2. The protection of public health, safety, general welfare and property from extreme danger resulting from the adverse effects of past coal mining practices.
3. The protection of public health, safety, and general welfare from adverse effects of past coal mining practices which do not constitute an extreme danger.
4. The restoration of eligible land and water and the environment previously degraded by adverse effects of past coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity.
5. Research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques.

6. The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, recreation, and conservation facilities adversely affected by past coal mining practices.
7. The development of publicly owned land adversely affected by past coal mining practices, including land acquired as provided in this chapter, for recreation, historic, conservation, and reclamation purposes and open space benefits.
8. The protection of the public from hazards endangering life and property resulting from the adverse effects of past non-coal mining practices. However, upon request by the governor of the state of North Dakota and approval by the secretary of the interior, such work may be undertaken before the priorities related to past coal mining have been fulfilled.
9. The protection of the public from hazards to health and safety from the adverse effects of past non-coal mining practices.
10. The restoration of the environment degraded by the adverse effects of past non-coal mining.
11. The construction of public facilities in accordance with section 38-14.2-05.

38-14.2-08. RIGHT TO CONDUCT STUDIES.) The commission shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal mining and non-coal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor trespass thereon.

38-14.2-09. AFFECTED LANDS - RIGHT OF ENTRY.) If the commission makes a finding of fact that:

1. Land or water resources have been adversely affected by past coal mining or non-coal mining practices; and
2. The adverse effects are at a stage where, in the public interest, action to restore, reclaim, abate, control, or prevent should be taken; and
3. The owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining or non-coal mining practices are not known or readily available; or

4. The owner will not give permission for the commission, its agents, employees, or contractors to enter upon such property to restore, reclaim, abate, control, or prevent the adverse effects of past coal mining or non-coal mining practices;

Then, upon giving notice by mail to the owners if known or if not known by posting notice upon the premises and advertising once in the official newspaper of each county and in other daily newspapers of general circulation in each county wherein the land lies, the commission, its agents, employees, or contractors shall have the right to enter upon the property adversely affected by past coal mining or non-coal mining practices and any other property to have access to such property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property nor of trespass thereon. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land to the extent allowed in section 38-14.2-14 and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: provided, however, that this provision is not intended to create new rights of action or eliminate existing immunities.

38-14.2-10. LAND ACQUISITION.) The commission may acquire any land, by purchase, donation, or condemnation, pursuant to the procedures of chapter 32-15, and other laws governing eminent domain, which is adversely affected by past coal mining or non-coal mining practices if the commission determines in accordance with the rules of practice and procedure established by the commission that acquisition of such land is necessary for successful reclamation and that:

1. The acquired land, after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining or non-coal mining practices, will serve recreation, historic, conservation and reclamation purposes or provide open space benefits; and
2. Permanent facilities such as a mine drainage treatment plant or a relocated stream channel will be constructed on the land for the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining or non-coal mining practices; or
3. Acquisition of coal refuse disposal sites and all coal refuse thereon will serve the purposes of this chapter or that public ownership is desirable to meet emergency situations and prevent recurrences of the adverse effects of past coal mining or non-coal mining practices.

38-14.2-11. TITLE.) Title to all lands acquired pursuant to this chapter shall be in the name of the state of North Dakota. The price paid for land acquired under this chapter shall reflect the market value of the land as adversely affected by past coal mining or non-coal mining practices.

38-14.2-12. TRANSFER OR SALE OF ACQUIRED LANDS.) The commission may transfer land acquired pursuant to this chapter to the appropriate state or federal agency. Where land acquired pursuant to this chapter is deemed to be suitable for industrial, commercial, residential or recreational development, the commission may sell such land by public sale under a system of competitive bidding, at not less than fair market value, pursuant to the provisions of chapter 54-01 and other laws applicable to the sale of state-owned land and under such other regulations promulgated to insure that such lands are put to proper use consistent with local and state land use plans, if any, as determined by the commission.

38-14.2-13. PUBLIC HEARING ON DISPOSITION OF ACQUIRED LANDS.) The commission, when requested, shall hold a public hearing, with the appropriate public notice, in the county or counties in which lands acquired pursuant to this chapter are located. The hearings shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining or non-coal mining practices. The hearing shall be conducted pursuant to chapter 28-32.

38-14.2-14. LIENS FOR RECLAMATION ON PRIVATE LANDS.)

1. Within six months after the completion of projects to restore, abate, control, or prevent adverse effects of past coal mining or non-coal mining practices on privately owned land, the commission shall itemize the moneys so expended and may file a statement thereof in the office of the county register of deeds in the county in which the land is located, together with notarized appraisals by an independent appraiser of the value of the land before and after the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining or non-coal mining practices if the moneys so expended result in a significant increase in property value. Such statement shall constitute a lien upon the land. The lien shall not exceed the amount determined by the appraisals to be the increase in the market value of the land as the result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining or non-coal mining practices. The lien may be waived by the commission if:
 - a. The cost of filing the lien, including indirect costs, exceeds the increase in the fair market value of the land as the result of reclamation activities;

- b. The reclamation work performed on private land primarily benefits health, safety, or environmental values of the greater community or area in which the land is located; or
 - c. The reclamation work performed is necessitated by an unforeseen occurrence and the work performed to restore that land will not result in a significant increase in the market value of the land as it existed immediately before the occurrence.
2. No lien shall be filed against the property of any person, in accordance with this section, who owned the surface prior to May 2, 1977, and who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder.
 3. The landowner may petition the commission for a hearing within sixty days of the filing of the lien to determine the increase in the market value of the land as the result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining or non-coal mining practices. The amount determined to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement herein provided. The hearing shall be conducted pursuant to chapter 28-32.
 4. Any statement filed pursuant to this section shall constitute a lien upon the land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.
 5. The commission may bring an action to enforce the lien in the district court of the county in which the land is located. Any number of persons claiming liens against the same property may join in the action and when separate actions are commenced, the court may consolidate them. Before the lien may be enforced, written notice of intention to enforce the lien shall be given by personal service upon the record owner of the land affected at least ten days before an action to enforce the lien is commenced, or by certified mail directed to the owner's last known address at least twenty days before the action is commenced. The land affected shall not be sold for less than the fair market value of the land after the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining or non-coal mining practices. No deficiency judgment shall issue against the record owner of the land affected if the proceeds from the sale are insufficient to satisfy the total amount of the lien on the land.

38-14.2-15. HEARING AND APPEAL.) Any person claiming to be aggrieved or adversely affected by any regulation or order of the commission or its failure to enter an order under this chapter may request a hearing by the commission. The hearing shall be conducted pursuant to chapter 28-32. There shall be a right of appeal to the district court from any adverse ruling by the commission issued pursuant to this chapter.

Approved March 19, 1979

MOTOR VEHICLES

CHAPTER 401

HOUSE BILL NO. 1153
(Retzer)

CLASS C AUTHORIZED EMERGENCY VEHICLES

AN ACT to amend and reenact subdivision c of subsection 1 of section 39-01-01 and section 39-10-03.2 of the North Dakota Century Code, relating to the definition of class C emergency vehicles, and authorizing class C vehicles to display a blue light in place of a red light.

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

* SECTION 1. AMENDMENT.) Subdivision c of subsection 1 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. ~~Class C vehicles by civil defense directors while used in the performance of emergency duties,~~ authorized emergency vehicles means those vehicles authorized by state and local disaster emergency services organizations and those vehicles used by volunteer firemen while performing their assigned disaster and emergency responsibilities.

SECTION 2. AMENDMENT.) Section 39-10-03.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-10-03.2. CLASS C AUTHORIZED EMERGENCY VEHICLES.) All class B specifications ~~shall~~ apply to class C authorized emergency vehicles except that a rotating blue flashing light shall be displayed in place of an amber light as provided in section 39-10-03.1. The office of disaster emergency services shall be responsible for promulgating the rules for the use of flashing blue lights in accordance with chapter 28-32.

Approved March 3, 1979

- * NOTE: Subdivision c of subsection 1 of section 39-01-01 was also amended by section 73 of House Bill No. 1073, chapter 187.

CHAPTER 402

SENATE BILL NO. 2245
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE DEFINITIONS

AN ACT to create and enact two new subsections to section 39-01-01 of the North Dakota Century Code, relating to definitions of lienholder, and salvage certificate of title; and to amend and reenact subsections 29 and 37 of section 39-01-01 of the North Dakota Century Code, relating to definitions of manufacturer and owner.

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

SECTION 1.) Two new subsections to section 39-01-01 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

"Lienholder" shall mean a person holding a security interest in a vehicle.

"Salvage certificate of title" shall mean a document issued by the department for purposes of proof of ownership of a salvage or destroyed vehicle and not acceptable for motor vehicles registration purposes.

SECTION 2. AMENDMENT.) Subsections 29 and 37 of section 39-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

29. "Manufacturer" shall mean any person engaged--in--the business-of-manufacturing-motor-vehicles-or-trailers, who manufactures, assembles, or imports and sells new motor vehicles to new motor vehicle dealers for resale in the state; but such term shall not include a person who assembles or specially builds interior equipment on a completed vehicle supplied by another manufacturer, distributor, or supplier.
37. "Owner" shall mean a person who-holds-the-legal-title-of-a-vehicle,-or-if-a-vehicle-is-the-subject--of--an--agreement

for--the--conditional-sale-or-lease--thereof--with--the--right
of--purchase--upon--performace--of--the--conditions--stated--in
the--agreement,--and--with--an--immediate--right--of--possession
vested--in--the--conditional--vendee--or--lessee,--or--if--a
mortgager--of--a--vehiele--is--entitled--to--possession,--then
such--conditional--vendee--or--lessee--or--mortgager--shall--be
deemed--the--owner--for--the--purpose--of--this--title, other
than a lienholder, having the property in or title to a
vehicle. The term includes a person entitled to the use
and possession of a vehicle subject to a security interest
in another person, but excludes a lessee under a lease not
intended as security.

Approved March 22, 1979

CHAPTER 403

SENATE BILL NO. 2357
(Lashkowitz)

MOTORIZED BICYCLE OPERATION

AN ACT to create and enact a new subsection to section 39-01-01 and a new section to chapter 39-10.1 of the North Dakota Century Code, relating to a definition of "motorized bicycle" and required age for operation of a motorized bicycle; and to amend and reenact subsections 2 and 32 of section 39-01-01 of the North Dakota Century Code, relating to the definition of "bicycle" and "motor vehicle".

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

SECTION 1.) A new subsection to section 39-01-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Motorized bicycle" means a vehicle equipped with two or three wheels, foot pedals to permit muscular propulsion, a power source providing up to a maximum of two brake horsepower having a maximum piston or rotor displacement of 3.05 cubic inches if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed thirty miles per hour on a level road surface, is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged, and shall have a width no greater than thirty-two inches.

SECTION 2. AMENDMENT.) Subsection 2 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Bicycle" ~~shall--mean~~ means a motorized bicycle and every device propelled by human power upon which any person may ride, having two tandem wheels either of which is more than twenty inches in diameter.

SECTION 3. AMENDMENT.) Subsection 32 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

32. "Motor vehicle" shall include every vehicle, except motorized bicycles, which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

SECTION 4.) A new section to chapter 39-10.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

MOTORIZED BICYCLES - AGE OF OPERATOR.) No person under fourteen years of age may operate a motorized bicycle.

Approved March 25, 1979

CHAPTER 404

HOUSE BILL NO. 1458
(Wald)

PROOF OF FINANCIAL RESPONSIBILITY

AN ACT to amend and reenact subsection 45 of section 39-01-01, sections 39-16-05, 39-16.1-02, 39-16.1-05, and subsection 2 of section 39-16.1-11 of the North Dakota Century Code, relating to the level of motor vehicle liability coverage necessary to fulfill the requirements of the definition "proof of financial responsibility", the amount of motor vehicle liability coverage required to avoid suspension of operator's license, the level of motor vehicle liability coverage necessary to fulfill the requirements of the definition "proof of financial responsibility", the satisfaction of judgments arising out of motor vehicle accidents, and the amount of coverage specified in motor vehicle liability insurance policies.

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

SECTION 1. AMENDMENT.) Subsection 45 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

45. "Proof of financial responsibility" shall mean proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of ~~ten~~ twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of ~~twenty~~ fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ~~five~~ ten thousand dollars because of injury to or destruction of property of others in any one accident;

* SECTION 2. AMENDMENT.) Section 39-16-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 39-16-05 was also amended by section 9 of House Bill No. 1283, chapter 405, and by section 1 of House Bill No. 1419, chapter 425.

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 two 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 that notice of such suspension and opportunity for hearing 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 chapter 39-16.1.
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 chapter 39-16.1.
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~~ twenty-five 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~~ fifty 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 ten~~ 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 3. AMENDMENT.) Section 39-16.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16.1-02. DEFINITION OF PROOF OF FINANCIAL RESPONSIBILITY.) "Proof of financial responsibility" means proof of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of said proof, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of ~~ten~~ twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, and, subject to said limit for one person, in the amount of ~~twenty~~ fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in the amount of ~~five ten~~ thousand dollars because of injury to or destruction of property of others in any one accident.

SECTION 4. AMENDMENT.) Section 39-16.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16.1-05. SATISFACTION OF JUDGMENT.) Judgments herein referred to shall, for the purpose of this chapter only, be deemed satisfied:

1. When ~~ten~~ twenty-five thousand dollars has been credited upon any judgment or judgments rendered in excess of that

amount because of bodily injury to or death of one person as the result of any one accident; or

2. When, subject to such limit of ~~ten~~ twenty-five thousand dollars because of bodily injury to or death of one person, the sum of ~~twenty~~ fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or death of two or more persons as the result of any one accident; or
3. When ~~five~~ ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of damage to or destruction of property of others as a result of any one accident. Payments made in settlement of any claims because of bodily injury, death or property damages arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

* SECTION 5. AMENDMENT.) Subsection 2 of section 39-16.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Such owner's policy of liability insurance:
 - a. Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and
 - b. Shall insure the person named therein and any other person, as insured, using such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: ~~ten~~ twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and subject to said limit for one person, ~~twenty~~ fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and ~~five~~ ten thousand dollars because of injury to or destruction of property of others in any one accident.

Approved March 15, 1979

* NOTE: Subsection 2 of section 39-16.1-11 was also amended by section 2 of House Bill No. 1419, chapter 425.

CHAPTER 405

HOUSE BILL NO. 1283
(Committee on Transportation)
(At the request of the Highway Department)

FINANCIAL RESPONSIBILITY AND DRIVER'S LICENSES

AN ACT to amend and reenact section 39-01-13, subsections 1 and 2 of section 39-06-07, section 39-06-08, subsection 1 of section 39-06-14, section 39-06-31, subsection 1 of section 39-06-40.1, section 39-08-09, and section 39-16-05 of the North Dakota Century Code, relating to financial responsibility and driver's licenses.

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

* SECTION 1. AMENDMENT.) Section 39-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-13. COMMISSIONER TO KEEP RECORD OF PROCESS RECEIVED FOR NONRESIDENT MOTOR VEHICLE USERS.) The highway commissioner shall keep a record of all process served upon him under the provisions of section 39-01-11. Such record shall show the day and hour of service. If any defendant served under section 39-01-11 has made proof of financial responsibility by filing a certificate of insurance coverage, as provided in section ~~39-16-10~~ 39-16.1-09, the commissioner shall mail a copy of such summons and complaint to the insurance carrier named in such certificate.

SECTION 2. AMENDMENT.) Subsection 1 of section 39-06-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every application for an instruction permit or for an operator's license shall be made upon a form furnished by the commissioner. ~~Every application shall be signed by the applicant with full name. In signing the application the applicant shall be deemed to have certified that all information contained on the application is true and correct and shall be accompanied by the proper fee and payment of such fee shall entitle the applicant to not more than three attempts to pass the examination within a period of six months from the date of application.~~

* NOTE: Section 39-01-13 was also amended by section 74 of House Bill No. 1073, chapter 187.

SECTION 3. AMENDMENT.) Subsection 2 of section 39-06-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Every said application shall state the full name, date of birth, sex, and residence and mailing address of the applicant, and briefly describe the applicant, and shall state whether the applicant has theretofore been licensed as an operator or chauffeur, and, if so, when and by what state or country, and whether an application has ever been refused, suspended, canceled, or revoked and, if so, the date of and reason for such suspension, cancellation, revocation, or refusal. In signing the application the applicant shall be deemed to have certified that all information contained on the application is true and correct and shall be accompanied by the proper fee. Payment of such fee shall entitle the applicant to not more than three attempts to pass the examination within a period of six months from the date of application. The application shall also provide for the voluntary identification of the applicant as a donor under the provisions of chapter 23-06.1. The application shall contain such other information as the commissioner may require.

SECTION 4. AMENDMENT.) Section 39-06-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-08. APPLICATION OF MINORS.) The application of any minor for an instruction permit or operator's license shall be signed and verified before a person authorized to administer oaths or the commissioner's agent, by the father, mother, or guardian, or, in the event there is no parent or guardian, then by another responsible adult who is willing to assume the obligation imposed under this chapter upon a person signing the application of a minor.

SECTION 5. AMENDMENT.) Subsection 1 of section 39-06-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commissioner shall, upon payment of an eight-dollar fee, issue to every applicant qualifying therefor an operator's license as applied for in the form prescribed by the commissioner. The license shall bear a distinguishing number assigned to the licensee, a color photograph of the licensee, the full name, date of birth, residence address, and a brief description of the licensee, and either a facsimile of the signature of the licensee or a space upon which the licensee shall write his usual signature with pen and ink immediately upon receipt of the license. If requested on the license application, the license issued by the commissioner shall identify the licensee as a donor under the provisions of

chapter 23-06.1. No license shall be valid until it has been so signed by the licensee. For purposes of verification, an officer may require the licensee to write his signature in the presence of such officer. The commissioner shall have the authority to promulgate rules and regulations, pursuant to chapter 28-32, relating to the manner in which photographs are to be obtained and placed on operator's licenses.

SECTION 6. AMENDMENT.) Section 39-06-31 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-31. MANDATORY REVOCATION OF LICENSES.) The commissioner shall revoke forthwith, for a period of one year, or for such period as may be recommended by the trial court, the license of any operator upon receiving a record of such operator's conviction of any of the following offenses:

1. Manslaughter or negligent homicide resulting from operation of a motor vehicle;
2. Any felony in the commission of which a motor vehicle is used; or
3. The making of a false affidavit or statement under oath to the commissioner under this chapter or under any other law relating to the ownership or operation of motor vehicles.

SECTION 7. AMENDMENT.) Subsection 1 of section 39-06-40.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. It shall be unlawful for any person to print, photograph, photostat, duplicate, alter or in any way reproduce any operator's or driver's license or permit or facsimile thereof in such a manner that it would be mistaken for a valid license, or to display or have in his possession any such print, photograph, photostat, duplicate, reproduction, or facsimile unless authorized by the provisions of the North Dakota law.

SECTION 8. AMENDMENT.) Section 39-08-09 of the 1977 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 ~~three~~ four 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 state highway patrol. Within ten 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.

* SECTION 9. AMENDMENT.) Section 39-16-05 of the 1977 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 ~~two~~ four 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 that notice of such suspension and opportunity for hearing 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 chapter 39-16.1.
2. To a driver, if not the owner of such motor vehicle, if there was in effect at the time of such accident an

* NOTE: Section 39-16-05 was also amended by section 2 of House Bill No. 1458, chapter 404, and by section 1 of House Bill No. 1419, chapter 425.

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 chapter 39-16.1.

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.

Approved March 3, 1979

CHAPTER 406

HOUSE BILL NO. 1189
(Wessman)

HANDICAPPED PARKING PRIVILEGE ENFORCEMENT

AN ACT to amend and reenact subsection 5 of section 39-01-15 of the North Dakota Century Code, empowering police to enforce handicapped parking privileges in public and private parking lots.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 39-01-15 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Whenever any public or private agency or authority designates parking spaces for use by motor vehicles operated by physically handicapped persons, those reserved spaces shall be indicated by blue paint on the curb or edge of the paved portion of the street or parking lot adjacent to the space. In addition to blue paint, the space reserved shall also be indicated by signs or other suitable means. The law enforcement agency of any city or any other political subdivision may enforce the provisions of this subsection in any parking lot or parking facility that is generally open to the public, whether publicly or privately owned.

Approved March 3, 1979

CHAPTER 407

HOUSE BILL NO. 1213
(Representatives Solberg, Scofield)
(Senator Miller Heinrich)

HIGHWAY PATROLMEN'S RETIREMENT SYSTEM

AN ACT to amend and reenact sections 39-03A-09, 39-03A-12, and 39-03A-14 of the North Dakota Century Code, relating to the North Dakota highway patrolmen's retirement system.

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

SECTION 1. AMENDMENT.) Section 39-03A-09 of the 1977 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 one hundred ~~twelve~~ thirty-five 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 a 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 the 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 2. AMENDMENT.) Section 39-03A-12 of the 1977 Supplement to 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 and one-fourth percent of the average monthly salary, not to exceed one thousand ~~two-hundred-fifty~~ five hundred dollars, for the thirty-six 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 and one-half percent per month of his average salary, as determined above. Credit for additional service of at least one month of an uncompleted year of service shall be given in proportion to the number of months the additional service bears to one full year of service.

SECTION 3. AMENDMENT.) Section 39-03A-14 of the 1977 Supplement to 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 and one-fourth percent of the average monthly salary, not to exceed one thousand ~~two-hundred-fifty~~ five hundred dollars, for the last thirty-six months of service, times the total number of years served.

Approved March 3, 1979

CHAPTER 408

HOUSE BILL NO. 1188
(Wessman)

SPECIAL PLATES FOR THE PHYSICALLY HANDICAPPED

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to authorizing the motor vehicle registrar to issue special registration plates bearing a special symbol to identify handicapped individuals.

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

SECTION 1.) A new section to chapter 39-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

SPECIAL PLATES FOR PHYSICALLY HANDICAPPED.) The motor vehicle registrar shall issue, without charge, upon application and payment of the regular license fee, plates marked with a special identifying insignia, symbol, or design making them distinctly different from other number plates, to any physically handicapped applicant upon submission by the applicant of a certificate issued by a qualified physician to the motor vehicle registrar that the applicant is a physically handicapped person within the meaning of subsection 2 of section 39-01-15. The motor vehicle registrar shall determine the form and size of the insignia, symbol, or design, and shall promulgate rules and regulations governing the issuance thereof.

Approved March 3, 1979

CHAPTER 409

HOUSE BILL NO. 1374
 (Representatives Gackle, Gunsch, Meiers)
 (Senator Wright)

MOTOR VEHICLE REGISTRATION

AN ACT to create and enact a new section to chapter 39-04 of the North Dakota Century Code, relating to registration fees for trailers, semitrailers, and farm trailers; to create and enact a new subdivision to subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to exemption from registration of trailers, semitrailers, and farm trailers; and to amend and reenact subsection 1 of section 39-04-18, subsection 4 of section 39-04-19, section 39-04-26, and subsection 3 of section 39-06-14 of the North Dakota Century Code, relating to registration of motor vehicles, registration fees, gross weight requirements of towing vehicles, and operators' licenses; and providing an effective date.

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

SECTION 1.) A new section to chapter 39-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

TRAILERS, SEMITRAILERS, FARM TRAILERS - REGISTRATION FEES PRORATED - EXCESS WEIGHT REGISTRATION.)

1. When a trailer, semitrailer, or farm trailer first becomes subject to registration during the calendar year, the registration fee shall be prorated on a quarterly basis, adjusted to the next dollar, with a minimum fee of five dollars.
2. When the gross weight, not including the weight of the towing vehicle, of any trailer, semitrailer, or farm trailer registered pursuant to subdivision b of subsection 4 of section 39-04-19 is changed to exceed twenty-four thousand pounds, the unused portion of the registration fees in excess of ten dollars may be applied to the registration fee of the changed gross weight of the towing vehicle required pursuant to section 39-04-26.

SECTION 2. AMENDMENT.) Subsection 1 of section 39-04-18 of the 1977 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, ~~semitrailers trailer or semitrailer~~ trailer or semitrailer designed to be towed by a truck or truck tractor, and farm ~~trailers trailer~~ trailer operated or intended to be operated upon any highway, road, or street in this state shall be registered annually with the ~~motor vehicle--registrax~~ department. Any vehicle being operated on highways, roads, or streets of this state shall display ~~such~~ such license plates as are furnished by the ~~motor-vehicle registrax~~ department upon the payment of the fees prescribed in this chapter.

Upon satisfactory proof to the ~~registrax~~ department 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 the~~ the motor vehicle may be registered upon payment of the registration fee for the current year.

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 or penalties for the intervening years when ~~such the~~ the vehicle was not licensed, ~~nor any penalties therefor~~, providing ~~such the~~ the veteran shows by suitable affidavit that ~~such the~~ the vehicle was not in use during any year in which it was not licensed. ~~Such~~ The vehicle shall be licensed for the license fee applicable to the month of the year in which application for license is made.

SECTION 3.) A new subdivision to subsection 2 of section 39-04-18 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Any trailer, semitrailer, or farm trailer when the gross weight, not including the weight of the towing vehicle, does not exceed one thousand five hundred pounds and it is not for hire or commercial use, or when used to transport recreational vehicles or boats and it is not for hire or commercial use.

SECTION 4. AMENDMENT.) Subsection 4 of section 39-04-19 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. ~~The--fee--for--a--trailer--identification--plate--for--all privately-owned-trailers,--excluding-farm--trailers,--shall be--two--dollars,--for--all-trailers-which-are-offered-for lease-or-rent-to-the-public,--five--dollars,--and--for--all semitrailers--designed-to-be-towed-by-a-truck-tractor,--ten~~

~~dollars.--The fee for registration of a farm trailer shall be:~~

~~a.--Ten dollars for a farm trailer having one axle.~~

~~b.--Twenty dollars for a farm trailer having two axles.~~

~~c.--Thirty dollars for a farm trailer having three or more axles.~~

Every trailer, semitrailer, and farm trailer required to be registered under this chapter shall be furnished registration plates upon the payment of one of the following annual fees:

a. Ten dollars for trailers and farm trailers which are not semitrailers, including trailers which are offered for lease or rent to the public.

b. Ten dollars per axle, limited to a maximum of thirty dollars, for semitrailers and farm trailers which are semitrailers, when the gross weight, not including the weight of the towing vehicle, does not exceed twenty-four thousand pounds.

c. Ten dollars for semitrailers when the gross weight, not including the weight of the towing vehicle, exceeds twenty-four thousand pounds.

Every trailer, semitrailer, or farm trailer not required to be registered under this chapter shall be furnished an identification plate upon the payment of a fee of five dollars.

SECTION 5. AMENDMENT.) Section 39-04-26 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-04-26. REGISTRATION OF VEHICLES TRANSPORTING PROPERTY - BASED ON GROSS WEIGHT - MINIMUM GROSS WEIGHT - FARM EXEMPTION.) The registration and license fee for a motor vehicle or for any lawful combination of motor vehicles used for the transportation of property shall be based upon the gross weight of ~~such~~ the motor vehicle or combination of vehicles. The minimum gross weight for which ~~such~~ the motor vehicle or combination of motor vehicles can be licensed shall be double the unloaded weight of ~~such~~ the motor vehicle or ~~such~~ the combination of vehicles and, subject to ~~such~~ the minimum, the owner of any motor vehicle or combination of vehicles in his application for license shall set out the gross weight for which he desires a license. ~~A vehicle owned and operated by a bona fide resident farmer who uses such vehicle exclusively for transporting his own property between farms and the usual local trading places and is not for hire shall not be required to include the weight of any farm trailer being towed for registration~~

purposes. The gross weight of any trailer, semitrailer, or farm trailer shall not be included in the minimum gross weight for which a vehicle must be licensed when the vehicle or combination of vehicles is not for hire and when the gross weight of the trailer, semitrailer, or farm trailer being towed does not exceed twenty-four thousand pounds.

* SECTION 6. AMENDMENT.) Subsection 3 of section 39-06-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. All applicants holding a valid North Dakota driver's license making application for a renewal ~~of such license~~, shall be issued a class 3 license without being subjected to an examination as herein provided. All applicants, except those holding a valid North Dakota driver's license who will be issued a class 3 license, applying for issuance of driver licenses shall be issued a classified license after having been required to submit to an examination in the type of motor vehicle or combination of vehicles for which license is desired and which license shall authorize the holder to drive the vehicles set forth in ~~such~~ a class as follows:

Class 1. Any vehicle or combination of vehicles except vehicles under class 4.

Class 2. Any vehicle or combination of vehicles except:

- a. Vehicles towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds.
- b. Vehicles under class 4.

Class 3. Any two-axle or tandem-axle vehicle except:

- a. A truck tractor combination as defined in subsection 70 of section 39-01-01.
- b. A bus more than eighty inches in width and designed to carry more than ten persons and used for carrying passengers.
- c. A two-axle or tandem-axle vehicle or combination of vehicles when towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds.
- d. Vehicles under class 4.

* NOTE: Subsection 3 of section 39-06-14 was also amended by section 6 of Senate Bill No. 2438, chapter 442.

Provided, however, an operator with a class 3 license may operate a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds, and may operate a truck towing a trailer, semitrailer, or farm trailer when the gross weight of the trailer, semitrailer, or farm trailer, not including the weight of the towing vehicle, does not exceed twenty-four thousand pounds.

Class 4. Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator or passengers, or both, ride within an enclosed cab.

The holder of a class 1, 2, or 3 license may receive a class 4 endorsement upon successful completion of an examination. An applicant sixteen years of age and older, who does not hold a current valid driver's license may be issued a class 4 learner's permit after successful completion of a written examination. The class 4 license will be issued after the applicant has successfully completed a driver's examination.

Applicants of the age of fourteen or fifteen years may receive a class 4 learner's permit to operate a motorcycle with an engine displacement of two hundred cubic centimeters or less only after successful completion of a written examination as required by the commissioner. A class 4 license or endorsement shall be issued to a fourteen or fifteen-year-old applicant only after he has successfully completed a driving examination, and has produced evidence satisfactory to the commissioner of either of the following:

- a. Satisfactory completion of a motorcycle course which included at least six hours of classroom instruction and six hours of actual motorcycle operation.
- b. Successful completion of a motorcycle course at an approved commercial driver training school which included at least six hours of classroom instruction and six hours of actual motorcycle operation.

SECTION 7. EFFECTIVE DATE.) The provisions of this Act shall become effective on January 1, 1980.

Approved March 15, 1979

CHAPTER 410

HOUSE BILL NO. 1311
(Koski, Timm)

EXEMPTIONS FROM REGISTRATION FEES

AN ACT to amend and reenact subdivision b of subsection 2 of section 39-04-18 of the North Dakota Century Code relating to motor vehicles exempt from registration fees.

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

SECTION 1. AMENDMENT.) Subdivision b of subsection 2 of section 39-04-18 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. Motor vehicles owned ~~and operated~~ by or in possession of Indian mission schools or by this state or any of its agencies, departments, or political subdivisions, including school districts possessing a motor vehicle or vehicles used for driver education instruction, provided, however, that ~~such~~ the vehicles shall display license plates provided by the motor vehicle ~~register~~ department at actual cost.

Each new automobile loaned ~~and~~ or furnished ~~free~~ of-charge by a licensed North Dakota new car dealer to a school district in North Dakota to be used exclusively for instructing pupils in the driver education and training program conducted by ~~such~~ the school district will be assigned an official license plate ~~from--a--designated--group-of-numbers~~ bearing a decal with the words "driver education" appearing on it. ~~Said~~ The license plates shall be used only on ~~such~~ the automobiles furnished ~~free--of--charge~~ by dealers and used in the driver education program, and for no other purpose except for garaging and safekeeping of ~~said~~ the automobile.

No person shall use an automobile bearing official license plates ~~with--the--designated--numbers~~ bearing a decal with the words "driver education" appearing on it as provided for in this subdivision

for any purpose other than driver education course instruction. Any person using a ~~free-learn~~ driver education motor vehicle for purposes other than for instruction shall be guilty of a class B misdemeanor. No person shall be in violation of this subdivision in the event he is required by the dealer or a school administrator to house or otherwise protect any-such the vehicle at his home or other facility.

Approved March 3, 1979

CHAPTER 411

HOUSE BILL NO. 1634
(Representatives Gorder, Peltier)
(Senators Tallackson, Vosper)

TRIP AND EQUIPMENT PERMITS

AN ACT to amend and reenact subsection 1 of section 39-04-19, subsection 2 of section 39-12-05, and sections 57-54.1-09, 57-54.1-11, and 57-54.1-12 of the North Dakota Century Code, relating to election of trip permit in lieu of vehicle registration fees, improved equipment permit fees, issuance and display of license or permit, revocation of license, and occasional trip permits; and to repeal section 57-54.1-08 of the North Dakota Century Code, relating to importer for use bond.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 39-04-19 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Nonresidents electing to pay mile tax in lieu of registration, when authorized to do so by the state highway commissioner, shall pay a fee of ten dollars for a trip permit which shall be valid for a period of seventy-two hours ~~or--until--such-vehicle-shall-leave-the-state, whichever-shall-first-occur~~. All fees collected under the provisions of this subsection shall be credited to the highway construction fund.

* SECTION 2. AMENDMENT.) Subsection 2 of section 39-12-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Subject to the limitations imposed by the above subsection on tires, wheel and axle loads, no vehicle or combination of vehicles shall be operated whose gross weight, including the load, exceeds sixty-four thousand pounds or that determined by adding the distance in feet between the first axle and the last axle of ~~such~~ the vehicle or combination of vehicles, to the factor forty and multiplying this sum by seven hundred fifty, whichever is

* NOTE: Subsection 2 of section 39-12-05 was also amended by section 3 of Senate Bill No. 2086, chapter 412.

~~lesser less.~~ Such The gross weight limitation shall not apply to ~~such~~ equipment as the state highway commissioner or his agents may approve for exemption, but gross weights shall not exceed ~~seventy-three~~ eighty thousand ~~two-hundred and--eighty~~ pounds. The decision on exemption shall be determined on the basis of improved equipment design, which, in ~~his~~ the highway commissioner's opinion, will better distribute the load and reduce roadway damage; provided further that where the distance between the first axle and the last axle of any group of axles of ~~such~~ the vehicle or combination of vehicles is eighteen feet or less, the gross weight on the group of axles under consideration shall be determined by adding the distance in feet between the first axle and the last axle of the group under consideration to the factor of forty and multiplying this sum by six hundred fifty. No truck under eighty-two thousand pounds operating on the highways of this state shall be required to pay a fee for an improved equipment permit.

SECTION 3. AMENDMENT.) Section 57-54.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-09. ISSUANCE AND DISPLAY.) Upon ~~approval-of-such~~ and investigation by the commissioner, if the statements contained in the application ~~shall-be~~ are found to be true, and if the commissioner ~~shall-be~~ is satisfied that the application is made in good faith, he shall issue to ~~said~~ the applicant an importer for use license bearing a distinctive number and specifying the terms and conditions thereof. The license or permit or a photocopy thereof must be carried in the passenger compartment of each motor vehicle operated by each importer for use at all times when ~~each~~ the motor vehicle is in this state.

SECTION 4. AMENDMENT.) Section 57-54.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-11. REVOCATION, CANCELLATION, AND SURRENDER OF LICENSE AND BOND.) All ~~such~~ importer for use licenses issued by the commissioner shall be in force ~~so-long-as-the-holder-thereof-has-in~~ force-a-bond-as-required-by-law-or-rules-and--regulations--deposited ~~with--the--commissioner,--or~~ until ~~such~~ the license is suspended, surrendered, or revoked for cause by the commissioner. The commissioner may, at any time, upon showing of failure to comply with the provisions of this chapter or rules and regulations promulgated hereunder, suspend or completely revoke any license or registration issued hereunder upon five days' notice to the grantee ~~thereof~~ and on opportunity to be heard.

SECTION 5. AMENDMENT.) Section 57-54.1-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54.1-12. OCCASIONAL TRIP PERMITS.) Any person who occasionally makes trips into or through North Dakota and who elects to secure occasional trip permits as hereinafter provided shall be exempt from the licensing ~~and-bonding~~ requirements herein imposed. The word "occasionally" shall mean no more than one trip or series of trips in any seventy-two hour period or two trips or series of trips in any two seventy-two hour periods into or through the state of North Dakota ~~in any one month~~. ~~Such occasional~~ Occasional trip permits shall be issued by the tax commissioner or ~~his~~ the commissioner's agent for a fee of five dollars per trip pursuant to regulations and procedures prescribed by the tax commissioner.

SECTION 6. REPEAL.) Section 57-54.1-08 of the North Dakota Century Code is hereby repealed.

Approved March 21, 1979

CHAPTER 412

SENATE BILL NO. 2086
 (Legislative Council)
 (Interim Committee on Transportation)

MOTOR VEHICLE RESTRICTION LIMITATIONS

AN ACT to amend and reenact the second table of subdivision b of subsection 2 of section 39-04-19, subsection 3 of section 39-12-04, subsection 2 of section 39-12-05, and subsection 2 of section 39-12-05.1 of the North Dakota Century Code, relating to motor vehicle registration fees, length limitations on vehicles and combinations of vehicles, weight limitations for vehicles on the interstate system, and gross weight limitations on designated highways.

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

SECTION 1. AMENDMENT.) The second table of subdivision b of subsection 2 of section 39-04-19 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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	\$ 176.00	\$ 141.00	\$ 123.00	
26,001- 28,000	211.00	169.00	148.00	
28,001- 30,000	246.00	197.00	172.00	
30,001- 32,000	281.00	225.00	197.00	
32,001- 34,000	316.00	253.00	221.00	
34,001- 36,000	351.00	281.00	246.00	
36,001- 38,000	386.00	309.00	270.00	
38,001- 40,000	421.00	337.00	295.00	
40,001- 42,000	456.00	365.00	319.00	
42,001- 44,000	491.00	393.00	344.00	
44,001- 46,000	526.00	421.00	368.00	
46,001- 48,000	561.00	449.00	393.00	
48,001- 50,000	596.00	477.00	417.00	
50,001- 52,000	631.00	505.00	442.00	
52,001- 54,000	666.00	533.00	466.00	
54,001- 56,000	701.00	561.00	491.00	
56,001- 58,000	736.00	589.00	515.00	

58,001- 60,000	771.00	617.00	540.00
60,001- 62,000	806.00	645.00	564.00
62,001- 64,000	841.00	673.00	589.00
64,001- 66,000	876.00	701.00	613.00
66,001- 68,000	911.00	729.00	638.00
68,001- 70,000	946.00	757.00	662.00
70,001- 72,000	981.00	785.00	687.00
72,001- 74,000	1,016.00	813.00	711.00
74,001- 76,000	1,051.00	841.00	736.00
76,001- 78,000	1,086.00	869.00	760.00
78,001- 80,000	1,121.00	897.00	785.00
80,001- 82,000	1,156.00	925.00	809.00
82,001- 84,000	1,226.00	985.00	859.00
<u>84,001- 86,000</u>	<u>1,296.00</u>	<u>1,045.00</u>	<u>909.00</u>
86,001- 88,000	1,366.00	1,105.00	959.00
88,001- 90,000	1,436.00	1,165.00	1,009.00
90,001- 92,000	1,506.00	1,225.00	1,059.00
92,001- 94,000	1,576.00	1,285.00	1,109.00
94,001- 96,000	1,646.00	1,345.00	1,159.00
96,001- 98,000	1,716.00	1,405.00	1,209.00
98,001-100,000	1,786.00	1,465.00	1,259.00
<u>100,001-102,000</u>	<u>1,856.00</u>	<u>1,525.00</u>	<u>1,309.00</u>
102,001-104,000	1,926.00	1,585.00	1,359.00
<u>104,001-105,500</u>	<u>1,996.00</u>	<u>1,645.00</u>	<u>1,409.00</u>

SECTION 2. AMENDMENT.) Subsection 3 of section 39-12-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A length limitation as follows:

- a. A single unit vehicle with two or more axles including the load thereon shall not exceed a length of forty feet [12.19 meters].
- b. A combination of two units including the load thereon, ~~may be operated on and over these highways in the state designated by the highway commissioner and~~ shall not exceed a length of sixty-five feet [19.81 meters].
- c. A combination of three units including the load thereon ~~may be operated on and over these highways in the state designated by the highway commissioner and~~ shall not exceed a length of sixty-five feet [19.81 meters]. Combinations of three units are permissible only as follows:
 - (1) A truck-tractor and semitrailer may draw a trailer or semitrailer converted to a trailer by use of a dolly and fifth wheel.
 - (2) A motor vehicle may draw three motor vehicles attached thereto by a triple saddle mount method.

(3) Two implements of husbandry may be towed by a truck or farm tractor operated by resident farmers between sunrise and sunset at a speed limit not to exceed twenty-five miles [40.23 kilometers] per hour. The two-implement-of-husbandry limit shall not apply to a packer-grain drill combination or to other combinations of implements of husbandry which the highway commissioner determines by ~~regulation~~ rule are consistent with public highway safety.

(4) A truck may draw two trailers, subject to any rules adopted by the commissioner that are consistent with public highway safety.

d. A combination of two or three units including the load thereon may be operated on and over those highways in the state designated by the commissioner and shall not exceed a length of seventy-five feet [22.86 meters], subject to any rules adopted by the commissioner that are consistent with public highway safety.

~~d.~~ e. Length limitations shall not apply to:

- (1) Building moving equipment.
- (2) Emergency tow trucks towing disabled lawful combinations of vehicles to a nearby repair facility.
- (3) Vehicles and equipment owned and operated by the armed forces of the United States or the national guard of this state.
- (4) Structural material of telephone, power, and telegraph companies.
- (5) Truck-mounted haystack moving equipment, provided such equipment does not exceed a length of fifty feet [15.24 meters].

* SECTION 3. AMENDMENT.) Subsection 2 of section 39-12-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Subject to the limitations imposed by ~~the above~~ subsection 1 on tires, wheel, and axle loads, no vehicle or combination of vehicles shall be operated whose gross weight, including the load, exceeds sixty-four thousand pounds [29,029.91 kilograms] or that determined by adding the distance in feet between the first axle and the last axle of ~~such~~ the vehicle or combination of vehicles, to the factor forty and multiplying this sum by seven hundred fifty, whichever is lesser. Such gross weight limitation

* NOTE: Subsection 2 of section 39-12-05 was also amended by section 2 of House Bill No. 1634, chapter 411.

shall not apply to ~~such~~ equipment as the state highway commissioner or ~~his~~ the commissioner's agents may approve for exemption, but gross weights shall not exceed ~~seventy-three-thousand-two-hundred-and-eighty-pounds~~ eighty thousand pounds [36,287.39 kilograms]. The decision on exemption shall be determined on the basis of improved equipment design, which, in ~~his~~ the commissioner's opinion, will better distribute the load and reduce roadway damage; provided further that where the distance between the first axle and the last axle of any group of axles of ~~such~~ the vehicle or combination of vehicles is eighteen feet [8.16 meters] or less the gross weight on the group of axles under consideration shall be determined by adding the distance in feet between the first axle and the last axle of the group under consideration to the factor of forty and multiplying this sum by six hundred fifty. No truck under eighty-two thousand pounds operating on the highways of this state shall be required to pay for an improved equipment permit.

SECTION 4. AMENDMENT.) Subsection 2 of section 39-12-05.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Subject to the limitations imposed by ~~the-above~~ subsection 1 on tires, wheel, and axle loads, no vehicle or combinations of vehicles shall be operated whose gross weight exceeds that determined by the formula of:

$$W = 500 \left(\frac{LN}{N-1} + 12N + 36 \right)$$

where W equals maximum weight in pounds carried on any group of two or more axles; L equals distance in feet between the extremes of any group of two or more consecutive axles; and N equals number of axles in the group under consideration. Such gross weight limitations shall not apply to ~~such~~ equipment as the state highway commissioner or ~~his~~ the commissioner's agents may approve for exemption. Gross weight shall not exceed one hundred five thousand five hundred pounds [47,854.00 kilograms].

Approved March 21, 1979

CHAPTER 413

SENATE BILL NO. 2248
 (Committee on Transportation)
 (At the request of the Motor Vehicle Department)

TRUCK REGISTRATION PLATES AND REGISTRATION CHANGE

AN ACT to amend and reenact subsection 5 of section 39-04-19 and subsection 1 of section 39-04-23 of the North Dakota Century Code, relating to farm truck registration and change of registration to a higher gross weight.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 39-04-19 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Trucks or combinations of trucks and trailers weighing from 24,001 to 82,000 pounds [10886.66 to 37194.57 kilograms] 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 82,000 pounds [10886.66 to 37194.57 kilograms] owned, or leased for a minimum period of one year 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. ~~The registrar shall design a distinctive number plate for such vehicles, commencing with the next plate issue. Until the next plate issue, the registrar shall issue distinctive yearly renewal stickers.~~

Gross Weights	YEARS REGISTERED			
	1st, 2nd, and 3rd Years	4th and 5th Years	6th and 7th Years	8th and Subsequent Years
24,001-26,000	\$ 86.00	\$ 69.00	\$ 52.00	\$ 31.00
26,001-28,000	96.00	77.00	58.00	35.00
28,001-30,000	106.00	85.00	64.00	39.00
30,001-32,000	116.00	93.00	70.00	43.00
32,001-34,000	126.00	101.00	76.00	47.00
34,001-36,000	136.00	109.00	82.00	51.00
36,001-38,000	146.00	117.00	88.00	55.00
38,001-40,000	156.00	125.00	94.00	59.00
40,001-42,000	166.00	133.00	100.00	63.00
42,001-44,000	176.00	141.00	106.00	67.00
44,001-46,000	186.00	149.00	112.00	71.00
46,001-48,000	196.00	157.00	118.00	75.00
48,001-50,000	206.00	165.00	124.00	79.00
50,001-52,000	216.00	173.00	130.00	83.00
52,001-54,000	226.00	181.00	136.00	87.00
54,001-56,000	236.00	189.00	142.00	91.00
56,001-58,000	246.00	197.00	148.00	95.00
58,001-60,000	256.00	205.00	154.00	99.00
60,001-62,000	266.00	213.00	160.00	103.00
62,001-64,000	276.00	221.00	166.00	107.00
64,001-66,000	286.00	229.00	172.00	111.00
66,001-68,000	296.00	237.00	178.00	115.00
68,001-70,000	306.00	245.00	184.00	119.00
70,001-72,000	316.00	253.00	190.00	123.00
72,001-74,000	326.00	261.00	196.00	127.00
74,001-76,000	336.00	269.00	202.00	131.00
76,001-78,000	346.00	277.00	208.00	135.00
78,001-80,000	356.00	285.00	214.00	139.00
80,001-82,000	366.00	293.00	220.00	143.00

SECTION 2. AMENDMENT.) Subsection 1 of section 39-04-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- Any owner of a motor vehicle transporting property who has licensed ~~such~~ the vehicle for any gross weight limitations, may change ~~such~~ the registration to a higher gross weight limitation, by the payment of the difference between the fee required for the new registration and the fee paid for the registration under which the vehicle is being operated. ~~If--such-owner-makes-an-application-for such-change-of-registration, such-additional--registration fee--shall--be--for--the-remainder-of-the-year--prorated-on-a monthly--basis,--one-twelfth--of--the--annual--higher registration--fee--for--each--calendar--month--or--fraction thereof.~~ The fee shall equal one-twelfth of the annual higher registration fee less one-twelfth of the registration fee already paid, the difference multiplied by the number of whole and partial calendar months remaining in the registration period. In no event shall such the fee be less than three five dollars.

Approved March 12, 1979

CHAPTER 414

HOUSE BILL NO. 1415
(Mertens, Berg)

CUSTOM COMBINE VEHICLE REGISTRATION

AN ACT to amend and reenact subsection 6 of section 39-04-19 of the North Dakota Century Code, relating to custom combine registration.

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

SECTION 1. AMENDMENT.) Subsection 6 of section 39-04-19 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. A motor vehicle registered in subsection 5 may be utilized in used for custom combining operations ~~from July fifteenth through November fifteenth of any one year upon~~ by displaying the identification issued by the motor vehicle registrar ~~for such use~~ department and the upon payment of the ~~registration fee as prescribed by~~ subdivision b of subsection 2 for the period set forth herein a fee of twenty-five dollars.

Approved March 12, 1979

CHAPTER 415

SENATE BILL NO. 2246
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE LICENSE AND TITLE ISSUANCE

AN ACT to amend and reenact sections 39-05-03 and 39-05-17 of the North Dakota Century Code, relating to the department's refusal to license a vehicle until application for a title certificate is made and transfer of title to a vehicle.

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

SECTION 1. AMENDMENT.) Section 39-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-03. DEPARTMENT NOT TO LICENSE VEHICLE UNTIL APPLICATION IS MADE FOR A CERTIFICATE OF TITLE.) The department shall not register ~~nor~~ or renew the registration for license of any ~~motor~~ vehicle unless and until an application is made for an official certificate of title for ~~such~~ the vehicle, or unless satisfactory evidence is presented that a certificate of title for ~~such~~ the vehicle has been issued previously to the ~~legal-owner~~ lienholder or owner by the department or when engaged in interstate commerce the vehicle is titled in another state.

SECTION 2. AMENDMENT.) Section 39-05-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-05-17. TRANSFER OF TITLE OF VEHICLE - ENDORSEMENT REQUIRED - CERTIFICATE OF TITLE DELIVERED - NEW CERTIFICATE OBTAINED - PENALTY.) The owner of a motor vehicle who sells or transfers ~~his~~ title to ~~such~~ a vehicle shall endorse an assignment and warranty of title upon the certificate of title for ~~such~~ the vehicle, with a statement ~~as-to~~ whether there are liens or encumbrances thereon, which statement shall be verified ~~under-oath~~ by the owner. The owner shall deliver the certificate of title to the purchaser if title passes to the purchaser. If the ~~legal~~ title does not pass to the purchaser under the terms of the contract for sale of the vehicle, the ~~legal--title-owner~~ lienholder shall endorse thereon a statement that he holds the lien, the date thereof and the name of the purchaser, and shall send the certificate of title to the ~~motor~~

~~vehicle-registrar~~ department with an application of the purchaser for a new certificate of title showing the name of the ~~legal-owner,~~ ~~the-registered-owner,~~ owner, lienholder, and the date of the lien of the ~~legal--owner~~ lienholder, which certificate of title when issued shall be returned by the ~~motor-vehicle-registrar~~ department to the ~~legal--title--owner~~ lienholder, who shall retain the same in his possession until the terms of the contract are complied with by the purchaser, and thereupon, after showing that the lien has been paid and satisfied he shall deliver the certificate of title properly assigned to the purchaser. The purchaser or transferee shall present the endorsed and assigned certificate to the department, within thirty days after the receipt thereof, accompanied by a transfer fee of three dollars, and shall make an application for and obtain a new certificate of title for such vehicle. In addition to any other penalty, the registration to a motor vehicle may be suspended or revoked whenever the purchaser or transferee fails to present the endorsed and assigned certificate of title to the department for transfer and make application for a new certificate of title within the prescribed thirty days. The department shall deliver the new certificate of title to the lienholder with priority. If there is no lienholder delivery is made to the purchaser. A violation of the provisions of this section shall constitute an infraction.

Approved March 22, 1979

CHAPTER 416

HOUSE BILL NO. 1287
(Committee on Transportation)
(At the request of the Highway Department)

DRIVER'S LICENSE RECORDS

AN ACT to amend and reenact sections 39-06-20, 39-06-21, 39-06-26, and 39-06-29 of the North Dakota Century Code, relating to drivers' addresses, the reporting of convictions of nonresidents, the reporting of convictions by courts and driver's license applications.

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

SECTION 1. AMENDMENT.) Section 39-06-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-20. NOTICE OF CHANGE OF ADDRESS OR NAME.) Whenever any person after applying for or receiving an operator's license or permit shall move from the address named in such application or in the license or permit issued to him such person or when the name of a licensee is changed by marriage or otherwise such person shall within ten days thereafter notify the commissioner in writing of his such persons old and new addresses or of such former and new names and of the number of any license or permit then held by him such person. Such person may obtain a corrected license or permit by making application as provided for in section 39-06-18.

SECTION 2. AMENDMENT.) Section 39-06-21 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-21. FILING APPLICATION RECORDS.) The commissioner shall file every application for a license ~~received by him and shall maintain suitable indexes containing, in alphabetical order, and shall maintain individual records of convictions and adjudications of traffic offenses, suspensions, revocations, cancellations, restrictions, and traffic accidents in which they have been involved.~~ The commissioner may destroy such records provided the required information has been microfilmed

~~1. All applications denied and on each thereof note the reasons for such denial.~~

~~2. All applications granted, and~~

~~3. The name of every licensee whose license has been suspended or revoked by the commissioner and after each such name note the reasons for such action.~~

~~Two years after date of receipt of application, suspension, or revocation action, the commissioner may destroy such records provided the required information has been transferred to microfilm.~~

SECTION 3. AMENDMENT.) Section 39-06-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-26. REPORTING CONVICTIONS, SUSPENSIONS, OR REVOCATIONS OF NONRESIDENTS.) The commissioner may, upon receiving a record of the conviction or adjudication in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws of this state, forward a certified copy of such record to or equivalent ordinances of any of its political subdivisions notify the licensing authority in the state wherein the person so convicted is a resident licensed.

When a nonresident's operating privilege is suspended or revoked pursuant to any law of this state, the commissioner shall forward a certified copy of the record of such action to notify the licensing authority in the state wherein such nonresident resides or is licensed.

SECTION 4. AMENDMENT.) Section 39-06-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06-29. COURTS TO REPORT RECORDS OF CERTAIN CONVICTIONS.) Every court or juvenile commissioner having jurisdiction over offenses committed under this title or any other law of this state or municipal equivalent ordinance regulating the operation of motor vehicles on highways, shall forward within ten days to the commissioner a record of the conviction of any person in said court, or a report of the action of the juvenile court in the case of a juvenile, for a violation of any of said laws other than regulations governing standing or parking, ~~and may recommend the suspension of the operator's license or permit of the person so convicted or reported.~~

Approved March 3, 1979

CHAPTER 417

HOUSE BILL NO. 1497
(Hanson)

TRAFFIC OFFENSE ADMINISTRATIVE HEARING

AN ACT to amend and reenact section 39-06.1-03 of the North Dakota Century Code, relating to an administrative hearing for disposition of traffic offenses.

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

SECTION 1. AMENDMENT.) Section 39-06.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-03. ADMINISTRATIVE HEARING - PROCEDURES - APPEALS - STAY ORDERS.)

1. If a person cited for a traffic violation, other than an offense listed in section 39-06.1-05, does not choose to follow one of the procedures set forth in section 39-06.1-02, he may request a hearing on the issue of his commission of the violation charged, ~~such~~ the hearing to be held at the time scheduled in the citation or at some future time, not to exceed ninety days later, set at that first appearance.
2. At the time of a request for a hearing on the issue of commission of the violation, the person charged shall deposit with the official having jurisdiction an appearance bond equal to the statutory fee for the violation charged.
3. If a person cited for a traffic violation, other than an offense listed in section 39-06.1-05, who has requested a hearing on the issue of the commission of the violation charged, appears at the time scheduled for the hearing and the state or city, as the case may be, does not appear or is not ready to prove the commission of a charged violation at the hearing, the official shall dismiss the charge.

4. If the official finds that the person had committed the traffic violation, he shall notify the licensing authority of that fact, and whether the person was driving more than nine miles per hour in excess of the lawful limit, stating specifically the miles per hour in excess of the lawful limit, if charged with a speeding violation, within ten days of the date of the hearing. The fact that a person has admitted a violation, or has, in any proceeding, been found to have committed a violation, shall not be referred to in any way, nor be admissible as evidence in any court, civil, equity, or criminal, except in an action or proceeding involving that person's driving license or privilege.

- 3- 5. a. If a person is aggrieved by a finding that he committed the violation, he may, without payment of a filing fee, appeal that finding to the district court for trial anew, and the case may be tried to a jury, if requested. If, after trial in the district court, the person is again found to have committed the violation, there shall be no further appeal. Notice of appeal under this subsection shall be given within thirty days after a finding of commission of a violation is entered by the official. Oral notice of appeal may be given to the official at the time that he adjudges that a violation has been committed. Otherwise, notice of appeal shall be in writing and filed with the official, and a copy of the notice shall be served upon the city attorney or state's attorney, as the case may be. An appeal taken under this subsection shall not operate to stay the reporting requirement of subsection 3, nor to stay appropriate action by the licensing authority upon receipt of that report.
- b. The district court, upon application by the appellant, may:
- (1) Order a stay of any action by the licensing authority during pendency of the appeal, but not to exceed a period of one hundred twenty days;
 - (2) Order a stay and that the appellant be issued a temporary restricted driving certificate by the licensing authority to be effective for no more than one hundred twenty days; or
 - (3) Deny the application.

An application for a stay or temporary certificate under this subdivision shall be accompanied by a certified copy of the appellant's driving record, for the furnishing of which the licensing authority may charge a fee of two dollars. Any order granting a

stay or a temporary certificate shall be forwarded forthwith by the clerk of court to the licensing authority, which shall issue a temporary certificate in accordance with the order in the manner provided by law. A court shall not make a determination on an application under this subdivision without notice to the appropriate prosecuting attorney. A person who violates or exceeds the restrictions contained in any temporary restricted driving certificate issued pursuant to this subdivision shall be guilty of a traffic violation and shall be assessed a fee of twenty dollars.

- c. If the person charged is found not to have committed the violation by the district court or the jury, the clerk of court shall report that fact to the licensing authority immediately. If an appeal under this subsection is from a violation of a city ordinance, the city attorney for the city wherein the alleged violation occurred shall prosecute the appeal. In all other cases, the appropriate state's attorney shall prosecute the appeal.

~~4~~ 6. The state or the city, as the case may be, must prove the commission of a charged violation at the hearing or appeal under this section by a fair preponderance of the evidence. Upon an appeal under subsection 4, the court and parties shall follow, to the extent applicable, the North Dakota Rules of Civil Procedure. If on the appeal from the finding of the official the finding is affirmed, costs may be assessed at the discretion of the trial judge.

~~5~~ 7. As used in sections 39-06.1-02, 39-06.1-03, and 39-06.1-04, the word "official" means a district judge, a judge of a county court with increased jurisdiction, a county justice, a municipal judge, or, when provided by statute, a person appointed by a district judge to serve as such official for all or a specified part of a judicial district.

Approved March 3, 1979

CHAPTER 418

HOUSE BILL NO. 1628
(Thorsgard, Rued, Timm)

CARE REQUIRED, MOVING VIOLATIONS, AND LIGHTED LAMPS

AN ACT to create and enact a new subsection to section 39-06.1-06, a new paragraph to subdivision a of subsection 3 of section 39-06.1-10, and section 39-09-01.1 of the North Dakota Century Code, relating to the fee assessed for a care required violation, the points assessed for a care required violation, and care required in operation of a vehicle; and to amend and reenact sections 39-06.1-09 and 39-21-01 of the North Dakota Century Code, relating to definition of moving violation, and the use of lighted lamps on motor vehicles; and providing a penalty for improper use of lighted lamps.

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

SECTION 1.) A new subsection to section 39-06.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

For a violation of section 39-09-01.1, or an ordinance defining care required in driving, a fee of not less than ten dollars nor more than thirty dollars.

* SECTION 2. AMENDMENT.) Section 39-06.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-09. "MOVING VIOLATION" DEFINED.) For the purposes of section 39-06.1-06 and section 39-06.1-13, a "moving violation" means a violation of section 39-09-02, or an equivalent ordinance; or a violation of section 39-04-22; subsection 1 of section 39-04-37; sections 39-05-12; 39-06-01; 39-06-14; 39-06-16; 39-08-09; 39-08-18; 39-09-05; 39-09-09; ~~39-10-2-02; 39-10-2-03; 39-10-2-04; 39-10-2-05; 39-10-2-06;~~ 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapters 39-10 or 39-21, or equivalent ordinances, except section 39-21-01 and those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

* NOTE: Section 39-06.1-09 was also amended by section 77 of House Bill No. 1073, chapter 187, and by section 2 of House Bill No. 1449, chapter 419.

SECTION 3.) A new paragraph to subdivision a of subsection 3 of section 39-06.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Failing to use the care 2 points
required in section
39-09-01.1, or
equivalent ordinance

SECTION 4.) Section 39-09-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-09-01.1. CARE REQUIRED IN OPERATING VEHICLE.) Any person driving a vehicle upon a highway shall drive the vehicle 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 may drive any vehicle upon a highway in a manner to endanger the life, limb, or property of any person.

* SECTION 5. AMENDMENT.) Section 39-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-01. WHEN LIGHTED LAMPS ARE REQUIRED - PENALTY.) Every vehicle upon a highway within this state at any time from a--half-hour--after sunset to a--half-hour-before sunrise, and every farm tractor upon a highway within this state at any time from a half hour after sunset to a half hour before sunrise, and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of ~~five-hundred~~ one thousand feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles. Any person who violates the provisions of this section shall be assessed a fee of five dollars for each violation.

Approved April 7, 1979

* NOTE: Section 39-21-01 was also amended by section 1 of House Bill No. 1120, chapter 430, and by section 1 of Senate Bill No. 2272, chapter 431.

CHAPTER 419

HOUSE BILL NO. 1449
(Timm, Dietz, Kermott, Scofield, Wald)

SPEEDING AND MOVING VIOLATIONS

AN ACT to amend and reenact sections 39-06.1-06 and 39-06.1-09 of the North Dakota Century Code, relating to a graduated system of fines and points assessed against drivers' licenses for violation of the speed limit, and to the definition of moving violation, and removing certain violations related to motorcycles from that definition.

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

SECTION 1. AMENDMENT.) Section 39-06.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-06. AMOUNT OF STATUTORY FEES.) The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or section 39-06.1-03 shall be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee in the amount of ten dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee in the amount of twenty dollars.
3. For a violation of section 39-09-02, or an equivalent ordinance, ~~involving a speed of more than fifteen miles {24.14 kilometers} per hour in excess of the lawful speed limit, a fee in the amount of forty dollars.~~ the penalty shall be a fee and a point assessment against the driver's license as follows:

Speed (mph)	Fee (\$)	Points
56 - 60	\$ 5	0
61 - 65	\$ 5 plus \$1/each mph over 60	1
66 - 70	\$10 plus \$1/each mph over 65	2
71 - 75	\$15 plus \$2/each mph over 70	3
76 - 80	\$25 plus \$3/each mph over 75	4
81 - 90	\$40 plus \$3/each mph over 80	6

91 - 100	\$70 plus \$3/each mph over 90	8
101+	\$100 plus \$5/each mph over 100	12

The provisions of paragraph (11) of subdivision a of subsection 3 of section 39-06.1-10 shall only apply to violations involving speed limits less than fifty-five miles per hour.

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee in the amount of thirty dollars.

* SECTION 2. AMENDMENT.) Section 39-06.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-06.1-09. "MOVING VIOLATION" DEFINED.) For the purposes of section 39-06.1-06 and section 39-06.1-13, a "moving violation" means a violation of section 39-09-02, or an equivalent ordinance; or a violation of section 39-04-22; subsection 1 of section 39-04-37; sections 39-05-12; 39-06-01; 39-06-14; 39-06-16; 39-08-09; 39-08-18; 39-09-05; 39-09-09; ~~39-10-2-02; 39-10-2-03; 39-10-2-04; 39-10-2-05; 39-10-2-06;~~ 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapters 39-10 ("general rules of the road") or 39-21 ("equipment of vehicles"), or equivalent ordinances, except those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

Approved March 3, 1979

- * NOTE: Section 39-06.1-09 was also amended by section 77 of House Bill No. 1073, chapter 187, and by section 2 of House Bill No. 1628, chapter 418.

CHAPTER 420

HOUSE BILL NO. 1352
(Rued, Olson)

TRAFFIC OFFENSE POINT RECORDATION

AN ACT to amend and reenact subsection 1 of section 39-06.1-10 of the North Dakota Century Code, providing that traffic offenses, when the assigned number of points for violation are two or less, shall not be recorded on the driving record.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 39-06.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. When a report of a conviction of a traffic offense, or admission or adjudication of a traffic violation is received by the licensing authority, the licensing authority shall proceed to enter the proper number of points on the licensee's driving record, unless the number points assigned to the violation are two or less. If the number points assigned to the violation are two or less the violation and points shall not be entered on the driving record but shall be recorded separately, and the separate record shall not be available to the public. Points from violations in which the assigned number points are two or less shall be considered a part of the driving record only for purposes of point reduction pursuant to section 39-06.1-13 and for purposes of license suspension. When the driving record shows that the licensee has an accumulated point total of twelve or more points, assigned on the basis of the schedule contained in subsection 3 of this section, the authority shall notify the licensee of its intention to suspend his the operator's license, and ~~shall notify him that he may have of the availability of~~ an administrative hearing. If the licensee makes a written request for a hearing within ten days after mailing of the notice ~~herein provided for~~, the hearing shall be held in accordance with the applicable provisions of chapter 28-32. For the purposes of this chapter, the licensing authority may also receive and act on reports of traffic offense convictions forwarded by federal, military, and tribal courts in this state.

Filed April 3, 1979

NOTE: This bill was vetoed by the Governor and subsequently approved by a two-thirds majority of the members of the House of Representatives and the Senate.

CHAPTER 421

HOUSE BILL NO. 1212
(Richie, Mattson)

INSURANCE COVERAGE INFORMATION

AN ACT to amend and reenact sections 39-08-06 and 39-08-07 of the North Dakota Century Code, relating to duty of drivers to give information and render aid and requiring drivers to give information concerning insurance coverage.

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

SECTION 1. AMENDMENT.) Section 39-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-06. DUTY TO GIVE INFORMATION AND RENDER AID.) The driver of any vehicle involved in an accident resulting in injury to or the death of any person or damage to any vehicle which is driven or attended by any person shall give ~~his~~ the driver's name, and address, and the name of the motor vehicle insurance policy carrier of the driver and owner, as well as the registration number, of the vehicle he--is--driving--and--shall--upon. Upon request, and if available, the driver of any vehicle involved in the accident shall exhibit his operator's or chauffeur's license to the person struck or the driver or occupant of or person attending any other vehicle ~~collided--with~~ involved in the accident and shall render to any person injured in ~~such~~ the accident reasonable assistance, including the carrying, or the making of arrangements for the carrying, of ~~such~~ the person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that ~~such~~ such treatment is necessary or if ~~such~~ the carrying is requested by the injured person.

SECTION 2. AMENDMENT.) Section 39-08-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-07. DUTY UPON STRIKING UNATTENDED VEHICLE - PENALTY.) The driver of any vehicle which collides with any vehicle which is unattended shall immediately stop and shall then and there either locate and notify the operator or owner of ~~such~~ the vehicle of the name and address, as well as the name of the motor vehicle insurance

policy carrier, of the driver and owner of the vehicle striking the unattended vehicle or shall leave in a conspicuous place in the vehicle struck a written notice giving the name and address, as well as the name of the motor vehicle insurance policy carrier, of the driver and of the owner of the vehicle doing the striking and a statement of the circumstances thereof of the collision. Any person violating this section is guilty of a class A misdemeanor.

Approved March 3, 1979

CHAPTER 422

HOUSE BILL NO. 1681
(Mushik)

NOTIFICATION OF NEXT OF KIN

AN ACT to create and enact section 39-08-10.1 of the North Dakota Century Code, relating to requiring notification of the next of kin following an accident involving death or serious injury.

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

SECTION 1.) Section 39-08-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

39-08-10.1. INVESTIGATING AGENCY RESPONSIBLE TO NOTIFY NEXT OF KIN.) In the event of serious injury to or death of any person, under circumstances leading to the notification of a law enforcement agency, the investigating law enforcement agency shall, upon positive identification of the person or persons involved, be responsible for immediately notifying the next of kin of the person or persons seriously injured or deceased, or make arrangements to have next of kin notified by clergy or other suitable person.

Approved March 19, 1979

CHAPTER 423

HOUSE BILL NO. 1648
(Rued, Wald)

ALCOHOLIC BEVERAGE CONSUMPTION IN HOUSE CARS

AN ACT to amend and reenact section 39-08-18 of the North Dakota Century Code, relating to the consumption and possession of alcoholic beverages in motor vehicles.

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

SECTION 1. AMENDMENT.) Section 39-08-18 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-08-18. OPEN BOTTLE LAW - PENALTY.) No person shall drink or consume alcoholic beverages, as defined in ~~the--North--Dakota Century--Code~~ section 5-01-01, in or on any motor vehicle when such vehicle is upon a public highway or in an area used principally for public parking. No person shall have in his possession on his person while in or on a private motor vehicle upon a public highway or in an area used principally for public parking, any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed. It shall be unlawful for the owner of any private motor vehicle or the driver, if the owner be not then present in or on the motor vehicle, to keep or allow to be kept in a motor vehicle when such vehicle is upon the public highway or in an area used principally for public parking any bottle or receptacle containing such alcoholic beverages which has been opened, or the seal broken, or the contents of which have been partially removed except when such bottle or receptacle shall be kept in the trunk of the motor vehicle when such vehicle is equipped with a trunk, or kept in some other area of the vehicle not normally occupied by the driver or passengers, if the motor vehicle is not equipped with a trunk. A utility compartment or glove compartment shall be deemed to be within the area occupied by the driver and passengers. The provisions of this section shall not prohibit the consumption or possession of alcoholic beverages in a house car, as defined by subsection 21.1 of section 39-01-01, if the consumption or possession occurs in the area of the house car used as sleeping or living quarters and that area is separated from the driving

compartment by a solid partition, door, curtain, or some similar means of separation, however, consumption is not authorized while the house car is in motion. Any person violating the provisions of this section shall be assessed a fee of twenty dollars; however, the licensing authority shall not record the violation against the driving record of such person unless he was the driver of the automobile at the time that the violation occurred.

Not approved or disapproved by the Governor

Filed March 22, 1979

CHAPTER 424

HOUSE BILL NO. 1592
(Gackle)

RED AND WHITE LIGHTS ON EMERGENCY VEHICLES

AN ACT to amend and reenact subsection 2 of section 39-10-03 of the North Dakota Century Code, relating to equipment on class A authorized emergency vehicles; and to repeal subsection 4 of section 39-10-03.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 39-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The exceptions herein granted to a class A authorized emergency vehicle shall apply only:
 - a. When the authorized emergency vehicle is in pursuit of or apprehension of a violator or a suspected violator requiring the use of these exemptions;
 - b. When the class A authorized emergency vehicle is being operated in response to a reported emergency involving a possible personal injury, death or damage to property, and when giving audible signal by siren or when giving adequate warning by use of a flashing red ~~light~~ or combination red and white lights which ~~is~~ are visible under normal atmospheric conditions for at least five hundred feet;
 - c. In any instance when the head of a law enforcement agency deems advisable within the area of his jurisdiction for the protection of person and property and when giving audible signal by siren or when giving adequate warning by use of a flashing red ~~light~~ or combination red and white lights which ~~is~~ are visible under normal atmospheric conditions for at least five hundred feet.

SECTION 2. REPEAL.) Subsection 4 of section 39-10-03 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

CHAPTER 425

HOUSE BILL NO. 1419
(Winkjer)

MOTOR VEHICLE INSURANCE LIABILITY LIMITS

AN ACT to amend and reenact section 39-16-05 and subsection 2 of section 39-16.1-11 of the North Dakota Century Code, relating to the minimum liability limits in automobile insurance policies under the financial responsibility laws.

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

* SECTION 1. AMENDMENT.) Section 39-16-05 of the 1977 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 ~~two~~ four 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 that notice of such suspension and opportunity for hearing 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

* NOTE: Section 39-16-05 was also amended by section 2 of House Bill No. 1458, chapter 404, and by section 9 of House Bill No. 1283, chapter 405.

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 chapter 39-16.1.
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 chapter 39-16.1.
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~~ twenty-five 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~~ twenty five 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~~ ten 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 2 of section 39-16.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Such owner's policy of liability insurance:

- a. Shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby to be granted; and
- b. Shall insure the person named therein and any other person, as insured, using such motor vehicle or motor vehicles with the express or implied permission of such named insured, against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of such motor vehicles within the United States of America or the Dominion of Canada, subject to limits exclusive of interest and costs, with respect to each such motor vehicle, as follows: ~~ten~~ twenty-five thousand dollars because of bodily injury to or death of one person in any one accident and subject to said limit for one person, ~~twenty~~ twenty five thousand dollars because of bodily injury to or death of two or more persons in any one accident, and ~~five~~ ten thousand dollars because of injury to or destruction of property of others in any one accident.

Approved March 13, 1979

* NOTE: Subsection 2 of section 39-16.1-11 was also amended by section 5 of House Bill No. 1458, chapter 404.

CHAPTER 426

SENATE BILL NO. 2073
(Legislative Council)
(Interim Committee on Legislative Audit and Fiscal Review)

UNSATISFIED JUDGMENT FUND ADMINISTRATIVE EXPENSES

AN ACT to amend and reenact section 39-17-02 of the North Dakota Century Code, relating to unsatisfied judgment fund administrative expenses.

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

SECTION 1. AMENDMENT.) Section 39-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-17-02. UNSATISFIED JUDGMENT FUND ESTABLISHED - ADMINISTRATION OF THE FUND BY THE COMMISSIONER OF INSURANCE - WHEN COLLECTION OF FEE SUSPENDED.) The fees paid pursuant to section 39-17-01 shall be deposited with the state treasurer, who shall credit the same to the unsatisfied judgment fund. Such fund shall be administered by the commissioner of insurance who shall perform all duties and responsibilities in regard to such fund not otherwise delegated to the attorney general or the state treasurer under the provisions of this chapter. The attorney general shall appoint a special assistant attorney general as legal counsel for such fund pursuant to section 54-12-08 and such special assistant attorney general is hereby authorized to perform all the duties and responsibilities in regard to such fund delegated to the attorney general under the provisions of this chapter. Judgments recovered under the provisions of this chapter shall be paid from moneys deposited in the unsatisfied judgment fund under the provisions of this section and such moneys are hereby appropriated for such purpose. ~~It is also provided that there shall be a continuing appropriation out of the fund of all moneys required for administration purposes but not to exceed thirty-five thousand dollars annually for administration of the unsatisfied judgment fund.~~ The expenses arising from administration of the fund shall be paid from the fund within the limits of legislative appropriation. If on the first day of June in any year the amount of uncommitted money standing to the credit of the unsatisfied judgment fund is three hundred thousand dollars or more, the requirement for the payment of such fee shall be suspended during the succeeding year and until such year in which, on the first day of June of the previous year, the uncommitted amount of such fund is less than three hundred thousand dollars when such fee shall be reimposed and collected as provided herein.

Approved March 13, 1979

CHAPTER 427

SENATE BILL NO. 2244
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

DEPOSIT OF REGISTRATION FEES

AN ACT to create and enact a new section to chapters 39-18, 39-22, and 39-22.1 of the North Dakota Century Code, relating to the disposition of mobile home dealer fees, motor vehicle dealer fees, and semitrailer dealer fees.

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

SECTION 1.) A new section to chapter 39-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

DISPOSITION OF FEES.) Fees from registration of dealers shall be deposited with the state treasurer and credited to the motor vehicle registration fund.

SECTION 2.) A new section to chapter 39-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

DISPOSITION OF FEES.) Fees from registration of dealers shall be deposited with the state treasurer and credited to the motor vehicle registration fund.

SECTION 3.) A new section to chapter 39-22.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

DISPOSITION OF FEES.) Fees from registration of dealers shall be deposited with the state treasurer and credited to the motor registration fund.

Approved March 12, 1979

CHAPTER 428

HOUSE BILL NO. 1470
(Mushik, Herman)

MOBILE HOME SALES BY REAL ESTATE BROKERS

AN ACT to amend and reenact section 39-18-08 of the North Dakota Century Code, relating to the sale of mobile homes by real estate brokers.

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

SECTION 1. AMENDMENT.) Section 39-18-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-18-08. SALES BY ~~REALTORS~~ REAL ESTATE BROKER OF USED MOBILE HOMES.) Notwithstanding any other provision of law, a person licensed as a real estate broker may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any mobile home if the mobile home ~~has--been--registered--under--the provisions--of--this--chapter--for--at--least--two--years~~ is at least two years older than the current year model mobile homes.

No real estate broker who engages in the activities authorized by this section shall maintain any place of business where two or more mobile homes are displayed and offered for sale by such person, unless said broker is also licensed as a mobile home dealer pursuant to this chapter.

Approved March 3, 1979

CHAPTER 429

HOUSE BILL NO. 1636
(Representatives Gorder, Peltier)
(Senators Tallackson, Vosper)

INTERNATIONAL REGISTRATION PLAN AND MULTISTATE RECIPROCAL AGREEMENT

AN ACT to create and enact a new section to chapter 39-19 of the North Dakota Century Code, relating to requiring the state highway department to join the international registration plan and the multistate reciprocal agreement.

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

SECTION 1.) A new section to chapter 39-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

INTERNATIONAL REGISTRATION PLAN - MULTISTATE RECIPROCAL AGREEMENT - EFFECTIVE DATE.) The North Dakota state highway department, or a designated agency of the department acting directly or through the department, shall make application to join the international registration plan and the multistate reciprocal agreement, and is authorized to expend the necessary fees required for membership. Application shall be appropriately made by January of 1980 and, if accepted, the effective date of membership shall be January 1, 1981.

Approved March 21, 1979

CHAPTER 430

HOUSE BILL NO. 1120
(Rued)

MOTOR VEHICLE LIGHTS

AN ACT to amend and reenact section 39-21-01 of the North Dakota Century Code, relating to the use of lighted lamps on motor vehicles.

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

* SECTION 1. AMENDMENT.) Section 39-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-01. WHEN LIGHTED LAMPS ARE REQUIRED.) Every vehicle upon a highway within this state at any time from ~~a-half-hour--after~~ sunset to ~~a-half-hour-before~~ sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five hundred feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles.

Approved March 3, 1979

* NOTE: Section 39-21-01 was also amended by section 5 of House Bill No. 1628, chapter 418, and by section 1 of Senate Bill No. 2272, chapter 431.

CHAPTER 431

SENATE BILL NO. 2272
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

MOTOR VEHICLE EQUIPMENT

AN ACT to create and enact three new sections to chapter 39-21 of the North Dakota Century Code, relating to additional lighting equipment on vehicles, vehicular hazard warning signals, and the duration of the department's approval of equipment; to create and enact two new sections to chapter 39-27 of the North Dakota Century Code, relating to lights and brakes on motor-driven cycles; to amend and reenact sections 39-21-01, 39-21-03, subsection 2 of section 39-21-04, sections 39-21-05, 39-21-06, subsection 1 of section 39-21-10, subsection 1 of section 39-21-11, sections 39-21-13, 39-21-14, 39-21-15, 39-21-16, subsections 1 and 4 of section 39-21-17, sections 39-21-19, 39-21-20, subsection 2 of section 39-21-21, subsection 1 of section 39-21-25, sections 39-21-29, 39-21-30, 39-21-31, 39-21-35, 39-21-36, 39-21-39, 39-21-41, 39-21-41.1, 39-21-42, 39-21-43, 39-21-44, 39-21-45, 39-21-46, and 39-21-50 of the North Dakota Century Code, relating to when lamps are required, head lamps on motor vehicles, location of tail lamps, reflectors on new motor vehicles, stop lamps and turn signals on new motor vehicles, location of reflectors, visibility of reflectors, lamp on projecting loads, lamps on parked vehicles, lamps and reflectors on farm equipment, lamps on vehicles not covered by other sections, spot lamps, auxiliary driving lamps, signal lamps and devices, multiple beam road lighting equipment, use of multiple beam road lighting equipment, the required number of head lamps; selling or using lamps and related equipment, department approval of equipment, revocation of approval of equipment, hydraulic brake fluid specifications, horns and warning devices, windshields on vehicles, safety glazing material, safety belt requirements, when vehicles must carry flares, display of warning devices, vehicles transporting explosives, air conditioning equipment, scope and effect of regulations, and the slow-moving vehicle emblem; and to repeal sections 39-21-23 and 39-21-34 of the North Dakota Century Code, relating to headlights and brakes on motor-driven cycles.

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

* SECTION 1. AMENDMENT.) Section 39-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-01. WHEN LIGHTED LAMPS ARE REQUIRED.)

1. Every vehicle upon a highway within this state at any time from ~~a--half-hour--after~~ sunset to ~~a--half-hour--before~~ sunrise and at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons, and vehicles on the highway are not clearly discernible at a distance of five-hundred one thousand feet ahead shall display lighted lamps and illuminating devices as hereinafter respectively required for different classes of vehicles, subject to exceptions with respect to parked vehicles.
2. Stop lights, turn signals, and other signaling devices shall be lighted as prescribed for the use of such devices.

SECTION 2. AMENDMENT.) Section 39-21-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-03. HEAD LAMPS ON MOTOR VEHICLES.)

1. Every motor vehicle ~~other---than---a--motoreyele--or--meter-driven-eyele~~ shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this chapter.
2. ~~Every--motoreyele--and--every--meter-driven-eyele--shall--be--equipped--with--at--least--one--and--not--more--than--two--head--lamps---which--shall--comply--with--the--requirements--and--limitations--of--this--chapter-~~
- 3- 2. Every head lamp upon every motor vehicle, ~~including every motoreyele--and--meter-driven-eyele,~~ shall be located at a height measured from the center of the head lamp of not more than fifty-four inches nor less than twenty-four inches to be measured as set forth in subsection 2 of section 39-21-02.

SECTION 3. AMENDMENT.) Subsection 2 of section 39-21-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Every tail lamp upon every vehicle shall be located at a height of not more than seventy-two inches nor less than twenty fifteen inches.

SECTION 4. AMENDMENT.) Section 39-21-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 39-21-01 was also amended by section 5 of House Bill No. 1628, chapter 418, and by section 1 of House Bill No. 1120, chapter 430.

39-21-05. NEW MOTOR VEHICLES TO BE EQUIPPED WITH REFLECTORS.)

1. Every new motor vehicle hereafter sold and operated upon a highway other than a truck tractor shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors, except that every motor cycle and every motor-driven cycle shall carry at least one reflector, meeting the requirements of this section, and except that vehicles of the type mentioned in section 39-21-08 shall be equipped with reflectors as required in ~~these sections applicable thereto~~ applicable sections.
2. Every such reflector shall be mounted on the vehicle at a height not less than ~~twenty~~ fifteen inches nor more than sixty inches measured as set forth in subsection 2 of section 39-21-02, and shall be of ~~such~~ size and characteristics and so mounted as to be visible as required in section 39-21-11.

SECTION 5. AMENDMENT.) Section 39-21-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-06. STOP LAMPS AND TURN SIGNALS REQUIRED ON NEW MOTOR VEHICLES.)

1. No person shall sell or offer for sale or operate on the highways any motor vehicle registered in this state and manufactured or assembled after January 1, 1964, unless it is equipped with at least two stop lamps meeting the requirements of section 39-21-19, except that a ~~motor cycle, motor-driven cycle, or~~ truck tractor manufactured or assembled after said date January 1, 1964, shall be equipped with at least one stop lamp meeting the requirements of said section 39-21-19.
2. No person shall sell or offer for sale or operate on the highways any motor vehicle, trailer, or semitrailer registered in this state and manufactured or assembled after January 1, 1952, unless it is equipped with electrical turn signals in good working order, meeting the requirements of section 39-21-19. This subsection shall not apply to any ~~motor cycle, motor-driven cycle, or~~ trailer or semitrailer of less than three thousand pounds gross weight.

SECTION 6.) A new section to chapter 39-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

ADDITIONAL LIGHTING EQUIPMENT.)

1. Any motor vehicle may be equipped with one or more back-up lamps either separately or in combination with other

lamps, but the back-up lamp or lamps shall not be lighted when the vehicle is in a forward motion.

2. Any vehicle may be equipped with one or more side marker lamps which may be flashed in conjunction with turn signals or vehicular hazard warning signals.

SECTION 7. AMENDMENT.) Subsection 1 of section 39-21-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Reflectors when required by section 39-21-08 shall be mounted at a height not less than ~~twenty-four~~ fifteen inches and not higher than sixty inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than ~~twenty-four~~ fifteen inches the reflector ~~at--such point~~ shall be mounted as high as that part of the permanent structure will permit. The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but ~~such reflectors~~ shall meet all the other reflector requirements of this chapter.

SECTION 8. AMENDMENT.) Subsection 1 of section 39-21-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Every reflector upon any vehicle referred to in section 39-21-08 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within six hundred feet to one hundred feet from the vehicle when directly in front of lawful ~~upper~~ lower beams of head lamps, except that the visibility for reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.

SECTION 9. AMENDMENT.) Section 39-21-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-13. LAMP OR FLAG ON PROJECTING LOAD.) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of ~~such the~~ vehicle there shall be displayed at the extreme rear end of the load, at the ~~time~~ times specified in section 39-21-01, a red light or lantern plainly visible from a distance of at least six hundred feet to the sides and rear. The red light or lantern required under this section shall be in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of ~~such a~~ load a red flag

or cloth not less than twelve inches square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear.

SECTION 10. AMENDMENT.) Section 39-21-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-14. LAMPS ON PARKED VEHICLES.)

1. Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half-hour after sunset and a half-hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of ~~five--hundred~~ one thousand feet upon such street or highway no lights need be displayed ~~upon--such parked-vehicle.~~
2. Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half-hour after sunset and a half-hour before sunrise and there is not sufficient light to reveal any person or object within a distance of one thousand feet upon such highway, ~~such-vehicle-so-parked-or stopped~~ the vehicle shall be equipped with ~~one-or-more lamps-meeting-the-following--requirements+~~ at least one lamp shall ~~display~~ displaying a white or amber light visible from a distance of one thousand feet to the front of the vehicle, ~~and-the.~~ The same lamp or at least one other lamp shall display a red light visible from a distance of one thousand feet to the rear of the vehicle, and the location of ~~said~~ the lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic. Local authorities may provide by ordinance that no lights need be displayed upon any ~~such~~ motor vehicle when parked upon a highway where the speed limit in effect does not exceed thirty miles per hour in accordance with local ordinances, ~~or~~ where there is sufficient light to reveal any person within a distance of two hundred feet upon such highway. ~~The--foregoing provisions-shall-not-apply-to-a-motor-driven-eyele-~~
3. Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

SECTION 11. AMENDMENT.) Section 39-21-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-15. LAMPS, REFLECTORS, AND REFLECTIVE MATERIALS ON FARM TRACTORS, FARM EQUIPMENT, AND IMPLEMENTS OF HUSBANDRY.) Every farm tractor, self-propelled unit of farm equipment, or towed implement of husbandry, manufactured or assembled after January 1, 1980, shall at all times, and every farm tractor, self-propelled unit of farm

equipment, or towed implement of husbandry shall, when operated upon the highways of this state during the times mentioned in section 39-21-01, shall be equipped as follows:

1. Tractors and self-propelled units of farm equipment shall be equipped with two single-beam or multiple-beam head lamps meeting the requirements of section 39-21-20 or section 39-21-22, provided, that a tractor or self-propelled unit of farm equipment which is not equipped with an electrical system shall be equipped with at least one lamp displaying a white light visible when lighted from a distance of not less than one thousand feet to the front of ~~such~~ the vehicle. Every tractor and self-propelled unit of farm equipment shall be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand feet to the rear of ~~such~~ the vehicle. In addition, every tractor and every self-propelled unit of farm equipment shall be equipped with two red reflectors visible from all distances from six hundred feet to one hundred feet to the rear when directly in front of lawful ~~upper~~ lower beams of head lamps.
2. Every towed unit of farm equipment or implement of husbandry shall be equipped with at least one lamp displaying a red light visible when lighted from a distance of one thousand feet to the rear or two red reflectors visible from all distances within six hundred to one hundred feet to the rear when directly in front of lawful ~~upper~~ lower beams of head lamps. In addition, if the extreme left projection of ~~such~~ a towed unit of farm equipment or implement of husbandry extends beyond the extreme left projection of the towing tractor or vehicle, ~~such~~ the unit or implement shall be equipped with at least one amber lamp or reflector mounted to indicate as nearly as practicable the extreme left projection and visible from all distances within six hundred feet to one hundred feet to the front ~~thereof~~ when illuminated by the ~~upper~~ lower beams of head lamps and at least one red lamp reflector so mounted and visible from ~~such~~ the same distances to the rear.

The lamps and reflectors required by this section shall be so positioned as to show from front and rear as nearly as practicable the extreme projection of the vehicle carrying them on the side of the roadway used in passing ~~such~~ the vehicle. If a farm tractor or a unit of farm equipment, whether self-propelled or towed, is equipped with two or more lamps or reflectors visible from the front or two or more lamps or reflectors visible from the rear, ~~such~~ the lamps or reflectors shall be so positioned that the extreme projections both to the left and to the right of ~~said~~ the vehicle shall be indicated as nearly as is practicable. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required in subsection 2.

SECTION 12. AMENDMENT.) Section 39-21-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-16. LAMPS ON OTHER VEHICLES AND EQUIPMENT.) Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection 3 of section 39-21-46, not specifically required by the provisions of this chapter to be equipped with lamps or other lighting devices, shall at all times specified in section 39-21-01 be equipped with at least one lamp displaying a white light visible from a distance of not less than ~~five-hundred~~ one thousand feet to the front of ~~said~~ the vehicle, and shall also be equipped with two lamps displaying ~~red~~ red light visible from a distance of not less than ~~five-hundred~~ one thousand feet to the rear of ~~said~~ the vehicle, or two red reflectors visible for distances of one hundred feet to six hundred feet to the rear when illuminated by the ~~upper~~ lower beams of head lamps.

SECTION 13. AMENDMENT.) Subsection 1 of section 39-21-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Spot lamps. Any motor vehicle may be equipped with not to exceed two spot lamps and every lighted spot lamp shall be so aimed and used ~~upon approaching another vehicle that no part of the high intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle nor more than one hundred feet ahead of the vehicle~~ so that no part of the high intensity portion will strike the windshield, or any windows, mirror, or occupant of another vehicle in use.

SECTION 14. AMENDMENT.) Subsection 4 of section 39-21-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Auxiliary driving lamps. Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps. Any auxiliary driving lamp mounted on the front at a height not of less than sixteen inches nor or more than forty-two inches above the level surface upon which the vehicle stands shall not be lighted when the vehicle is used upon a highway. The provisions of section 39-21-20 shall apply to any combination of head lamps and auxiliary driving lamps.

SECTION 15. AMENDMENT.) Section 39-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-19. SIGNAL LAMPS AND SIGNAL DEVICES.)

1. Any motor vehicle may be equipped and when required under this chapter shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red light visible from a distance of not less than ~~one~~ three hundred

feet to the rear in normal sunlight, and which shall be actuated upon application of the service (foot) brake, and which may, but need not be, incorporated with one or more other rear lamps.

2. Any motor vehicle may be equipped and when required under this chapter shall be equipped with lamps showing to the front and rear for the purpose of indicating an intention to turn either to the right or left. ~~Such~~ The lamps showing to the front shall be located on the same level and as widely spaced laterally as practicable and when in use shall display a white or amber light, or any shade of color between white and amber, visible from a distance of not less than ~~one~~ three hundred feet to the front in normal sunlight, and the lamps showing to the rear shall be located at the same level and as widely spaced laterally as practicable and when in use shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than ~~one~~ three hundred feet to the rear in normal sunlight. Any motor vehicle or combination of vehicles eighty inches or more in ~~over-all~~ overall width, and manufactured or assembled after January, 1964, shall be equipped with the lamps required by this subsection mounted and spaced in the same manner but visible from a distance of not less than five hundred feet to the front and rear in normal sunlight. When actuated ~~such~~ the lamps shall indicate the intended direction of turning by flashing the lights showing to the front and rear on the side toward which the turn is made. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle.
3. No stop lamp or signal lamp shall project a glaring light.

SECTION 16.) A new section to chapter 39-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

VEHICULAR HAZARD WARNING SIGNALS.)

1. Any vehicle may be equipped with lamps for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing.
2. After January 1, 1980, every bus, truck, truck-tractor, trailer, semitrailer, or pole trailer eighty inches or more in overall width or thirty feet or more in overall length shall be equipped with lamps meeting the requirements of this section.
3. Vehicular hazard warning signal lamps used to display warning to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall

display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. These warning lights shall be visible from a distance of not less than five hundred feet in normal sunlight.

SECTION 17. AMENDMENT.) Section 39-21-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-20. MULTIPLE-BEAM ROAD-LIGHTING EQUIPMENT.) Except as hereinafter provided, the head lamps or the auxiliary driving lamp or the auxiliary passing lamp or combination thereof on motor vehicles ~~other than motereyeles or motor-driven-eyeles~~ shall be so arranged that the driver may select at will between distributions of light projected to different elevations and ~~such these~~ lamps may, in addition, be so arranged that ~~such~~ selection can be made automatically, subject to the following limitations:

1. There shall be an uppermost distribution of light, or composite beam, so aimed and of ~~such~~ sufficient intensity as to reveal persons and vehicles at a distance of at least ~~three~~ four hundred fifty feet ahead for all conditions of loading.
2. There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred fifty feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.
3. Every new motor vehicle, ~~other--than--a--motereyele or motor-driven-eyele~~, registered in this state, which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use, and shall not otherwise be lighted. ~~Said~~ The indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped.

SECTION 18. AMENDMENT.) Subsection 2 of section 39-21-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Whenever the driver of a vehicle follows another vehicle within ~~two~~ three hundred feet to the rear, ~~--except--when engaged--in--the--act--of--overtaking--and--passing--such~~ the driver shall use a distribution of light permissible under

this chapter other than the uppermost distribution of light specified in subsection 1 of section 39-21-20.

SECTION 19. AMENDMENT.) Subsection 1 of section 39-21-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. At all times specified in section 39-21-01 at least two lighted lamps shall be displayed, one on each side at the front of every motor vehicle ~~other than a motorcycle or motor-driven cycle~~, except when such a vehicle is parked subject to the regulations governing lights on parked vehicles.

SECTION 20. AMENDMENT.) Section 39-21-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-29. SELLING OR USING LAMPS OR EQUIPMENT.)

1. No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, pole trailer, or semitrailer, or use upon ~~any such vehicle~~ these vehicles any head lamp, auxiliary, or fog lamp, rear lamp, signal lamp, or required reflector, ~~which reflector is required hereunder~~, or parts of any of the foregoing which tend to change the original design or performance, unless of a type which has been approved by the ~~registrar~~ department. The ~~foregoing~~ provisions of this ~~section~~ subsection shall not apply to equipment in actual use or replacement parts when this section is adopted ~~or replacement parts therefor~~.
2. No person shall have for sale, sell, or offer for sale for use upon or as a part of the equipment of a motor vehicle, trailer, pole trailer, or semitrailer any lamp or device mentioned in this section which has been approved by the ~~registrar~~ department unless ~~such~~ the lamp or device bears ~~thereon~~ the trademark or name under which it is approved so as to be legible when installed.
3. No person shall use upon any motor vehicle, trailer, pole trailer, or semitrailer any lamps mentioned in this section unless ~~said~~ the lamps are mounted, adjusted, and aimed in accordance with instructions of the ~~registrar~~ department.

SECTION 21. AMENDMENT.) Section 39-21-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-30. AUTHORITY OF REGISTRAR-WITH-REFERENCE-TO-LIGHTING DEVICES DEPARTMENT.)

1. The ~~registrar~~ department may approve or disapprove any lighting devices ~~and~~ or other safety equipment, component,

or assembly, even though the device is of a type for which approval is not specifically required in this Act. The department may issue and enforce regulations establishing standards and specifications for the approval of such the lighting devices, safety equipment, components, or assemblies, their installation, adjustment and aiming, and adjustment when in use on motor vehicles. Such The regulations shall correlate with and, so far as practicable, conform to the then current applicable standards and specifications of the Society of Automotive Engineers applicable-to-such-equipment.

2. The registrar department shall approve or disapprove any lighting device or other safety equipment, component, or assembly, of a type on which approval is specifically required in this chapter, within a reasonable time after such the device has been submitted.
3. The registrar department may set up the procedure which shall be followed when approval is sought for any lighting device or safety equipment, component, or assembly. The procedure may provide for submission of the device, equipment, component, or assembly to the American Association of Motor Vehicle Administrators, the Society of Automotive Engineers, or other appropriate testing agency as the agent of the department and for the issuance of an approval certificate by the testing agency in the name of the department in lieu of submission of the device, equipment, component, or assembly to the department. Approval by the testing agency shall have the same force and effect as if it had been issued by the department.
4. The registrar department upon approving any such-lamp-or device, equipment, component, or assembly shall issue to the applicant a certificate of approval together with any instructions determined by him the department. The department shall maintain lists of all devices, components, or assemblies which it has approved.

SECTION 22. AMENDMENT.) Section 39-21-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-31. REVOCATION OF CERTIFICATE OF APPROVAL ~~ON-LIGHTING DEVICES.~~) When the registrar department has reason to believe that an approved lighting device as or other safety equipment, component, or assembly being sold commercially does not comply with the requirements of this chapter, he the department may, after giving thirty days' previous notice to the person holding the certificate of approval for such the device in this state, conduct a hearing upon the question of compliance of said the approved device. After said the hearing the registrar department shall determine whether said the approved device meets the requirements of this chapter. If said the device does not meet the requirements of this chapter he

the department shall give notice to the person holding the certificate of approval for such the device in this state of its intention to revoke the approval.

If at the expiration of ninety days after such notice the person holding the certificate of approval for such the device has failed to satisfy the registrar department that said the approved device as-thereafter to be sold meets the requirements of this chapter, the registrar department shall suspend or revoke the approval issued therefor-until-or-unless-such-device-is--resubmitted-to-and-retested-by-an-authorized-testing-agency-and-is-found-to-meet-the-requirements--of--this--chapter,--and for the device. The department may require that all-said devices sold since after the notification following the hearing be replaced with devices that do comply with the requirements of this chapter and shall require the withdrawal of those devices from the market.

When an approval has been suspended or revoked pursuant to this section, the device shall not again be approved unless and until it has been submitted for approval and it has been demonstrated, in the same manner as in an application for an original approval, that the device meets the requirements of this chapter. The registrar department may at the time of the retest purchase in the open market and submit to the testing agency one or more sets of such the approved devices, and if such the device upon such retest fails to meet the requirements of this chapter, the registrar department may refuse to renew the certificate of approval of such the device. The department may require that all previously approved devices be effectively recalled and removed from the market as a condition for reapproval.

SECTION 23.) A new section to chapter 39-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

DURATION OF APPROVAL.) Approvals of lighting devices or other safety equipment, components, or assemblies shall remain valid unless revoked under section 39-21-31 or unless the department requires them to be renewed by regulation.

SECTION 24. AMENDMENT.) Section 39-21-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-35. HYDRAULIC BRAKE FLUID.)

1. The term "hydraulic brake fluid", as used in this section ~~shall-mean,~~ means the liquid medium through which force is transmitted to the brakes in the hydraulic brake system of a vehicle.
2. Hydraulic brake fluid shall be distributed and serviced with due regard for the safety of the occupants of the vehicle and the public.

~~3. The registrar shall, after public hearing following due notice, adopt and enforce regulations for the administration of this section and shall adopt and publish standards and specifications for hydraulic brake fluid which shall correlate with and so far as practicable conform to the then current standards and specifications of the Society of Automotive Engineers applicable to such fluid.~~

- 4- 3. No person shall distribute, have for sale, offer for sale, sell, or service any vehicle with any hydraulic brake fluid unless it ~~complies with the requirements of this section~~ has been approved by the department under the procedures set forth in section 39-21-30.

SECTION 25. AMENDMENT.) Section 39-21-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-36. HORNS AND WARNING DEVICES.)

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.
2. No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle, or bell, except as otherwise permitted in this section.
3. Any ~~commercial~~ vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.
4. Any authorized emergency vehicle may be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet and of a type approved by the ~~registrar~~ department, but ~~such~~ the siren shall not be used except when ~~such~~ the vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which ~~said-latter~~ events the driver of ~~such~~ the vehicle shall sound ~~said~~ the siren when reasonably necessary to warn pedestrians and other drivers of ~~the-approach-thereof~~ approaching vehicles.

SECTION 26. AMENDMENT.) Section 39-21-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-39. WINDSHIELDS REQUIRED - MUST BE UNOBSTRUCTED AND EQUIPPED WITH WIPERS.)

1. Every motor vehicle shall be equipped with a windshield. No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicle which obstructs the driver's clear view of the highway or any intersecting highway.
2. The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.
3. Every windshield wiper upon a motor vehicle shall be maintained in good working order.

SECTION 27. AMENDMENT.) Section 39-21-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-41. SAFETY GLAZING MATERIAL IN MOTOR VEHICLES.)

1. No person shall sell any new motor vehicle ~~as specified herein~~, nor shall any new motor vehicle ~~as specified herein~~ be registered, unless ~~such vehicle~~ it is equipped with safety glazing material of a type approved by the ~~registrar~~ department wherever glazing material is used in doors, windows, and windshields. The foregoing provisions shall apply to all passenger type motor vehicles, including passenger buses and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material shall apply to all glazing material used in doors, windows, and windshields in the drivers' ~~compartments of such vehicles~~ compartment.
2. The term "safety glazing materials" means glazing materials so constructed, treated or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.
3. The ~~registrar~~ department shall ~~compile and publish~~ maintain a list of types of glazing material by name approved by ~~him~~ it as meeting the requirements of this section and shall not register after January 1, 1964 any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and ~~he~~ it shall thereafter suspend the registration of any motor vehicle ~~so~~ subject to this section which ~~he~~ it finds is not ~~so~~ equipped until

it is made to conform to the requirements of this section. The requirements of this section shall not apply to antique automobiles licensed under provision of ~~section 39-04-43~~ chapter 39-04.

SECTION 28. AMENDMENT.) Section 39-21-41.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~39-21-41.1. SAFETY BELTS.) It is unlawful for any person to buy, sell, lease, trade or transfer from or to North Dakota residents at retail an automobile, which is manufactured or assembled in 1966 or subsequent years, unless such vehicle is equipped with safety belts installed for use in the left front and right front seats thereof. All such safety belts must be of a type and must be installed in a manner approved by the motor vehicle registrar. The registrar shall establish specifications and requirements for approved types of safety belts and attachments thereto, which as far as possible, shall conform to the specifications of the Society of Automotive Engineers.~~

1. Every passenger car manufactured or assembled after January 1, 1965 shall be equipped with lap belt assemblies for use in the driver's and one other front seating position.
2. All motor vehicles manufactured after January 1, 1968 shall be equipped with any lap or shoulder belt required at the time the vehicle was manufactured by standards of the United States Department of Transportation. Nothing in this subsection shall affect the requirement in subsection 1 for a lap belt in the driver's seating position.
3. The department may except specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections 1 and 2 when compliance would be impractical.
4. No person shall install, distribute, have for sale, offer for sale, or sell any belt for use in motor vehicles unless it meets current minimum standards and specifications of the United States Department of Transportation.
5. Every owner shall maintain belts and assemblies required by this section in proper condition and in a manner that will enable occupants to use them.

SECTION 29. AMENDMENT.) Section 39-21-42 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-42. CERTAIN VEHICLES TO CARRY FLARES OR OTHER WARNING DEVICES.)

1. No person shall operate any motor truck, passenger bus, or truck tractor, or any motor vehicle towing a house trailer, upon any highway outside the corporate limits of municipalities at any time from a half-hour after sunset to a half-hour before sunrise unless there shall be carried in ~~such~~ the vehicle the following equipment except as provided in subsection 2:
 - a. At least three flares or three red electric lanterns or three portable red emergency reflectors, each of which shall be capable of being seen and distinguished at a distance of not less than six hundred feet [182.88 meters] under normal atmospheric conditions at nighttime. No flare, fusee, electric lantern, or cloth warning flag shall be used for the purpose of compliance with the requirements of this section unless ~~such--equipment~~ it is of a type which has been submitted to the ~~register~~ department and approved by ~~him~~ it. No portable reflector unit shall be used for the purpose of compliance with the requirements of this section unless it shall meet the requirements of the National Highway Traffic Safety Administration motor vehicle safety standard number 125 or unless it is so designed and constructed as to include two reflecting elements one above the other, each of which shall be capable of reflecting red light clearly visible from all distances within six hundred feet [182.88 meters] to one hundred feet [30.48 meters] under normal atmospheric conditions at night when directly in front of lawful ~~upper~~ lower beams of head lamps, and unless it is of a type which has been submitted to the ~~register~~ department and approved by ~~him~~ it.
 - b. At least three red-burning fusees unless red electric lanterns or red portable emergency reflectors are carried.
 - c. At least two red-cloth flags, not less than twelve inches [30.48 centimeters] square, with standards to support such flags.
2. No person shall operate at the time and under conditions stated in subsection 1 any motor vehicle used for the transportation of explosives, any cargo tank truck used for the transportation of flammable liquids or compressed gases, or any motor vehicle using compressed gas as a fuel unless there shall be carried in ~~such~~ the vehicle three red electric lanterns or three portable red emergency reflectors meeting the requirements of subsection 1, and

there shall not be carried in any-said the vehicle any flares, fusees, or signal produced by flame.

SECTION 30. AMENDMENT.) Section 39-21-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-43. DISPLAY OF WARNING DEVICES WHEN VEHICLE DISABLED.)

1. ~~Whenever any motor truck, passenger bus, truck tractor, trailer, semitrailer or pole trailer, or any motor vehicle towing a house trailer, is disabled upon the traveled portion of any highway or the shoulder thereof outside of any municipality at any time when lighted lamps are required on vehicles the driver of such vehicle shall display the following warning devices upon the highway during the time the vehicle is so disabled on the highway except as provided in subsection 2:~~

a. ~~A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall be immediately placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.~~

b. ~~As seen thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid burning flares (pot torches), or three lighted red electric lanterns or three portable red emergency reflectors on the traveled portion of the highway in the following order:~~

(1) ~~One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane;~~

(2) ~~One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle;~~

(3) ~~One at the traffic side of the disabled vehicle not less than ten feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (1) of this subdivision it may be used for this purpose.~~

2. ~~Whenever any vehicle referred to in this section is disabled within five hundred feet of a curve, hillcrest or other obstruction to view, the warning signal in that direction shall be so placed as to afford ample warning to~~

other users of the highway, but in no case less than one hundred feet nor more than five hundred feet from the disabled vehicle.

3. Whenever any vehicle of a type referred to in this section is disabled upon any roadway of a divided highway during the time that lights are required, the appropriate warning devices prescribed in subsections 1 and 5 of this section shall be placed as follows:

a. One at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane;

b. One at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane;

c. One at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.

4. Whenever any vehicle of a type referred to in this section is disabled upon the traveled portion of a highway or the shoulder thereof outside of any municipality at any time when the display of fuses, flares, red electric lanterns or portable red emergency reflectors is not required, the driver of the vehicle shall display two red flags upon the roadway in the lane of traffic occupied by the disabled vehicle, one at a distance of approximately one hundred feet in advance of the vehicle, and one at a distance of approximately one hundred feet to the rear of the vehicle.

5. Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed flammable gas, or any motor vehicle using compressed gas as a fuel, is disabled upon a highway of this state at any time or place mentioned in subsection 1 of this section, the driver of such vehicle shall immediately display the following warning devices:

a. One red electric lantern or portable red emergency reflector placed on the roadway at the traffic side of the vehicle, and

b. Two red electric lanterns or portable red reflectors, one placed approximately one hundred feet to the front and one placed approximately one hundred feet to the rear of this disabled vehicle in the center of the traffic lane occupied by such vehicle.

~~Flares,--fuses--or--signals--produced--by--flame--shall--not--be--used--as--warning--devices--for--disabled--vehicles--of--the--type--mentioned--in--this--subsection.~~

~~6.--The--flares,--fuses,--red--electric--lanterns,--portable--red--emergency--reflectors--and--flags--to--be--displayed--as--required--in--this--section--shall--conform--with--the--requirements--of--section--39--21--42--applicable--thereto.~~

1. Whenever any truck, bus, truck-tractor, trailer, semitrailer, or pole trailer eighty inches or more in overall width or thirty feet or more in overall length is stopped upon a roadway or adjacent shoulder, the driver shall immediately actuate vehicular hazard warning signal lamps meeting the requirements of this chapter. The lamps need not be displayed by a vehicle parked lawfully in an urban district, or stopped lawfully to receive or discharge passengers, or stopped to avoid conflict with other traffic or to comply with the directions of a police officer or an official traffic-control device, or while the devices specified in subsections 2 through 8 are in place.

2. Whenever any vehicle of a type referred to in subsection 1 is disabled, or stopped for more than ten minutes, upon a roadway outside of an urban district at any time when lighted lamps are required, the driver of the vehicle shall display the following warning devices except as provided in subsection 3:

a. A lighted fusee, a lighted red electric lantern, or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.

b. As soon thereafter as possible but in any event within the burning period of the fusee (fifteen minutes), the driver shall place three liquid-burning flares (pot torches), or three lighted red electric lanterns, or three portable red emergency reflectors on the roadway in the following order:

(1) One, approximately one hundred feet from the disabled vehicle in the center of the lane occupied by the vehicle and toward traffic approaching in that lane.

(2) One, approximately one hundred feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.

(3) One at the traffic side of the disabled vehicle not less than ten feet rearward or forward

- thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (1) of this subdivision it may be used for this purpose.
3. Whenever any vehicle referred to in this section is disabled, or stopped for more than ten minutes, within five hundred feet of a curve, hillcrest, or other obstruction to view, the warning device in the direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than one hundred feet nor more than five hundred feet from the disabled vehicle.
 4. Whenever any vehicle of a type referred to in this section is disabled, or stopped for more than ten minutes, upon any roadway of a divided highway during the time lighted lamps are required, the appropriate warning devices prescribed in subsections 2 and 3 shall be placed as follows: one at a distance of approximately two hundred feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one at a distance of approximately one hundred feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; one at the traffic side of the vehicle and approximately ten feet from the vehicle in the direction of the nearest approaching traffic.
 5. Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed gas is disabled, or stopped for more than ten minutes, at any time and place mentioned in subsections 2, 3, or 4, the driver of the vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner specified in subsections 2, 3, or 4. Flares, fusees, or signals produced by flame shall not be used as warning devices for vehicles of the type mentioned in this subsection nor for vehicles using compressed gas as a fuel.
 6. The warning devices described in subsections 2 through 5 need not be displayed where there is sufficient light to reveal persons and vehicles within a distance of one thousand feet.
 7. Whenever any vehicle described in this section is disabled, or stopped for more than ten minutes, upon a roadway outside of an urban district or upon the roadway of a divided highway at any time when lighted lamps are

not required by section 39-21-01 the driver of the vehicle shall display two red flags as follows:

- a. If traffic on the roadway moves in two directions, one flag shall be placed approximately one hundred feet to the rear and one flag approximately one hundred feet in advance of the vehicle in the center of the lane occupied by the vehicle.
 - b. Upon a one-way roadway, one flag shall be placed approximately one hundred feet and one flag approximately two hundred feet to the rear of the vehicle in the center of the lane occupied by the vehicle.
8. When any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder at any time and place mentioned in this section, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.
9. The flares, fuseses, red electric lanterns, portable red emergency reflectors, and flags to be displayed as required in this section shall conform with the applicable requirements of section 39-21-42.

SECTION 31. AMENDMENT.) Section 39-21-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-44. VEHICLES TRANSPORTING EXPLOSIVES OR HAZARDOUS MATERIALS.) Any person operating any vehicle transporting any explosive or hazardous material as a cargo or part of a cargo upon a highway shall at all times comply with the provisions of this section.

1. Said The vehicle shall be marked or placarded on each side and the rear with the word "Explosives" or the words "hazardous materials" as appropriate in letters not less than eight inches high, or there shall be displayed on the rear of such the vehicle a red flag not less than twenty-four inches square marked with the word "Danger" in white letters six inches high.
2. Every--said The vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at a convenient point on the vehicle se-used.
3. The registrar shall promulgate such additional regulations governing--the--transportation--of--explosives--and--other dangerous--articles--by--vehicles--upon--the--highways--as--he shall deem advisable for the--protection--of--the--public. The department shall promulgate such rules as may be necessary for the safe transportation of hazardous

materials. Rules shall duplicate or be consistent with current Hazardous Materials Regulations of the United States Department of Transportation. The department is authorized to adopt the Hazardous Materials Regulations by reference and any adoption shall be construed to incorporate amendments as may be made from time to time.

SECTION 32. AMENDMENT.) Section 39-21-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-45. AIR-CONDITIONING EQUIPMENT.)

1. The term "air-conditioning equipment", as used or referred to in this section ~~shall--mean~~ means mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.
2. ~~Such~~ Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public and shall not contain any refrigerant which is toxic to persons or which is flammable.
3. The ~~registrars~~ department may adopt and enforce safety requirements, ~~regulations~~ rules, and specifications consistent with the requirements of this section applicable to ~~such~~ equipment which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to ~~such~~ air-conditioning equipment approved by the Society of Automotive Engineers.
4. No person shall have for sale, offer for sale, sell, or equip any motor vehicle with any ~~such~~ air-conditioning equipment unless it complies with the requirements of this section.
5. No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless ~~said~~ the equipment complies with the requirements of this section.

SECTION 33. AMENDMENT.) Section 39-21-46 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-46. SCOPE AND EFFECT OF REGULATIONS - PENALTY.)

1. It is unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or combination of vehicles which he knows to be in such unsafe condition as to endanger any person, or which he knows does not contain

- those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which he knows is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter. Any person who violates any of the provisions of sections 39-21-08, 39-21-09, 39-21-10, or 39-21-14 shall be assessed a fee of ten dollars. Any person who, in violation of the provisions of this chapter, drives, or any owner who causes or knowingly permits to be driven upon a highway, any vehicle or combination of vehicles which he knows is unsafe or improperly equipped shall be ~~assessed a fee of twenty dollars~~ guilty of an infraction.
2. Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
 3. The provisions of this chapter with respect to equipment on vehicles shall not apply to implements of husbandry, road machinery, road rollers, or farm tractors except as ~~herein~~ specifically made applicable.
 4. The provisions of this chapter with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles, except as specifically made applicable.
 5. The provisions of this chapter and regulations of the department shall not apply to vehicles moved solely by human power, except as specifically made applicable.

SECTION 34. AMENDMENT.) Section 39-21-50 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-21-50. SLOW-MOVING VEHICLES REQUIRED TO DISPLAY IDENTIFICATION EMBLEM - PENALTY.) All implements of husbandry, as defined in section 39-01-01, and machinery, including all road construction machinery, ~~which is~~ designed for operation at a speed of twenty-five miles [40.23 kilometers] an hour or less, shall display either a triangular slow-moving vehicle emblem or a rotating or flashing amber light, as authorized for class B emergency vehicles, whenever ~~it is~~ traveling along the roadway on any county, state, federal highway, or city street in the state of North Dakota. ~~Such~~ The emblem or light shall be mounted so as to be visible from a distance of not less than five hundred feet [152.4 meters] to the rear. The highway commissioner shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem and light. The standards and specifications for slow-moving vehicle emblems referred to in this section shall correlate with and, so far as possible, conform with

those approved by the American Society of Agricultural Engineers. No vehicle, other than those specified in this section, shall display a slow-moving vehicle emblem, and its use on any type of stationary object is prohibited. Any person who fails or refuses to comply with the provisions of this section shall be assessed a fee of twenty dollars for each offense.

SECTION 35.) A new section to chapter 39-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

LIGHTING EQUIPMENT ON MOTOR-DRIVEN CYCLES.) The head lamp or head lamps upon every motor-driven cycle may be of the single beam or multiple-beam type but in either event shall comply with the requirements and limitations as follows:

1. Every head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal a person or a vehicle at a distance of not less than one hundred feet when the motor-driven cycle is operated at any speed less than twenty-five miles per hour and at a distance of not less than two hundred feet when the motor-driven cycle is operated at a speed of twenty-five or more miles per hour, and at a distance of not less than three hundred feet when the motor-driven cycle is operated at a speed of thirty-five miles per hour.
2. In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps the upper beam shall meet the minimum requirements set forth above and shall not exceed the limitations set forth in subsection 1 of section 39-21-20 and the lowermost beam shall meet the requirements applicable to a lowermost distribution of light as set forth in subsection 2 of section 39-21-20.
3. In the event the motor-driven cycle is equipped with a single-beam lamp or lamps the lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of twenty-five feet ahead, shall project higher than the level of the center of the lamp from which it comes.

SECTION 36.) A new section to chapter 39-27 of the North Dakota Century Code is hereby created and enacted to read as follows:

BRAKES ON MOTOR-DRIVEN CYCLES.) The department may require an inspection of the brake on any motor-driven cycle and may disapprove any brake which is not so designed or constructed as to ensure reasonable and reliable performance in actual use.

SECTION 37. REPEAL.) Sections 39-21-23 and 39-21-34 of the North Dakota Century Code are hereby repealed.

Approved March 23, 1979

CHAPTER 432

SENATE BILL NO. 2093
(Jones)

TIRE EQUIPMENT RESTRICTIONS

AN ACT to amend and reenact subsection 3 of section 39-21-40 of the North Dakota Century Code, relating to restrictions on tire equipment.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 39-21-40 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. No tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use farm machinery with tires having protuberances which will not injure the highway, and except also that it shall be permissible to use tire chains of reasonable proportions. It shall also be permissible to use, from October fifteenth to April fifteenth, pneumatic tires which have metal studs which do not project more than one-sixteenth of an inch [1.59 millimeters] beyond the tread of the traction surface of the tire, except that it shall be permissible to use such tires on school buses at any time during the year.

Approved March 7, 1979

CHAPTER 433

SENATE BILL NO. 2366
(Melland)

WHEN BID BOND NOT REQUIRED

AN ACT to eliminate requirements for a bid bond in certain bids submitted to the state and its political subdivisions by eliminating the requirement of a bid bond or certified check in bidding on vehicles if the bidder is already bonded.

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

SECTION 1. WHEN BID BONDS NOT REQUIRED IN BIDS TO STATE OR POLITICAL SUBDIVISIONS.) Any person who submits a bid to the state or any of its agencies or any of its political subdivisions to sell any type of motor vehicle shall not be required to submit a bidder's bond or a certified check if that person is already bonded pursuant to section 39-22-05. The successful bidder shall submit a performance bond to the appropriate state agency or political subdivision in an amount equal to the contract price within ten days of the awarding of the contract.

Approved March 8, 1979

CHAPTER 434

SENATE BILL NO. 2249
(Committee on Transportation)
(At the request of the Motor Vehicle Department)

WHOLESALE MOTOR VEHICLE DEALER LICENSING

AN ACT to create and enact a new chapter to title 39 of the North Dakota Century Code, relating to licensing of wholesale motor vehicle dealers; and providing a penalty.

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

SECTION 1.) A new chapter to title 39 of the North Dakota Century Code is hereby created and enacted to read as follows:

WHOLESALE DEALER LICENSE - FEES - PLATES.) No person, partnership, or corporation shall engage in the business of wholesaling motor vehicles in North Dakota without first being licensed to do so as hereinafter provided.

A wholesale dealer license shall be issued only to those who engage in the business of wholesaling motor vehicles to another wholesale motor vehicle dealer or licensed motor vehicle dealer. A wholesale motor vehicle dealer license shall not entitle the holder to make retail sales to the public.

Application for dealer license and renewal license shall be made to the department on the forms the department shall prescribe and furnish, and the application shall be accompanied by a fee of twenty-five dollars per year, and with which shall be issued one set of dealer plates. A second set of dealer plates shall be issued to the dealer upon payment of an additional fee of twenty-five dollars. Additional dealer plates shall be issued to the dealer upon payment of a fee of ten dollars per set. The dealer plates may be used on any motor vehicle owned by the dealer. In addition to the dealer plates, the department may issue to any dealer holding a wholesale motor vehicle dealer license, an in-transit license plate for a fee of two dollars per plate. In-transit plates may be used by the dealer on vehicles in lieu of dealer plates while a motor vehicle is in transit to a motor vehicle dealer or wholesale motor vehicle dealer. Special utility plates may be issued by the department for a fee of two dollars, which special utility plate shall be used only on a vehicle while it is being used by the dealership to which the

plate is issued within a radius of twenty-five miles of the licensee's place of business. All such dealer license shall expire on December thirty-first of each year, and application for renewal of such dealer license shall be made on or before the expiration of the current dealer license.

A wholesale motor vehicle dealer license shall be issued only to those who will maintain a permanent office and place of business and will abide by all the provisions of law pertaining to wholesale motor vehicle dealers. In addition, the dealer shall maintain his business records in one central location.

BOND REQUIRED.) Before the issuance of a wholesale motor vehicle dealer license, as provided by law, the applicant for such a license shall furnish a surety bond executed by the applicant as principal and executed by a surety company, licensed and qualified to do business within the state of North Dakota, which bond shall run to the state of North Dakota, be in the amount of twenty-five thousand dollars and be conditioned upon the faithful compliance by said applicant as a dealer, if the license be issued to it or him, that such dealer will comply with all of the statutes of the state of North Dakota, including this chapter, regulating or being applicable to the business of said dealer as a wholesale dealer in motor vehicles, and indemnifying any person dealing or transacting business with said dealer in connection with any motor vehicle from any loss or damage occasioned by the failure of such dealer to comply with any of the provisions of title 39, including, but not limited to, the furnishing of a proper and valid certificate of title to the motor vehicle involved in any such transaction, and that such bond shall be filed with the department prior to the issuance of license provided by law. The aggregate liability of the surety of all persons, however, shall in no event exceed the amount of said 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.

SUSPENSION OR REVOCATION OF DEALER LICENSE.) The department may suspend or revoke any dealer license for failure of the licensee to comply with any of the laws of the state of North Dakota governing wholesale motor vehicle dealers, or for the failure to comply with the reasonable rules and regulations of the department as established under chapter 28-32, but no order suspending or revoking a license shall be made without a hearing at which the licensee shall be given an opportunity to be heard.

DISPOSITION OF FEES.) Fees from registration of dealers shall be deposited with the state treasurer and credited to the motor vehicle registration fund.

PENALTY.) Any person who violates the provisions of this chapter shall be guilty of an infraction.

Approved April 7, 1979

CHAPTER 435

HOUSE BILL NO. 1564
(Representatives Maixner, Boyum, Timm)
(Senator Erdman)

SNOWMOBILE REGISTRATION

AN ACT to amend and reenact sections 39-24-02 and 39-24-04 of the North Dakota Century Code, relating to snowmobile registration and exemptions from registration.

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

SECTION 1. AMENDMENT.) Section 39-24-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-02. SNOWMOBILE REGISTRATION - TITLE CERTIFICATE - GENERAL REQUIREMENTS.) Except as hereinafter provided, no person shall ~~on and after October 15, 1969~~ operate any snowmobile ~~upon any public-owned easements, trails, accesses, lands, lakes, rivers, or streams~~ unless such the snowmobile has been registered in accordance with the provisions of this chapter.

Any snowmobile purchased after July 1, 1973, must be titled under the provisions of chapter 39-05 in order to be operated under the provisions of this section. Any snowmobile purchased prior to July 1, 1973, may be titled under the provisions of chapter 39-05.

SECTION 2. AMENDMENT.) Section 39-24-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-04. EXEMPTION FROM FEES-AND REGISTRATION - EXEMPTION FROM FEES.)

1. A registration number shall be issued without the payment of a fee for snowmobiles owned by the state of North Dakota or any of its political subdivisions upon application for ~~such~~ the registration.
2. No registration or fees shall be required of:
 - a. Snowmobiles owned and used by the United States, another state or its political subdivisions.
 - b. Snowmobiles registered in a country other than the United States and temporarily used within this state.
 - c. Snowmobiles validly licensed in another state and which have not been within this state for more than thirty consecutive days.

Approved March 19, 1979

CHAPTER 436

SENATE BILL NO. 2247
 (Committee on Transportation)
 (At the request of the Motor Vehicle Department)

SNOWMOBILE REGISTRATION DATE

AN ACT to amend and reenact section 39-24-03 of the North Dakota Century Code, relating to the registration dates for snowmobiles.

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

* SECTION 1. AMENDMENT.) Section 39-24-03 of the 1977 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 ~~register~~ department in such form as the ~~register~~ department 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 [5.08 centimeters] 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.
3. ~~Such~~ The certificate of registration shall include information regarding the ~~manufacturer, model~~ make, year, and serial number, ~~if such information is available, the~~ and name and 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

* NOTE: Section 39-24-03 was also amended by section 1 of House Bill No. 1645, chapter 437.

January first of each biennium even-numbered year effective January 1, 1980. The fee for initial registration of each snowmobile registered on and after July January first of the second year of the biennium two-year registration period shall also be four dollars. The fee for a duplicate or replacement registration number or registration card which ~~shall be~~ is lost, mutilated, or ~~shall become~~ becomes illegible shall not exceed two dollars. 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. For each snowmobile registered under the provisions of this chapter, there shall be assessed a snowmobile trail tax in the amount of two dollars.

Every owner of a snowmobile shall renew his registration in such manner as the ~~register~~ department 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.

Approved March 12, 1979

CHAPTER 437

HOUSE BILL NO. 1645
(Representatives Berge, Houmann, F. Larson)
(Senator Strinden)

SNOWMOBILE REGISTRATION FEE AND
TRAIL TAX

AN ACT to amend and reenact section 39-24-03 of the North Dakota Century Code, relating to fees for snowmobile registration and assessment of a snowmobile trail tax; and providing an appropriation.

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

* SECTION 1. AMENDMENT.) Section 39-24-03 of the 1977 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 a 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 the 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 the snowmobile shall be registered and a registration number and a certificate of registration assigned. Such The 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 a position as to provide clear legibility for identification. Such The certificate of registration shall include information regarding the manufacturer, model, year, and serial number, if such the 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~~ two dollars for a registration period of two years beginning July first

* NOTE: Section 39-24-03 was also amended by section 1 of Senate Bill No. 2247, chapter 436.

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~~ two dollars. The fee for a duplicate or replacement registration number or registration card which shall be lost, mutilated, or shall become illegible shall not exceed two dollars. 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. For each snowmobile registered under the provisions of this chapter, there shall be assessed a snowmobile trail tax in the amount of ~~two~~ four dollars.

Every owner of a snowmobile shall renew ~~his~~ the registration in ~~such a~~ 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~~ The dealer's registration numbers shall be used only on snowmobiles owned by the dealership.

SECTION 2. APPROPRIATION.) There is hereby appropriated, out of any moneys in the state snowmobile fund in the state treasury, not otherwise appropriated, the sum of \$120,000.00, or so much thereof as may be necessary, to the state parks and recreation department for the construction and maintenance of snowmobile trails, for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved April 7, 1979

CHAPTER 438

HOUSE BILL NO. 1098
(Gackle)

SNOWMOBILE TRAIL TAX DISPOSITION

AN ACT to amend and reenact section 39-24-05 of the North Dakota Century Code, relating to disposition of the snowmobile trail tax.

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

SECTION 1. AMENDMENT.) Section 39-24-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-24-05. DISPOSITION OF REGISTRATION FEES.) Fees from registration of snowmobiles shall be deposited with the state treasurer and credited to the motor vehicle registrar fund. The snowmobile trail tax shall be deposited in a state snowmobile fund in the state treasury. The state parks and recreation department may, upon appropriation by the legislative assembly, expend from such fund any moneys as it deems necessary for purposes of establishing snowmobile facilities.

Approved March 5, 1979

CHAPTER 439

SENATE BILL NO. 2391
(Vosper)

SNOWMOBILE SAFETY COURSE

AN ACT to create and enact a new section to chapter 39-24 of the North Dakota Century Code, relating to a snowmobile safety course for operators of snowmobiles between the ages of twelve and sixteen; and to amend and reenact subsection 6 of section 39-24-09 of the North Dakota Century Code, relating to the possession of a valid driver's license or permit by operators of snowmobiles.

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

SECTION 1.) A new section to chapter 39-24 of the North Dakota Century Code is hereby created and enacted to read as follows:

OPERATION BY PERSONS UNDER AGE SIXTEEN.) Except as otherwise provided in this section, it shall be unlawful for any person twelve years of age and over who has not reached sixteen years of age and who is not in possession of a valid driver's license or permit to operate a snowmobile, except upon the lands of the person's parent or guardian, unless and until the person has completed a snowmobile safety training course as prescribed by the director pursuant to chapter 28-32 and has received the appropriate snowmobile safety certificate issued by the commissioner, and unless the person is accompanied by a parent or guardian. The failure of an operator to exhibit a snowmobile safety certificate upon demand to any official authorized to enforce the provisions of this chapter shall be presumptive evidence that such person is not the holder of such certificate.

SECTION 2. AMENDMENT.) Subsection 6 of section 39-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. It shall be unlawful for any person to operate a snowmobile pursuant to chapter 39-24 without having in his possession a valid driver's license or permit, except as provided by section 1 of this Act.

SECTION 3. EFFECTIVE DATE.) The provisions of this Act shall be effective on and after July 1, 1981.

Approved March 26, 1979

CHAPTER 440

HOUSE BILL NO. 1577
(Mertens)

MOTOR VEHICLE REGISTRATION TAX

AN ACT to amend and reenact section 39-26-12 of the North Dakota Century Code, relating to the motor vehicle registration tax paid into the abandoned motor vehicle disposal fund.

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

SECTION 1. AMENDMENT.) Section 39-26-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-26-12. TAX ON MOTOR VEHICLE REGISTRATIONS.) There is hereby imposed a tax of ~~three~~ two dollars on each initial North Dakota certificate of title issued to a passenger motor vehicle or a truck motor vehicle. The proceeds of such tax shall be paid into the abandoned motor vehicle disposal fund in the state treasury. Any moneys collected under the provisions of this chapter, not appropriated by the legislative assembly, shall remain in the abandoned motor vehicle fund in the state treasury. No registration plates or title certificate shall be issued unless such tax is paid.

Approved March 10, 1979

CHAPTER 441

SENATE BILL NO. 2406
(Nething, Tennefos)

MOTORCYCLE MUFFLER REQUIREMENTS

AN ACT to amend and reenact sections 39-27-08 and 39-27-22 of the North Dakota Century Code, relating to requiring motorcycle mufflers to meet standards for noise control, and requiring the motor vehicle department to approve muffler requirements.

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

SECTION 1. AMENDMENT.) Section 39-27-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-27-08. EXHAUST SYSTEM - PREVENTION OF NOISE.) Motorcycles shall be equipped with an exhaust system incorporating a muffler or other mechanical device for the purpose of effectively reducing engine noise. Cutouts and bypasses in the exhaust system are prohibited. The system shall be leakproof and all components shall be securely attached to the vehicle and located so as not to interfere with the operation of the motorcycle. Shielding shall be provided to prevent inadvertent contact with the exhaust system by the operator or passenger during normal operation. In addition, all motorcycles operating on streets and highways shall meet the noise decibel limitations as established by the environmental protection agency.

No person shall sell, offer for sale, or install any noise suppressing system or device which will produce noise in excess of the maximum allowable decibel limitations of this section.

SECTION 2. AMENDMENT.) Section 39-27-22 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-27-22. EQUIPMENT APPROVAL.) All motorcycle lighting devices, electrical systems, brake components, glazing materials, and exhaust systems, incorporating a muffler or other mechanical exhaust device, required or optional, shall be approved by the motor vehicle ~~registra~~ department before they will be available for use within the state.

Approved March 23, 1979

CHAPTER 442

SENATE BILL NO. 2438
(Solberg, Lashkowitz)

MOTORCYCLE SAFETY EDUCATION

AN ACT to provide an additional fee for motorcycle safety education to be deposited in a motorcycle education fund, to establish standards for motorcycle safety courses, to reimburse public schools and approved organizations for programs, to promote safety in the use and operation of motorcycles; to amend and reenact subsection 3 of section 39-06-14 of the North Dakota Century Code, relating to motorcycle education requirements for motorcycle operators' permits and licenses for applicants under sixteen years of age; providing an effective date; and providing appropriations.

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

SECTION 1. ADDITIONAL FEES FOR MOTORCYCLE REGISTRATION.) In addition to the fees required by section 39-04-19, for motorcycle registration, a motorcycle safety education fee of five dollars shall be required at the time of registration of each motorcycle.

SECTION 2. SUPERINTENDENT OF PUBLIC INSTRUCTION TO ESTABLISH STANDARDS FOR MOTORCYCLE SAFETY COURSES.) The superintendent of public instruction shall establish requirements for instructional standards, course approval, and teacher certification standards for motorcycle safety courses required by this Act. Motorcycle safety courses may be offered by public schools and by approved organizations which meet instruction, course, and teacher certification requirements. The superintendent may adopt rules governing the operation of motorcycle safety courses, administer moneys pursuant to this Act, conduct audits and otherwise examine the records and accounts of approved motorcycle safety courses, and require other information as may be necessary to monitor the quality of motorcycle safety courses.

SECTION 3. REIMBURSEMENT FOR MOTORCYCLE SAFETY COURSES.) The superintendent shall reimburse public schools and organizations offering approved motorcycle safety courses for the actual cost of the courses. The amount of reimbursement for each student shall not exceed the actual per-pupil cost for the motorcycle safety program.

SECTION 4. MOTORCYCLE SAFETY PROMOTION.) The highway commissioner, in cooperation with other state agencies, shall promote safety and awareness in the use and operation of motorcycles through advertising and other appropriate means, as provided by this Act. The general public may provide input to improve motorcycle safety and education.

SECTION 5. DISPOSITION OF FEES.) Any fee collected pursuant to this Act shall be deposited by the motor vehicle registrar with the state treasurer and credited to a special motorcycle safety education fund in the state treasury.

* SECTION 6. AMENDMENT.) Subsection 3 of section 39-06-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. All applicants holding a valid North Dakota driver's license making application for a renewal of such license, shall be issued a class 3 license without being subjected to an examination as herein provided. All applicants, except those holding a valid North Dakota driver's license who will be issued a class 3 license, applying for issuance of driver licenses shall be issued a classified license after having been required to submit to an examination in the type of motor vehicle or combination of vehicles for which license is desired and which license shall authorize the holder to drive the vehicles set forth in such class as follows:

Class 1. Any vehicle or combination of vehicles except vehicles under class 4.

Class 2. Any vehicle or combination of vehicles except:

- a. Vehicles towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds.
- b. Vehicles under class 4.

Class 3. Any two-axle or tandem-axle vehicle except:

- a. A truck tractor combination as defined in subsection 70 of section 39-01-01.
- b. A bus more than 80 inches in width and designed to carry more than ten persons and used for carrying passengers.
- c. A two-axle or tandem-axle vehicle or combination of vehicles when towing a trailer when the trailer being towed has a gross weight in excess of six thousand

* NOTE: Subsection 3 of section 39-06-14 was also amended by section 6 of House Bill No. 1374, chapter 409.

pounds.

d. Vehicles under class 4.

Provided, however, an operator with a class 3 license may operate a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds, and may operate a truck towing a farm trailer.

Class 4. Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator or passengers, or both, ride within an enclosed cab.

The holder of a class 1, 2, or 3 license may receive a class 4 endorsement upon successful completion of an examination. An applicant sixteen years of age and older, who does not hold a current valid driver's license may be issued a class 4 learner's permit after successful completion of a written examination. The class 4 license will be issued after the applicant has successfully completed a driver's examination.

Applicants--of--the--age--of--fourteen--or--fifteen--years--may--receive--a--class--4--learner's--permit--to--operate--a--motorcycle--with--an--engine--displacement--of--two--hundred--cubic--centimeters--or--less--only--after--successful--completion--of--a--written--examination--as--required--by--the--commissioner---A--class--4--license--or--endorsement--shall--be--issued--to--a--fourteen--or--fifteen--year--old--applicant--only--after--he--has--successfully--completed--a--driving--examination,--and--has--produced--evidence--satisfactory--to--the--commissioner--of--either--of--the--following: Applicants fourteen or fifteen years of age may be issued a motorcycle learner's permit if the applicant is enrolled in or has completed an approved motorcycle safety course. Applicants for a motorcycle operator's license who are under sixteen shall hold an initial learner's permit for at least two months prior to applying for a class 4 operator's license, shall have completed an approved motorcycle safety course, and shall hold a valid motorcycle learner's permit at the time of application. Any person under sixteen years of age who holds a permit or license shall be restricted to the operation of a motorcycle powered with an engine of two hundred cubic centimeters, or less, displacement. Evidence that the applicant has met one of the following standards shall accompany the application for a class 4 license:

- a. Satisfactory completion of a motorcycle course which included at least six hours of classroom instruction and six hours of actual motorcycle operation.
- b. Successful completion of a motorcycle course at an approved commercial driver training school which included at least six hours of classroom instruction and six hours of actual motorcycle operation.

SECTION 7. APPROPRIATION.) There is hereby appropriated out of any moneys in the motorcycle safety education fund in the state treasury, not otherwise appropriated, the sum of \$2,000.00, or so much thereof as may be necessary, to the motor vehicle registrar, for the purpose of implementing collection of the fee prescribed by this Act.

SECTION 8. APPROPRIATION.) There is hereby appropriated out of any moneys in the motorcycle safety education fund in the state treasury not otherwise appropriated, the sum of \$13,000.00, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of administering this Act, beginning January 1, 1980, and ending June 30, 1981.

SECTION 9. APPROPRIATION.) There is hereby appropriated out of any moneys in the motorcycle safety education fund in the state treasury, not otherwise appropriated, the sum of \$103,000.00, or so much thereof as may be necessary, to the superintendent of public instruction for the purpose of providing reimbursement to public schools and approved organizations pursuant to this Act beginning January 1, 1980, and ending June 30, 1981.

SECTION 10. APPROPRIATION.) There is hereby appropriated out of any moneys in the motorcycle safety education fund in the state treasury, not otherwise appropriated, the sum of \$18,000.00, or so much thereof as may be necessary, to the highway commissioner, for the purpose of advertising and promoting safety in the use and operation of motorcycles beginning January 1, 1980, and ending June 30, 1981.

SECTION 11. EFFECTIVE DATE.) The provisions of this Act shall become effective on January 1, 1980.

Approved April 8, 1979

MUNICIPAL GOVERNMENT

CHAPTER 443

SENATE BILL NO. 2430
(Hanson, Fritzell, Lips, Tennefos)

REQUISITES FOR CITY INCORPORATION

AN ACT to create and enact a new subsection to section 40-02-01 of the North Dakota Century Code, relating to the requisites for incorporation as a city; to provide an expiration date; and declaring an emergency.

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

* SECTION 1.) A new subsection to section 40-02-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. Notwithstanding subsections 1 and 2 of this section, if such territory shall be within eight miles of an incorporated city exceeding ten thousand in population, it shall not become incorporated as a city unless it has residing therein at least one hundred fifty inhabitants. The form of government adopted shall be in accordance with subsections 1 and 2 of this section. The provisions of this subsection 3 shall expire on June 30, 1981.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 4, 1979

* NOTE: This subsection is temporary and is therefore not codified as North Dakota Century Code Section 40-02-01(3).

CHAPTER 444

HOUSE BILL NO. 1264
(Committee on Political Subdivisions)
(At the request of the Attorney General)

LICENSING OF THEATERS

AN ACT to amend and reenact subsection 30 of section 40-05-01 of the North Dakota Century Code, relating to licensing of bowling alleys, pool, billiards, theaters and motion picture theaters; and to repeal chapter 53-06 of the North Dakota Century Code, relating to licensing of games and amusements.

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

SECTION 1. AMENDMENT.) Subsection 30 of section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 30. BOWLING ALLEYS, POOL, AND BILLIARDS, THEATERS AND MOTION PICTURE THEATERS. To license, regulate, and tax, ~~prohibit,--and--suppress~~ bowling alleys, theaters, motion picture theaters, and pool or billiard tables, or any other tables or implements kept or used for similar purposes in any public place;

SECTION 2. REPEAL.) Chapter 53-06 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

CHAPTER 445

SENATE BILL NO. 2122
(Committee on Judiciary)

(At the request of the Department of Public Instruction)

ELECTION DISTRICTS IN COUNCIL CITIES

AN ACT to amend and reenact section 40-21-09 of the North Dakota Century Code, relating to election districts.

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

SECTION 1. AMENDMENT.) Section 40-21-09 of the 1977 Supplement to 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, and city, ~~and see~~ 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 21, 1979

CHAPTER 446

SENATE BILL NO. 2421
(Goodman)

TOWNHOUSE PROPERTY ASSESSMENT AND TAXATION

AN ACT to create and enact a new section to chapter 40-23; and to create and enact a new section to chapter 57-02 of the North Dakota Century Code, relating to assessment and taxation of townhouse property.

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

SECTION 1.) A new section to chapter 40-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

If a townhouse development includes a right in the townhouse owners to use any lot or tract as a common area in connection with the townhouse development, the common area shall not be separately assessed for benefits but each lot or tract whose owner has a right to use the common area shall be assessed for the benefit to the common area in the proportion that each owner's right in the common area bears to all of the owners' rights in the common area.

SECTION 2.) A new section to chapter 57-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

TOWNHOUSES - COMMON AREAS - ASSESSMENT AND TAXATION.) Townhouse property shall be classified and valued as is other property except that the value of the townhouse property shall be increased by the value added by the right to use any common areas in connection with the townhouse development. The common areas of the development shall not be separately taxed. The value of a common area of the townhouse development shall be assessed in an equal amount to each townhouse in the development unless a declaration setting out a different apportionment is recorded in the office of the county register of deeds. The total value of the townhouse property, including the value added as provided herein, shall have the benefit of any homestead credit under section 57-02-08.1 or other special classification if the townhouse otherwise qualifies.

Approved March 15, 1979

CHAPTER 447

HOUSE BILL NO. 1293
(Representatives Langley, Berge, Hedstrom)
(Senators Mutch, Strand, Vosper)

MUNICIPAL POWER AGENCIES

AN ACT to create and enact a new section to chapter 40-33.2 of the North Dakota Century Code, relating to joint exercise of powers by a city with another public agency in respect to its electric utility system or any project and relating to joint exercise of powers by a municipal power agency with another public agency; to create and enact two new subsections to section 40-33.2-05 of the North Dakota Century Code, relating to exempting bonds and notes issued by a municipal power agency from taxation, and right of any holder of bonds or notes issued by a municipal power agency to bring suit; and to amend and reenact subsection 6 of section 40-33.2-02, subdivision g of subsection 1 of section 40-33.2-03, subsection 4 of section 40-33.2-03, subsection 9 of section 40-33.2-03, subsection 2 of section 40-33.2-05, and section 40-33.2-08 of the North Dakota Century Code, relating to definition of governing body of a city, requirements for agency agreements, bylaws of municipal power agencies, amendment of agency agreements, issuance of bonds and notes and pledges of revenues by the municipal power agencies, and city powers in regard to municipal power agencies, and contracts for electric power and energy and related services.

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

SECTION 1.) A new section to chapter 40-33.2 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

JOINT EXERCISE OF POWERS.) Any power or powers exercised or capable of exercise by a city with respect to its electric utility system, or any project, or by a municipal power agency, may be exercised jointly with any other public agency having such power or powers. In furtherance of joint exercise of powers, a city or municipal power agency may enter into an agreement with one or more public agencies for joint or cooperative action pursuant to this section, including the creation of a separate entity to carry out the purpose of the agreement. Appropriate action, by resolution or

otherwise pursuant to law of the governing bodies of the cities, municipal power agencies, or other public agencies involved authorizing or approving the agreement, shall be necessary before any agreement may become effective. Any agreement shall specify its duration, the precise organization, composition, and nature of any separate legal or administrative entity created, together with the powers delegated, its purpose or purposes, the manner of financing the joint or cooperative undertaking, the permissible method or methods to be employed in accomplishing the termination of the agreement and for disposing of property upon termination, and any other matters deemed necessary or appropriate. In addition, the agreement may provide for the joint or cooperative undertaking through the use of a separate legal entity already in existence. No agreement pursuant to this section shall relieve any city or municipal power agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance of the agreement by another party to the agreement or by a legal or administrative entity created by the agreement, which performance may be offered in satisfaction of the obligation or responsibility. Agreements pursuant to this section shall not be subject to any of the provisions, limitations, or restrictions contained in chapter 54-40.

SECTION 2. AMENDMENT.) Subsection 6 of section 40-33.2-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Governing body", with respect to a city, means the city council or, if another board, commission, or body is empowered by law or its charter or by resolution of the city council to establish and regulate rates and charges for the distribution of electric energy within the city, ~~such the board, commission, or body shall be deemed to be the "governing body";-provided,-however,-that-when.~~ When the levy of a tax or the incurring of an obligation payable from taxes or any other action of such the board, commission, or body requires the concurrence, approval, or independent action of the city council or another body under the city's charter or any other law, such the action shall not be taken until such concurrence or approval is received or such independent action is taken and, if required under the city's charter or any other law, approved by not less than sixty percent of the qualified electors voting on the question at any regular or special election,-and-provided-further,-that-the. The concurrence of the city council or other elected body charged with the general management of a city shall be required, prior to the adoption by the city of any resolution approving an agency agreement.

SECTION 3. AMENDMENT.) Subdivision g of subsection 1 of section 40-33.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- g. The location of the initial registered office of the municipal power agency.

SECTION 4. AMENDMENT.) Subsection 4 of section 40-33.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Unless otherwise provided by the agency agreement, the bylaws of the municipal power agency, and any amendments thereto, shall be proposed by the board of directors and shall be adopted by a majority vote of the representatives of the member cities, at a meeting held after notice. The initial agency agreement or the initial bylaws shall not take effect until approved by not less than sixty percent of the qualified electors ~~who voted~~ voting on the question in--the--last at any regular or special election in each of the member cities. The agency agreement or the bylaws shall state:
- a. The qualifications of member cities, and any limitations upon their number.
 - b. Any conditions of membership.
 - c. Manner and time of calling regular meetings of representatives of member cities.
 - d. Manner and conditions of terminating membership.
 - e. Such other provisions for regulating the affairs of the municipal power agency as the representatives of the member cities shall determine to be necessary.

SECTION 5. AMENDMENT.) Subsection 9 of section 40-33.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. The agency agreement may be amended as proposed at any meeting of the representatives of the member cities for which notice, stating the purpose, shall be given to each representative and unless the agency agreement or bylaws ~~require~~ provide otherwise, shall become effective when ratified by resolutions of ~~a--majority--of~~ a majority of the governing bodies of a majority of the member cities and approved by not less than sixty percent of the qualified electors ~~in each--of--these--cities~~ voting on the question at the last any regular or special election in each of those member cities constituting the majority. Each amendment and the resolutions of ~~such~~ the governing bodies approving it shall be filed for record with the secretary of state.

SECTION 6. AMENDMENT.) Subsection 2 of section 40-33.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Except as may be otherwise expressly provided by this chapter or by resolution of the municipal power agency agreement, every issue of bonds or notes of the agency shall be payable out of any revenues or funds of the agency, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or funds. A municipal power agency may issue such any types of bonds or notes as it may determine, including bonds or notes as to which the principal and interest are payable exclusively from the revenues from one or more projects, or from an interest therein or a right to capacity thereof, or from one or more revenue-producing contracts made by the municipal power agency with any person, or from its revenues generally. Any such bonds or notes may be additionally secured by a pledge of any grant, subsidy, or contribution from any person, or a pledge of any income or revenues, funds, or moneys of the municipal power agency from any source whatsoever. Any pledge of revenues or other funds made by a municipal power agency pursuant to this chapter shall be valid and binding from the date the pledge is made. The revenues and other funds pledged and held or thereafter received by the agency or any fiduciary shall immediately be subject to the lien of the pledge without physical delivery or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the agency without regard to whether the parties have notice. Neither the resolution, trust agreement, or security agreement by which a pledge is created nor any financing statement, continuation statement, or other instrument relating to the pledge need be filed or recorded in any manner. Subsection 10 of this section shall not apply to any pledge of or grant of a security interest in any revenues or funds of a municipal power agency to secure any bonds or notes issued by a municipal power agency.

SECTION 7.) Two new subsections to section 40-33.2-05 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Bonds and notes of a municipal power agency issued under the provisions of this chapter and the income therefrom shall be exempt from all taxation by the state or any political subdivision thereof, excepting inheritance, estate, or transfer taxes.

Any holder of bonds or notes issued by a municipal power agency under the provisions of this chapter, and the trustee under any resolution, trust indenture, or other security agreement under which any bonds or notes are issued, except to the extent that the rights herein granted may be restricted by the resolution, trust

indenture, or security agreement, may bring suit upon the bonds or notes and may, either at law or in equity, by suit, action, mandamus, or other proceedings, which may include the appointment of a receiver to take control of the business and properties of the municipal power agency, protect and enforce any or all of its rights granted hereunder or under the resolution, trust indenture, or security agreement, and may enforce and compel the performance of any or all duties and obligations under this chapter and any or all covenants or obligations under the resolution, trust indenture, or security agreement to be performed by the municipal power agency or by any officer thereof, including the fixing, charging and collecting of rents, rates, fees, and charges.

SECTION 8. AMENDMENT.) Section 40-33.2-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-33.2-08. CITY POWERS.)

1. A city may by resolution of its governing body exercise any of the powers granted in this chapter to a municipal power agency, upon fulfillment of the conditions provided in this chapter for the exercise of ~~any--such~~ the power, but without complying with the terms of section 40-33.2-03 relating to incorporation, and notwithstanding any provision of any city charter or any other law denying, limiting, or placing conditions upon the exercise of any ~~such~~ the power. Nothing in this section shall be construed to repeal any charter provision or law requiring an election or other condition precedent to the establishment after January 1, 1977, of a city electric energy distribution system.
2. Every resolution adopted in accordance with subsection 1 shall be published in the official newspaper of the city. No action may be brought and no defense may be interposed in an action brought more than thirty days after publication of the resolution, placing at issue the validity of any provision of the resolution or the power of the city to make any contract or to issue any bond, note, or other obligation authorized thereby.
3. Nothing in this chapter authorizes any city to issue general obligation bonds for any purposes specified in this chapter without approval of its electors or performance of ~~such~~ other procedural conditions as may be required by its charter or the laws of this state. A Notwithstanding any limitation contained in section 40-05-05, a city may,--however, by resolution of its governing body and without approval of the electors or performance of other conditions provided in any charter or other law, enter into contracts with a municipal power

agency or any other person for the purchase, sale, exchange, or transmission of electric energy and other services, on such the terms and for such the period of time as the resolution may provide. A city may appropriate and use tax and other revenues received to make payments due or to comply with covenants to be performed under any contract made by the city pursuant to this section or when acting as a municipal power agency, or any contract made by the city with a municipal power agency, as contemplated by this chapter, subject to the provisions of its charter and the laws of this state regarding budget and payment procedures and annual tax levy limitations.

4. Any contract made by a city pursuant to this section or when acting as a municipal power agency, or any contract made by a city with a municipal power agency, as contemplated by this chapter, may provide for the purchase of all or a portion of the capacity or output of one or more designated projects and may provide that the city contracting shall be obligated to make the payments required by the contract whether or not a project is completed, operable, or operating, and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the power and energy contracted for. The contract may also provide that payments under the contract shall not be subject to any reduction, whether by offset or otherwise. The contract need not be conditioned upon the performance or nonperformance by any other party to the contract, or to any similar contract for the same project, under the contract or under any other instrument. The contract may also provide, in the event of default by any party to the contract or to any similar contract for the same project in the performance of its obligations thereunder, for other parties to the contract or any similar contract for the project to succeed to the rights and interests and assume the obligations of the defaulting party, pro rata or otherwise, as may be agreed upon in the contract.
5. Any contract made by a city pursuant to this section or when acting as a municipal power agency, or any contract made by a city with a municipal power agency, as contemplated by this chapter, may provide that payments by a city under the contract shall be made solely from, and shall be secured by a pledge of and lien upon, the revenues derived by the city from the ownership and operation of the electric system of the city, and that payments shall be made as an operating expense of the electric system. The contract may provide that no obligation under the contract shall constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the city or upon any of its income, receipts or revenues, except the revenues of its electric system,

and that neither the faith and credit nor the taxing power of the city are, or shall be, pledged for the payment of any obligation under the contract. The contract may provide that the city shall be obligated to fix, charge, and collect rents, rates, fees, and charges for the commodities or services sold, furnished, or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under the contract and to pay any and all other amounts payable from or constituting a charge and lien upon revenues, including amounts sufficient to pay the principal of and interest on bonds of the city heretofore or hereafter issued for purposes related to its electric system. The municipal power agency may, either at law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of any or all covenants or obligations of the city under the contract to be performed by the city or any officer thereof, including the fixing, charging, and collecting of rents, rates, fees, and other charges. Any pledge of revenues made by a city pursuant to this subsection shall be valid and binding from the date the pledge is made. The revenues pledged shall immediately be subject to the lien of the pledge without physical delivery or further act, and the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the city without regard to whether the parties have notice. Neither the contract, pledge agreement, or trust agreement by which a pledge is created nor any financing statement, continuation statement, or other instrument relating thereto need be filed or recorded in any manner.

Approved March 19, 1979

CHAPTER 448

SENATE BILL NO. 2326
(Lashkowitz, Reiten)

POLICE RETIREMENT BENEFIT REDUCTION REPEALED

AN ACT to repeal section 40-45-17 of the North Dakota Century Code, relating to a reduction of police retirement benefits by the amount of benefits received from workmen's compensation.

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

SECTION 1. REPEAL.) Section 40-45-17 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

CHAPTER 449

SENATE BILL NO. 2087
(Lodoen)

PLANNING COMMISSION EXPENSES

AN ACT to amend and reenact section 40-48-05 of the North Dakota Century Code, relating to members of the planning commission.

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

SECTION 1. AMENDMENT.) Section 40-48-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-48-05. TRAVELING EXPENSES.) ~~All members of the planning commission shall serve without compensation.~~ When duly authorized by the commission, members thereof may attend planning conferences or meetings of planning institutes or hearings upon pending legislation, and the commission may pay the reasonable traveling expenses incident to such attendance pursuant to a resolution spread upon its minutes.

Approved March 7, 1979

CHAPTER 450

HOUSE BILL NO. 1560
(R. Hausauer, Dietz)

PARK DISTRICT PROPERTY OUTSIDE OF STATE

AN ACT to amend and reenact subsection 1 of section 40-49-12 of the North Dakota Century Code, relating to ownership by a park district of property located outside this state.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 40-49-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Acquire by purchase, gift, devise, condemnation, or otherwise, land anywhere within this state, or outside this state if located adjacent to a boundary of this state and of the park district, for parks, boulevards, and ways. The board shall have the sole and exclusive authority to maintain, govern, and improve the land, and to provide for the erection of structures thereon. Such parks, boulevards, and ways shall be considered for purposes of taxation and for all other purposes as being within the territorial limits of the municipality. Where the board has acquired the legal title in fee to such lands, it may sell and convey the same. A conveyance shall be executed by the president and clerk of the board upon a resolution approved by not less than two-thirds of the members thereof;

Approved March 3, 1979

CHAPTER 451

HOUSE BILL NO. 1667
(Conmy)

TOWNSITE AND SUBDIVISION PLATTING

AN ACT to create and enact section 40-50-19.1 and section 40-50-19.2 of the North Dakota Century Code, relating to the platting of townsites, additions and subdivisions; and to amend and reenact section 40-50-01, section 40-50-03 and section 40-50-04 of the North Dakota Century Code, relating to the platting of townsites, additions and subdivisions; and to repeal section 40-50-02 of the North Dakota Century Code, relating to the platting of townsites, additions and subdivisions.

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

SECTION 1. AMENDMENT.) Section 40-50-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-01. LAYING OUT TOWNSITES, ADDITIONS, AND SUBDIVISIONS - SURVEY AND PLAT REQUIRED - CONTENTS OF PLAT.) Any person desiring to lay out a townsite in this state, or an addition thereto, or a subdivision of outlots therein, shall cause the same to be surveyed and a plat thereof made. ~~Such plat shall describe particularly and set forth all the streets, alleys, and public grounds, and all outlets or fractional lots within or adjoining the townsite or municipality, together with the names, widths, courses, boundaries, and extent of all such streets, alleys, and public grounds. The contents of the plat shall include the following:~~

1. Such plat shall describe particularly and set forth all the streets, alleys, and public grounds, and all outlots or fractional lots within or adjoining the townsite or municipality, together with the names, widths, courses, boundaries, and extent of all such streets, alleys, and public grounds, and giving the dimensions of all lots, streets, alleys, and public grounds.
2. All lots and blocks, however designated, shall be numbered in progressive numbers and their precise length and width shall be stated on the map or plat. The streets, alleys,

- or roads which divide or border the lots shall be shown on the map or plat.
3. The plat shall indicate that all outside boundary monuments have been set. There shall be shown on the plat all survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon. The outside boundary lines of the plat shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle, radius and arc length for all curves. All distances shall be shown between all monuments as measured to the hundredth of a foot. All lot distances shall be shown on the plat to the nearest hundredth of a foot and all curved lines within the plat shall show central angles, radii and arc distances. A north arrow and the scale of the plat shall be shown on the plat, which scale shall be of such dimension that the plat may be easily interpreted. If a curved line constitutes the line of more than one lot in any block of a plat, the central angle for that part of each lot on the curved line shall be shown.
 4. Ditto marks shall not be used on the plat for any purposes.
 5. In any instance where a river, stream, creek, lake or pond constitutes a boundary line within or of the plat, a survey line shall be shown with bearings or angles and distances between all angle points and their relation to a water line, and all distances measured on the survey line between lot lines shall be shown, and the survey line shall be shown as a dashed line.
 6. The outside boundary lines of the plat shall close by latitude and departure with an error not to exceed one foot in ten thousand feet.
 7. All rivers, streams, creeks, lakes, ponds, swamps, and all public highways, streets and alleys laid out, opened, or traveled (existing before the platting) shall be correctly located and plainly shown and designated on the plat.
 8. The names and adjacent boundary lines of any adjoining platted lands shall be dotted on the plat.
 9. A border line shall be placed one-half inch inside the outer edges of the plat on the top, bottom and right hand side of the plat; a border line shall be placed two inches inside the outer edge on the left hand side of the plat.
 10. The scale shall be shown graphically and the basis of bearings shall be shown.

11. The purpose of any easement shown on the plat must be clearly stated and shall be confined to only those that deal with public utilities, and such drainage easements as deemed necessary for the orderly development of the land encompassed within the plat. Building setbacks shall not be shown on the plat. All easements created or dedicated by such plat must be approved by the governing or jurisdictional body or its agent prior to recording of the final plat.
12. Any such plat which includes lands abutting upon any lake or stream shall show, for the purpose of information only, a contour line denoting the present shore line, water elevation and the date of survey. If any portion of a plat lies within the intermediate regional flood plain (100 year flood plain) of a river or stream as designated by the North Dakota Water Commission, or United States Corps of Engineers, the mean sea level elevation of the said intermediate regional flood (100 year flood) shall be denoted on the plat by numerical figures. Topographic contours at a two foot contour interval referenced to mean sea level shall be shown for the portion of the plat lying within said flood plain. All elevations shall be referenced to a durable bench mark described on the plat together with its location and elevation to the nearest hundredth of a foot, which shall be given in mean sea level datum if such bench mark with known sea level datum is available within one-half mile or such longer distance as may be practicable.

SECTION 2. AMENDMENT.) Section 40-50-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-03. ~~BASE--LINE--FORMED--BY--STONES--PLACED--IN--GROUND--)--At the time of surveying--and--laying--out--a--townsite--addition--or subdivision--of--outlets--the--proprietor--of--the--townsite--either personally--or--by--his--agent--shall--plant--and--fix--firmly--in--the--ground on--the--line--of--the--main--streets--of--the--townsite--addition--or subdivision--two--good--and--sufficient--stones--of--such--size--and dimension--as--the--surveyor--shall--direct--The--stones--shall--be--at least--two--hundred--fifty--yards--apart--and--the--point--or--points--where the--same--may--be--found--shall--be--designated--on--the--plat--or--map--The line--thus--formed--shall--be--a--base--line--from--which--to--make--future surveys-~~ MONUMENTS REQUIRED FOR SURVEY - PENALTY FOR DESTRUCTION THEREOF.) Durable ferromagnetic monuments shall be set at all angle and curve points on the outside boundary lines of the plat. Any monuments or permanent evidence of the survey shall have inscribed thereon the registration number of the land surveyor making the survey. Any person who removes or destroys any existing survey or reference monuments or landmarks evidencing property lines or corner posts shall be guilty of a class B misdemeanor.

SECTION 3. AMENDMENT.) Section 40-50-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-50-04. CERTIFYING AND RECORDING OF PLAT OR MAP.) After the plat or map has been completed, it shall be certified by the surveyor and the officers, if it is correct. No plat shall be recorded until it is approved by the engineer of the municipality affected by the plat, or if there is no such municipal engineer, by the governing body of such municipality. Every person whose duty it is to comply with the provisions of this chapter, before the plat or map is offered for record, shall acknowledge the same before a person authorized to take acknowledgments. A certificate of the acknowledgment shall be endorsed on the plat or map by the officer taking the same, and such certificate or survey and acknowledgment shall be recorded and shall form a part of the record. INSTRUMENTS OF DEDICATION - CERTIFYING AND RECORDING OF PLAT.) The plat shall contain a written instrument of dedication, which shall be signed and acknowledged by the owner of the land. All signatures on the plat shall be written with black ink (not ball point). The instrument of dedication shall contain a full and accurate description of the land platted. The surveyor shall certify on the plat that the plat is a correct representation of the survey, that all distances are correct and monuments are placed in the ground as shown, that the outside boundary lines are correctly designated on the plat. The certificate shall be sworn to before any officer authorized to administer an oath. The plat shall be presented for approval to the governing body affected by such plat together with a title opinion stating the name of the owner of record.

Every plat, when duly certified, signed, and acknowledged, shall be filed and recorded in the office of the county register of deeds. No plat shall be recorded until it is approved by the governing body affected by the plat and a certificate evidencing such approval is presented to the register of deeds.

SECTION 4.) Section 40-50-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-50-19.1. NOTICE OF ERRORS ON RECORDED PLAT - CERTIFICATE BY ORIGINAL SURVEYOR.) Notwithstanding section 40-50-12, in any case where a land plat or subdivision, or what purports to be a land plat or subdivision, has been executed and filed in the office of the register of deeds of the county where the land is situated, which fails to identify or correctly describe the land to be so platted or subdivided, or to show correctly upon its face the tract of land intended or purported to be platted or subdivided thereby or is defective by reason of the plat or subdivision and the description of land purported to be so platted or subdivided thereby being inconsistent or incorrect, the registered surveyor who prepared such plat or subdivision may execute a certificate stating the nature of the error, omission or defect and stating the information which said surveyor believes corrects such error, supplies such omission or cures such defect, referring, by correct book and page, to such plat or subdivision and designating its name, if there is a name. Such certificate shall be dated and signed by such registered surveyor.

SECTION 5.) Section 40-50-19.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

40-50-19.2. FILING AND RECORDING OF SURVEYORS CERTIFICATES.)
The register of deeds of the county in which the land so platted or subdivided is located shall accept each such certificate for filing and recording in his office upon payment of a fee therefor commensurate with the length of the certificate. Neither witnesses nor an acknowledgment shall be required on any such certificate, but it shall be signed by the registered surveyor and shall state following his signature that he is a registered surveyor in the state of North Dakota. The register of deeds shall make suitable notations on his record of the plat or subdivision to which such certificate refers to direct the attention of anyone examining such plat or subdivision to the record of such certificate. No such certificate shall have the effect of destroying or changing vested rights acquired based upon an existing plat or subdivision despite errors or defects therein or omissions therefrom.

SECTION 6. REPEAL.) Section 40-50-02 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1979

CHAPTER 452

HOUSE BILL NO. 1409
(Mertens)

RECREATION BOARD OR COMMISSION

AN ACT to amend and reenact sections 40-55-06 and 40-55-07 of the North Dakota Century Code, relating to rural representation on recreation boards.

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

SECTION 1. AMENDMENT.) Section 40-55-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-06. ESTABLISHING RECREATION BOARD OR COMMISSION - MEMBERS - TERMS - VACANCY - COMPENSATION.) If the governing body of any municipality, school district, or park district ~~determined~~ determines that ~~the power to provide, establish, conduct and maintain~~ a public recreation system shall be ~~exercised by a recreation board or commission, such~~ established, the governing body shall by resolution or ordinance establish in such municipality, school district or park district, a recreation board or commission which shall possess all the powers and be subject to all the responsibilities of the local authorities under this chapter. ~~Such~~ The members of the recreation board or commission shall be appointed by the mayor or presiding officer of the municipality, park district or school district involved, whichever of said political subdivisions establishes the recreation system. The recreation board or commission when established shall consist of at least five but not more than nine persons, as the governing body may determine, to be appointed by the mayor or presiding officer of such the municipality, park district or school district, with the consent of the governing body. One member of such the recreation board or commission shall be chosen from the legal membership of the park district board, or board of park commissioners of the municipality area involved, one shall be chosen from the membership of the governing body of the municipality, and one member of from the legal membership of the school district board or boards within the corporate limits of such municipality involved. The remaining members shall be chosen at large from the largest geographic area represented by the municipality, park district or school district involved. The term of office of all members of such recreation

board or commission shall be for three years except that the members of such recreation board or commission first appointed shall be for staggered terms so that the terms of at least one but not more than three members expire annually. If a vacancy occurs during the term of office of any member, the mayor or presiding officer of the municipality, school district or park district involved, with the consent of the governing body, shall appoint a successor to serve for the unexpired term. Membership on ~~such~~ the recreation board or commission shall be without compensation or remuneration.

SECTION 2. AMENDMENT.) Section 40-55-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-55-07. GOVERNING BODY, BOARD, OR COMMISSION MAY ACCEPT GRANTS OF REAL ESTATE AND MONEY - CONDITIONS.) The governing body of a municipality, school district, or park district, recreation board or commission or other authority in which is vested the power to provide, establish, maintain and conduct such supervised recreation system may accept any grant or devise of real estate or any gift or bequest of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or recreation purposes, but if the acceptance thereof for such purposes will subject such municipality, school district, or park district, to additional expense for improvement, maintenance or removal, the acceptance of any grant or devise of real estate shall always be subject to the approval of the governing body of such municipality, school district, or park district. Money received for such purpose, unless otherwise provided by the terms of the gift or bequest shall be deposited with the treasurer of ~~such municipality~~ the governing body to the account of the recreation board or commission or other body having charge of such work, and the same may be withdrawn and paid out by such body in the same manner as money appropriated for recreation purposes.

Approved April 7, 1979

CHAPTER 453

HOUSE BILL NO. 1308
(Berg)

MIDA PROJECT BIDDING REQUIREMENT

AN ACT to amend and reenact subsection 12 of section 40-57-03 of the North Dakota Century Code, relating to the powers of a municipality under the Municipal Industrial Development Act, and providing that construction, reconstruction, improvement, and betterment projects where the lessee is a governmental entity or public institution are subject to chapter 48-02 which deals with government construction projects.

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

SECTION 1. AMENDMENT.) Subsection 12 of section 40-57-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. In any instance where the project acquired by the municipality consists of the construction, reconstruction, improvement, betterment of real property, buildings and improvements on real property and buildings, the provisions of chapter 48-02 and other applicable statutes shall apply; except that the municipality, in the lease and resolution or mortgage defining the terms and conditions upon which the project is to be constructed, leased, and financed, or in a preliminary agreement establishing the general terms of the lease and financing of the project when constructed, may permit the a lessee which is not a governmental entity or a public institution, subject to such terms and conditions as the municipality shall find necessary or desirable and proper, to provide for the construction, acquisition, and installation of the buildings, improvements, and equipment to be included in the project by any means available to the lessee, whether or not the procedure followed by the lessee is in conformity with said chapter 48-02.

Approved March 3, 1979

CHAPTER 454

SENATE BILL NO. 2068
(Legislative Council)
(Interim Committee on Industry, Business and Labor)

MIDA BOND ISSUANCE NOTICE AND HEARING

AN ACT to amend and reenact section 40-57-04 of the North Dakota Century Code, relating to project authorization and bond issuance under the Municipal Industrial Development Act of 1955 and requiring a public notice and hearing prior to project authorization and bond issuance.

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

SECTION 1. AMENDMENT.) Section 40-57-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-04. RESOLUTION AUTHORIZING PROJECT AND THE ISSUANCE OF REVENUE BONDS - PUBLIC NOTICE AND HEARING - NO ELECTION REQUIRED.) The acquisition, construction, reconstruction, improvement, betterment, extension, or financing of any project, and the issue of bonds in anticipation of the collection of the revenues of such project to provide funds to pay for the cost thereof, may be authorized by an ordinance or resolution of the governing body adopted at a regular meeting thereof by the affirmative vote of a majority of its members. No Prior to the issuance of revenue or refunding bonds under authority of this chapter, the governing body shall give notice and hold a public hearing on the proposed bond issue. Notice of the hearing shall be published in the official newspaper of the municipality once a week for two successive weeks prior to the time set for the hearing. The notice shall specify the time and place of the hearing, and the amount and purpose of the proposed bond issue. The governing body shall not approve the bond issue unless it appears, after the public hearing, that such approval is in the public interest of the municipality. Except as provided in section 40-57-19, no election shall be required to authorize the use of any of the powers conferred by this chapter.

Approved March 12, 1979

CHAPTER 455

SENATE BILL NO. 2069
(Legislative Council)
(Interim Committee on Industry, Business and Labor)

MIDA BOND ISSUANCE FOR COMPETING ENTERPRISES

AN ACT to create and enact a new section to chapter 40-57 of the North Dakota Century Code, relating to limitations on a municipality's authority to issue bonds under the Municipal Industrial Development Act of 1955 if the proposed project would receive an unfair competitive advantage to the substantial detriment of existing enterprises.

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

SECTION 1.) A new section to chapter 40-57 of the North Dakota Century Code is hereby created and enacted to read as follows:

NOTICE TO COMPETITORS - AUTHORITY TO ISSUE BONDS LIMITED IF PROJECT WOULD COMPETE WITH EXISTING ENTERPRISES.) Prior to approval of the issuance of any bonds under authority of this chapter, the governing body of the municipality shall, when a competitive project is involved, include notice of the competitive nature of the proposed project in the public notice required to be published prior to the public hearing required under section 40-57-04. The governing body shall not approve the bond issue unless it appears that the impact and effect of the issue upon existing industry and business will not result in an unfair advantage for the proposed project to the substantial detriment of existing enterprises.

Approved March 12, 1979

CHAPTER 456

SENATE BILL NO. 2067
(Legislative Council)
(Interim Committee on Industry, Business and Labor)

MIDA BOND ISSUANCE NOTIFICATION

AN ACT to amend and reenact section 40-57-05 of the North Dakota Century Code, relating to notification to the state securities commissioner of the issuance of bonds under the Municipal Industrial Development Act of 1955 and ensuring that the consent of any governmental body or public officer of the state is not required to authorize the issuance or sale of bonds.

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

SECTION 1. AMENDMENT.) Section 40-57-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-05. ~~NO NOTICE TO SECURITIES COMMISSIONER - APPROVAL OF PUBLIC OFFICER NOT REQUIRED.)~~ Upon the issuance of bonds under this chapter, the project lessee shall furnish the state securities commissioner the following information concerning the project:

1. The name of the project lessee.
2. The location and nature of the project.
3. The amount and nature of the bonds issued.
4. The general terms and nature of the financing arrangement.
5. A copy of the official statement of the offering.

The consent of any governmental body or public officer of the state shall not be required to authorize the issuance or sale of bonds or the making of any mortgage in connection therewith.

Approved March 12, 1979

UNIFORM COMMERCIAL CODE

CHAPTER 457

SENATE BILL NO. 2405
(Roen, Albers, Sands)

IMPLIED WARRANTIES IN SALE OF LIVESTOCK

AN ACT to amend and reenact subsection 3 of section 41-02-33 of the North Dakota Century Code, relating to the applicability of implied warranties in the sale of cattle, hogs, sheep, and horses.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 41-02-33 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notwithstanding subsection 2:

- a. ~~unless~~ Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty ~~and~~.
- b. ~~when~~ When the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him ~~and~~.
- c. ~~an~~ An implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade ~~and~~.
- d. ~~the~~ The implied warranties of merchantability and fitness shall not be applicable to a contract for the sale of human blood, blood plasma, or other human tissue or organs from a blood bank or reservoir of such other tissues or organs. Such blood, blood plasma, or tissue or organs shall not for the purposes

of this chapter be considered commodities subject to sale or barter, but shall be considered as medical services.

- e. With respect to the sale of cattle, hogs, sheep, and horses, there shall be no implied warranty that cattle, hogs, sheep, and horses are free from sickness or disease at the time the sale is consummated, conditioned upon reasonable showing by the seller that all state and federal regulations pertaining to animal health were complied with.

Approved April 7, 1979

OCCUPATIONS AND PROFESSIONS

CHAPTER 458

HOUSE BILL NO. 1477
(Martinson)

ARCHITECT'S LIABILITY FOR FAULT

AN ACT to create and enact a new section to chapter 43-03 of the North Dakota Century Code, relating to architects.

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

SECTION 1.) A new section to chapter 43-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

ARCHITECT NOT LIABLE FOR CONTRACTOR'S FAULT UNLESS RESPONSIBILITY ASSUMED - LIABILITY FOR OWN NEGLIGENCE.) An architect shall not be liable for the safety of persons or property on or about a construction project site, or for the construction techniques, procedures, sequences and schedules, or for the conduct, action, errors, or omissions of any construction contractor, subcontractor, or material supplier, their agents or employees, unless he assumes responsibility therefor by contract or by his actual conduct. Nothing herein shall be construed to relieve an architect from liability from his negligence, whether in his design work or otherwise.

Approved March 15, 1979

CHAPTER 459

HOUSE BILL NO. 1313
(Hedstrom, Gunderson, Stenehjem)

BARBERING REGULATION

AN ACT to amend and reenact sections 43-04-02 and 43-04-07, subsection 2 of section 43-04-11, subsection 5 of section 43-04-12, and section 43-04-42 of the North Dakota Century Code, relating to a declaration of policy, the compensation of members of the board of barber examiners, rules and orders, the general powers of the board, and the fees to be paid by an applicant for a barbering license; and to repeal sections 43-04-16 and 43-04-17 of the North Dakota Century Code, relating to an order fixing minimum barber service price schedules and the amendment or modification of price schedules after approval.

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

SECTION 1. AMENDMENT.) Section 43-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-02. DECLARATION OF POLICY.) It is hereby declared that the practice of barbering, by reason of the personal contacts exercised therein, is a business affecting the public health, public welfare, and public safety, ~~that--unfair--and--uneconomic--trading practices--which--have--been--and--are--now--being--carried--on--in--the operation--of--barber--shops--in--this--state,--and--unfair--competition existing--between--individual--barber--shop--operators--of--this--state--have brought--about--an--unjust--and--uneconomic--reduction--in--prices--for services--commonly--performed--by--said--profession,--and--that--the decrease--in--income--and--purchasing--power--resulting--from--such reduction--in--prices--have--made--it--impossible--for--many--members--of--said occupation--within--this--state--to--maintain--a--healthful--standard--of living,--and--to--purchase--the--sanitary--products--and--equipment necessary--to--support--and--maintain--reasonably--safe--and--healthful barbering--service--to--the--public--and--in--the--interests--of--public welfare,--public--health,--and--public--safety,~~ that immediate public supervision and control of said occupation in the exercise of the police power of this state and in accordance with the proper standards of said profession, are necessary to the protection and preservation of the public health, public safety, and public

welfare, and that this chapter is enacted in the exercise of the police power of this state to protect the public welfare, public health, and public safety.

SECTION 2. 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 EXPENSES~~ - HOW PAID.) Each member of ~~said~~ the board shall receive ~~twenty~~ thirty dollars per day for actual services and shall also be paid ~~his~~ actual expenses as provided by law incurred in attending ~~said~~ meetings of the board 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 3. AMENDMENT.) Subsection 2 of section 43-04-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Every other rule or order of the board shall be posted for public inspection in the main office of the board, and a certified copy shall be filed in the office of the secretary of the board and published in the press publications representing the barber industry. An order applying only to a person or persons named therein shall be served on the person or persons affected. An order herein required shall be served by personal delivery of a certified copy or by mailing a certified copy in a sealed envelope with postage prepaid to each person affected thereby, or in the case of a corporation, to an officer or agent of the corporation upon whom a summons may be served in accordance with the provisions of law. The posting in the main office of the board of any rule or order not required by this chapter to be served, and such filing in the office of the secretary of the board and publishing in representative publications, shall constitute due and sufficient notice to all persons affected by such rule or order. A rule of the board when duly published, posted, and filed as provided in this section, shall have binding force and effect. ~~The provisions of this section as to service of orders shall not apply to orders fixing minimum prices--as to which provision is made in section 43-04-16.~~

SECTION 4. AMENDMENT.) Subsection 5 of section 43-04-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The board shall sponsor an educational program to carry out the purposes of protecting the public health and safety by encouraging barber shops that are clean, healthful, and sanitary with capable, skilled, professional barbers. The board is directed to use the sum of ~~three~~ five dollars from each fee paid for the

renewal of any barber's certificate for the purpose of such educational program.

SECTION 5. AMENDMENT.) Section 43-04-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-04-42. FEES.) The fees to be paid by an applicant are as follows:

1. For examination for a certificate to practice master barbering, twenty dollars.
2. For issuance of such certificate, two dollars.
3. For examination for a certificate to practice as an apprentice barber, ten dollars.
4. For issuance of such certificate, two dollars.
5. For renewal of master barber's certificate, ~~fifteen~~ twenty-five dollars.
6. For restoration of expired master barber's certificate, a ~~five~~ ten dollar penalty fee in addition to the regular renewal fee.
7. For renewal of apprentice barber's certificate, ~~ten~~ fifteen dollars.
8. For restoration of expired apprentice barber's certificate, a ~~five~~ ten dollar penalty fee in addition to the regular renewal fee.
9. For a permit to operate a barber school or college, an annual fee of one hundred twenty-five dollars.
10. Annual establishment fees to be paid by each shop owner in advance, five dollars for the first barber chair and two dollars for each additional barber chair which is usable in the shop.

Each application to open or establish a barber shop in this state shall be accompanied by a fee of ~~twenty-five~~ fifty dollars to cover expenses of inspection, which shall be retained by the board and deposited as other fees. A duplicate license, certificate, or permit will be issued upon the filing of a statement covering the loss of the same, verified by the oath of the applicant, and submitting a signed photograph of the applicant and the payment of a fee of fifty cents for the issuance of the duplicate. The board shall have the power to reduce renewal fees below the amounts heretofore set out in this section whenever ~~such~~ the board determines that the full amount is not necessary to finance the necessary and regular operations of the board. Such reduction shall be made by the board only by applying an equal percentage of

reduction to all renewal fees provided for in this chapter, and such reduction shall be made when commencing the licensing year and shall be in effect for the whole of such year. Anyone becoming a member of the armed forces of the United States in time of war while holding a license as a barber or apprentice and while in good standing as to payment of fees, may obtain a restoration of his certificate without payment of ~~such~~ the restoration fee.

SECTION 6. REPEAL.) Sections 43-04-16 and 43-04-17 of the North Dakota Century Code are hereby repealed.

Approved March 7, 1979

CHAPTER 460

SENATE BILL NO. 2191
(Hanson, Olin)

CONTRACTOR LICENSE RENEWAL

AN ACT to amend and reenact section 43-07-10 of the North Dakota Century Code, relating to the renewal of licenses for contractors.

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

SECTION 1. AMENDMENT.) Section 43-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-10. RENEWAL OF LICENSE.) Any license issued under the provisions of this chapter may be renewed for each successive calendar year by obtaining from the registrar a certificate of renewal thereof. For the purpose of obtaining such certificate of renewal, the licensee shall file with the registrar an application therefor, which application shall be accompanied by a list in duplicate showing each contract or subcontract obtained by the licensee during the ~~preceeding~~ calendar year in North Dakota for which a license was required under this chapter, the nature of the work contracted or subcontracted, and, if a performance bond was required by the contract, the name and address of the corporation or other person who issued the bond. The registrar shall within a reasonable time forward one copy of such list to the state tax commissioner and shall also indicate whether or not the license of the applicant was renewed by him. The application for such certificate of renewal must be made to the registrar on or before the first day of ~~April~~ January of each successive calendar year. ~~Such renewal certificate shall be good for the then current calendar year.~~ At the time of filing the application for a certificate of renewal, the applicant shall pay to the registrar a license fee equal to twenty percent of the license fee for the original license. If any applicant for a certificate of renewal shall apply for a renewal under a class different from the license theretofore issued to him, such new license shall be issued only upon the showing and under the terms and conditions and upon the payment of the same fee required for the issuance of an original license of the class applied for. All certificates of renewal wherein the applicant does not apply for a change in the class of license shall be issued by the registrar to the applicant when the application is properly filed and the license renewal fee is paid.

Approved March 10, 1979

CHAPTER 461

SENATE BILL NO. 2211
(Hanson)

ELECTRICIAN SURETY BOND

AN ACT to amend and reenact section 43-09-14 of the North Dakota Century Code, relating to the surety bond of a master and class B electrician.

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

SECTION 1. AMENDMENT.) Section 43-09-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-09-14. MASTER ELECTRICIAN AND CLASS B ELECTRICIAN - BOND.) Before receiving a license as entering into a contract agreement or undertaking with another for the installation of electrical wiring or installation of electrical parts of other apparatus, a master electrician or as a class B electrician, ~~an applicant~~ shall execute and deposit with the board a surety bond, unless such a bond has been previously deposited, in the sum of ~~two~~ three thousand dollars for a master electrician or ~~one~~ two thousand dollars for a class B electrician conditioned for the faithful performance of all electrical work undertaken by him and the strict compliance with all the provisions of this chapter and the requirements of the board. In cities requiring a bond by virtue of a city ordinance, such bond shall not be superseded by the bond required by this section.

Approved March 10, 1979

CHAPTER 462

HOUSE BILL NO. 1422
(Wessman)

EMBALMER AND FUNERAL ESTABLISHMENT LICENSE FEES

AN ACT to amend and reenact sections 43-10-05, 43-10-13, 43-10-14, 43-10-15, and 43-10-22 of the North Dakota Century Code, relating to the power of the board of embalmers to establish license fees, the fees for embalmer licenses issued after examination and without examination, license renewal fees, and license and renewal fees for funeral establishments.

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

SECTION 1. AMENDMENT.) Section 43-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-05. POWER OF BOARD TO ADOPT RULES FOR TRANSACTION OF BUSINESS - SEAL - LICENSE FEES.) The board may:

1. Adopt such regulations for the transaction of its business and the management of its affairs as it deems expedient.
2. Adopt and use a seal.
3. Promulgate regulations requiring that each funeral home, at the time of selection of merchandise and services from such funeral home, disclose in writing to the person or persons making the selection:
 - a. The total price at retail of the merchandise and services selected and a listing of what merchandise and services are included within such total.
 - b. The price at retail of each item of supplemental service or merchandise requested.
 - c. The amount of cash advances to the extent that the same are known or can be ascertained at the time of the selection.

d. The terms by which payment for merchandise and services is to be made.

4. Establish license and renewal fees for embalmers and funeral establishments within the limits imposed by this chapter.

SECTION 2. AMENDMENT.) Section 43-10-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-13. LICENSE - WHEN GRANTED - FEE - SIGNED BY MAJORITY OF BOARD - NONTRANSFERABLE - WHERE DISPLAYED.) The board shall grant a license to practice embalming or preparing dead human bodies for burial or shipment, if the applicant:

1. Has the required qualifications;
2. Has passed the required examination; and
3. Has paid to the treasurer of the board the sum of fifteen not more than seventy-five dollars, as established by the board.

The license shall be signed by a majority of the members of the board and shall be attested by its seal and shall specify by name the person to whom it is issued. A license shall be nonassignable and nontransferable and shall be displayed by the licensee in a conspicuous place in his office or place of business.

SECTION 3. AMENDMENT.) Section 43-10-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-14. LICENSE - ISSUED WITHOUT EXAMINATION.) The board may issue a license to practice embalming or preparing dead human bodies for burial or shipment to an applicant who has not taken the examination if:

1. He holds a license to practice embalming issued to him by another state where the requirements for a license are equivalent to those of this state and where like privileges are accorded to holders of licenses issued in this state.
2. He pays the fee of fifty not more than one hundred dollars, as established by the board.

SECTION 4. AMENDMENT.) Section 43-10-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-15. LICENSE - TERM - RENEWAL - FEE FOR RENEWAL.) The license to practice embalming or preparing dead human bodies for burial shall be issued for one year only but shall be renewed by the board upon the payment to the treasurer of the annual renewal fee. The amount of such the fee shall ~~be determined by the board but~~

~~shall~~ not exceed ~~twenty-five~~ fifty dollars. The board may refuse to renew the license for cause.

SECTION 5. AMENDMENT.) Section 43-10-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10-22. LICENSURE OF FUNERAL ESTABLISHMENTS.) After January 1, 1964, no person shall operate or manage, for himself or others, a funeral establishment without a funeral establishment license issued by the state board of embalmers for each ~~such~~ place of business. No funeral establishment shall be located on tax-exempt property. Any person desiring to operate a funeral establishment shall submit an application for an annual license for each funeral establishment to the secretary of the state board of embalmers accompanied by a license fee for each establishment of ~~twenty-five not more than fifty~~ dollars, as established by the board. Thereafter each person operating or managing a funeral establishment shall annually, on or before ~~January~~ December first, submit an application for renewal of such license together with a renewal fee of ~~ten~~ not more than fifty dollars, as established by the board. Such licenses shall be valid until the following January first, unless sooner revoked as hereinafter provided. All applications must show that the funeral establishment sought to be licensed has complied with all rules and regulations promulgated by the board in regard to safety and sanitation and will be under the supervision of a North Dakota licensed embalmer. Any applicant who has met these standards shall be issued a license. In case of the death of an owner of a funeral establishment who leaves an established business as part or all of his estate, the said board may issue a special renewable temporary license to the ~~legal~~ personal representative of ~~such the~~ deceased person for the duration of the administration of the estate, but which shall in no instance exceed two years. The fee for such temporary license shall be the same as required for regular licenses. Any person operating a funeral establishment as defined in section 43-10-21, who is engaged in business at a fixed location in North Dakota on the date of approval of sections 43-10-21 through 43-10-24 may apply for and be entitled to a funeral establishment license on the same basis as would a currently licensed embalmer.

Approved March 8, 1979

CHAPTER 463

HOUSE BILL NO. 1219
(Committee on Industry, Business and Labor)
(At the request of the Securities Commissioner)

PRE-NEED FUNERAL SERVICES

AN ACT to create four new sections to chapter 43-10.1 of the North Dakota Century Code, relating to application of chapter 28-32 to this chapter, and to fraudulent practices, orders, injunctions, investigations, and subpoenas under the pre-need funeral services laws; to amend and reenact section 43-10.1-07 of the North Dakota Century Code, relating to prosecutions for violation of the pre-need funeral services laws; to amend and reenact section 43-10.1-08 of the North Dakota Century Code, relating to penalties for violation of this Act; and to repeal section 43-10.1-06 of the North Dakota Century Code, relating to special audits of funeral establishments or cemetery associations under the reporting requirements of the pre-need funeral services laws.

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

SECTION 1.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

ADMINISTRATION.) The commissioner of securities shall have the power to promulgate rules and regulations having the force and effect of law, reasonably necessary to carry out the provisions of this chapter, in accordance with chapter 28-32. Any hearing held and any orders issued pursuant to this chapter shall be in accordance with chapter 28-32. In addition to those powers set forth in chapter 28-32, the commissioner of securities shall have additional powers as set forth in this chapter.

SECTION 2.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

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 report or other document or statement required to be filed under any provision of this chapter, or to omit to state any material statement or fact in any such document or statement which is necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading.
2. For any person, in connection with the sale of any pre-need funeral service or personal property, directly or indirectly, to employ any device, scheme, or artifice to defraud.
3. For any person, in connection with the sale of any pre-need funeral service or personal property, 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.

SECTION 3.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

ORDERS AND INJUNCTIONS.) Whenever it shall appear to the commissioner either upon complaint or otherwise, that any person has engaged in, is engaging in, or is about to engage in any act or practice or transaction which is prohibited by this chapter or by any order of the commissioner issued pursuant to any section of this chapter or which is declared to be illegal in this chapter, the commissioner may, in his discretion:

1. Issue any order, including but not limited to cease and desist, stop, and suspension orders, which he deems necessary or appropriate in the public interest or for the protection of purchasers; provided, however, that any person aggrieved by an order issued pursuant to this subsection may request a hearing before the commissioner if such request is made within ten days after receipt of the order. Such hearing shall be held in accordance with chapter 28-32 as shall be any appeal therefrom.
2. Apply to the district court of any county in this state for an injunction restraining such person and his agents, employees, partners, officers, and directors from continuing such act, practice, or transaction of engaging therein or doing any acts in furtherance thereof, and for such other and further relief as the facts may warrant. In any proceeding for an injunction, the commissioner may apply for and on due showing be entitled to have issued the court's subpoena requiring the appearance forthwith of any defendant and his agents, employees, partners, officers, or directors, and the production of such

documents, books, and records as may appear necessary for the hearing upon the petition for an injunction. Upon proof of any of the offenses described in this section, the court may grant such injunction as the facts may warrant. The court may not require the commissioner to post a bond.

SECTION 4.) A new section to chapter 43-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

INVESTIGATIONS AND SUBPOENAS.)

1. The commissioner in his discretion:
 - a. May make such public or private investigation within or outside this state as he deems necessary to determine whether any person has violated or is about to violate any provision of this chapter of any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder.
 - b. May require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter to be investigated.
 - c. May publish information concerning any violation of this chapter or any rule or order hereunder.
2. For the purpose of any investigation or proceeding under this chapter, the commissioner or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.
3. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the district court, upon application by the commissioner, may issue to the person an order requiring him to appear before the commissioner, or the officer designated by him, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.
4. No person is excused from attending and testifying or from producing any document or record before the commissioner, or in obedience to the subpoena of the commissioner or any

officer designated by him, or in any proceeding instituted by the commissioner, on the ground that the testimony or evidence (documentary or otherwise) required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after claiming his privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

SECTION 5. AMENDMENT.) Section 43-10.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-07. PROSECUTION FOR VIOLATIONS OF LAW.) If, as a result of verification procedures or ~~special--audits~~ investigations as provided in sections 43-10.1-05 and ~~43-10.1-06~~ 3 of this Act, or based upon other reliable information, the commissioner of securities, after consultation with the attorney general, shall believe that grounds for criminal prosecution of the operator or manager of any licensed funeral establishment or cemetery association or any other person exist for violation of this chapter or any other law of this state, the commissioner of securities may forward such information and evidence as is available or known to him to the state's attorney of the county having jurisdiction over such violation for such criminal prosecution of such operator, manager, or other person as the information and evidence requires.

SECTION 6. AMENDMENT.) Section 43-10.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-10.1-08. ~~PENALTIES FOR VIOLATION OF CHAPTER.~~) Any person who ~~shall refuse, fail, or neglect to file any report and provide any information as required by section 43-10.1-03 after written notification by the commissioner of securities that he is required to do so, or who shall otherwise violate any provisions of this chapter,~~ willfully violates any provision of this chapter or any rule or order of the commissioner made pursuant to the provisions of this chapter, or who engages in any act, practice, or transaction declared by any provision of this chapter to be unlawful shall be guilty of a class ~~A-misdemeanor~~ C felony.

SECTION 7. REPEAL.) Section 43-10.1-06 of the North Dakota Century Code is hereby repealed.

Approved March 10, 1979

CHAPTER 464

HOUSE BILL NO. 1357
(Wald, Hedstrom)

HAIRDRESSERS AND COSMETOLOGISTS

AN ACT to create and enact a new subsection to section 43-11-31 of the North Dakota Century Code, relating to refusal to grant a certificate of registration for hairdressers and cosmetologists; and to amend and reenact sections 43-11-11 and 43-11-12, subsection 2 of section 43-11-16, sections 43-11-17 and 43-11-19, subsection 1 of section 43-11-20.1, subsections 3 and 4 of section 43-11-21, sections 43-11-24 and 43-11-25, subsections 1 and 2 of section 43-11-26, subsections 1, 2, and 3 of section 43-11-27, subsections 1, 2, and 3 of section 43-11-28, and section 43-11-30 of the North Dakota Century Code, relating to sanitary rules, aid of the board of hairdressers and cosmetologists, registered schools, fees for certificates of registration for schools, student registration, tuition refund, operator's certificate examination, operator's certificate without examination, manager-operator, instructor's license, renewal of certificate, and revocation of certificate.

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

SECTION 1. AMENDMENT.) Section 43-11-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-11. SANITARY RULES.) The board, with the approval of the state department of health, shall ~~prescribe--such~~ adopt those sanitary rules as it may--deem deems necessary to be employed--to prevent the creating and spreading of infectious and contagious diseases. The board shall adopt other rules consistent with and necessary to carry out the provisions of this chapter. A hairdressing or cosmetician shop shall ~~be separate from all other businesses and establishments and shall not be used for living or sleeping quarters.~~ An operator may practice outside of ~~such the~~ establishment under the direction and control of an owner or manager thereof under ~~such regulations as~~ rules promulgated by the board may provide.

SECTION 2. AMENDMENT.) Section 43-11-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-12. PERSONS CALLED TO AID OF BOARD.) The board may call to its aid any person of established reputation and known ability in hairdressing and cosmetology for the purpose of conducting examinations, inspections, and investigations of any or all persons, firms, or corporations affected by this chapter. ~~Such~~ The person shall not be connected with any school teaching any of the occupations under this chapter. Any person called by the board to its aid shall receive for ~~her~~ those services not more than ~~ten~~ thirty-five dollars for each day employed in the actual discharge of ~~her~~ official duties, and ~~her~~ actual and necessary expenses to be paid in the same manner as the compensation and expenses of members of the board are paid.

SECTION 3. AMENDMENT.) Subsection 2 of section 43-11-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Requires one thousand five eight hundred hours of training and instruction in cosmetology;

SECTION 4. AMENDMENT.) Section 43-11-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-17. CERTIFICATE OF REGISTRATION ISSUED FOR SCHOOLS OF HAIRDRESSING, COSMETOLOGY, AND SHOPS - FEE FOR ANNUAL REGISTRATION.) The board may issue an annual certificate of registration for a school giving instruction in hairdressing and cosmetology. The annual registration fee for ~~such~~ a school shall be determined annually by the board, but shall not exceed the sum of one hundred dollars. The board shall, after inspection and approval, issue a shop registration certificate, the annual fee for which shall be determined annually by the board, but shall not exceed fifty dollars for new registrations and ~~not exceed--ten~~ twenty-five dollars for shops previously registered.

SECTION 5. AMENDMENT.) Section 43-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-19. STUDENTS - REGISTRATION.) A student hairdresser and cosmetologist, ~~as defined by section 43-11-01,~~ shall be registered with the board, but to be registered as a student one shall have the following qualifications:

1. Be at least seventeen years of age.
2. Be of good moral character.
3. Have educational qualifications equivalent to completion of two years of high school.

4. Have matriculated in a registered school and complied with the preliminary requirements thereof.

The names and qualifications of all students shall be certified to the board by each registered school. The certification of the names and qualifications of the students registered at each school shall be accompanied by a processing fee for each student in an amount as may be fixed by the board, not to exceed five dollars.

SECTION 6. AMENDMENT.) Subsection 1 of section 43-11-20.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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.

SECTION 7. AMENDMENT.) Subsections 3 and 4 of section 43-11-21 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. ~~Such~~ An examination fee as may be fixed by the board ~~which shall not to exceed fifteen~~ twenty dollars ~~for--both classifications.~~
4. Satisfactory proof that the applicant has the required training in a registered school which shall not be less than one thousand ~~five~~ eight hundred hours for hairdressers and cosmetologists.

SECTION 8. AMENDMENT.) Section 43-11-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-24. OPERATOR'S CERTIFICATE - WHEN ISSUED - FAILURE TO PASS EXAMINATION - REEXAMINATION.) An operator's certificate shall be issued to any person who has:

1. Complied with the provisions of section 43-11-21; and
2. Passed to the satisfaction of the board, the examination of applicants for a certificate to practice under this chapter.

If the applicant fails to pass the examination, the examination fee shall not be returned ~~to--her~~, but within one year after such examination, ~~she~~ the applicant may be examined again ~~without~~ with the payment of an additional examination fee as may be fixed by the board, not to exceed twenty dollars.

SECTION 9. AMENDMENT.) Section 43-11-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-25. CERTIFICATE ISSUED WITHOUT EXAMINATION - CONDITIONS.) The board may dispense with the examination of applicants for certificates to practice hairdressing and cosmetology and may grant ~~such~~ certificates of registration upon the payment of a fee ~~of--thirty-five~~ as may be fixed by the board, not to exceed forty dollars, if:

1. The applicant has complied with the requirements for registration of the District of Columbia, or another state, territory, foreign country, or province where the requirements are equal substantially to those in force in this state at the time the application for the certificate is filed; or
2. Due proof is furnished that for at least ~~five~~ three years immediately prior to the application the applicant has practiced continuously the occupation for which a certificate is desired in the District of Columbia, or another state, territory, foreign country, or province.

SECTION 10. AMENDMENT.) Subsections 1 and 2 of section 43-11-26 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. Furnishes to the board evidence ~~that-she-has~~ of:
 - a. ~~Practiced~~ Having practiced as a licensed operator in this state for at least two hundred fifty days; and
 - b. ~~Attained~~ Having attained the age of ~~twenty-one~~ eighteen years.
2. Pays a fee ~~of-ten~~ as may be fixed by the board, not to exceed twenty dollars.

SECTION 11. AMENDMENT.) Subsections 1, 2, and 3 of section 43-11-27 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. No person may be licensed as an instructor in any practice, or any combination of the practices, of cosmetology unless ~~such the~~ person shall furnish the board evidence of having attained the age of eighteen years and ~~has~~ having a general education equivalent to the completion of four years in high school and shall pay the ~~original--instructor's--license~~ examination fee of-ten as fixed by the board, not to exceed twenty dollars and shall hold a license as a cosmetologist issued pursuant to section 43-11-21 hereof, and in addition:
 - a. Shall have at least nine hundred sixty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than one thousand

- one hundred hours teacher's training be required for admission to examination; or
- b. Shall have at least one year's experience as an active practicing cosmetologist, supplemented by not less than four hundred eighty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's training be requisite for admission for examination under this subdivision; or
 - c. Shall possess a current North Dakota license as a cosmetologist and shall have been actively engaged in the practice of cosmetology for at least three years prior to ~~such person's~~ application for an instructor's license supplemented by not less than one hundred sixty hours teacher's training in cosmetology in a registered school of cosmetology. In no event shall more than six hundred hours teacher's training be requisite for admission for examination under this subdivision. No instructor or student instructor shall be permitted to practice cosmetology on a patron other than that part of practical work which shall pertain directly to the teaching of practical operations to students.
2. Student instructors in cosmetology shall be registered as ~~such without fee~~ upon enrollment in a registered school of cosmetology and upon certification by ~~such~~ the school to the board of the name, age, and qualifications of ~~said~~ the student instructor which shall be recorded in a register kept for that purpose. A student instructor shall, at the time of enrollment, possess a general education equivalent to the completion of four years in high school and hold a license as a cosmetologist. Upon completion of the course prescribed for student instructors, ~~said~~ the student instructor shall make application on a form provided by the board and pay a fee of ~~ten~~ twenty dollars, ~~such~~. The board shall thereupon cause ~~such~~ the applicant to be examined for an instructor's certificate, ~~such~~. The examination ~~to~~ shall be given by a special examining committee comprised of the board, assisted by one designated by the board, who shall possess at least the minimum qualifications entitling him to instruct in an institution of higher learning and who shall examine the applicant in teaching procedures only. Upon successfully passing ~~said~~ the examination the board shall issue an instructor's certificate to the applicant.
 3. No person may be licensed as a demonstrator unless ~~such~~ the person shall ~~be~~ is a licensed cosmetologist or shall file proof with the board ~~that he has~~ of continuously ~~practiced~~ practicing in another state as a cosmetologist for a period of at least two years prior to the date of

the application for license as ~~such~~ a demonstrator and shall pay an ~~annual~~ original license fee of ~~five~~ fifteen dollars.

SECTION 12. AMENDMENT.) Section 43-11-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-28. RENEWAL OF CERTIFICATE - FEE.) The certificate of registration issued by the board under the provisions of this chapter shall be valid for one year and shall be renewed by the board on or before the thirty-first day of December of each year upon the payment of the annual renewal fee, which shall be:

1. For operators, not more than ~~eight~~ ten dollars.
2. For manager-operators, not more than ~~ten~~ fifteen dollars.
3. For instructors, not more than ~~ten~~ fifteen dollars.
4. For demonstrators, not more than ten dollars.

The board may reduce a renewal fee from the maximum amount only if it applies an equal percentage of reduction to all renewal fees. The board shall sponsor an educational program for certificate holders to carry out the purposes of protecting the public health and safety and maintaining capable and skilled operators, manager-operators, and instructors. The board is directed to use such portion of the renewal fees as the board may determine for the purpose of providing the educational program.

SECTION 13. AMENDMENT.) Section 43-11-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-11-30. REVOCATION OF CERTIFICATE.) The board may revoke and suspend certificates of registration upon proof of the violation of the provisions of this chapter or rules and--regulations established promulgated by the board.

SECTION 14.) A new subsection to section 43-11-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

Violates the provisions of this chapter or the rules promulgated by the board.

Approved March 24, 1979

CHAPTER 465

SENATE BILL NO. 2356
(Senator Peterson)
(Representative Olson)

OCULAR DIAGNOSTIC PHARMACEUTICAL
AGENTS

AN ACT to create and enact a new section to chapter 43-13 of the North Dakota Century Code, relating to the certification of optometrists to use ocular diagnostic pharmaceutical agents; to amend and reenact subsection 1 of section 43-13-01 and subsection 4 of section 43-15-01 of the North Dakota Century Code, relating to definitions; and providing an expiration date.

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

* SECTION 1.) A new section to chapter 43-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

BOARD MAY AUTHORIZE USE OF OCULAR DIAGNOSTIC PHARMACEUTICAL AGENTS - TRAINING REQUIRED FOR CERTIFICATION - BOARD MAY ADOPT RULES.) The board may authorize persons engaging in the practice of optometry under the provisions of this chapter to administer ocular diagnostic pharmaceutical agents. This authorization shall only include the ordering and utilization of such ocular diagnostic pharmaceutical agents.

Only those optometrists who have duly applied to the board and satisfactorily passed an examination and completed such courses prescribed by the board in general and ocular pharmacology, including cardiopulmonary resuscitation and first aid for adverse reactions, shall be permitted the use of ocular diagnostic pharmaceutical agents.

No course or courses in pharmacology shall be approved by the board unless taught by an institution having the capability for both the didactic and clinical instruction in pharmacology, which institution is accredited by a regional or professional accrediting organization recognized and approved by the council on postsecondary accreditation or the United States office of education, and transcript credit for the course or courses is certified to the board by the institution as being equivalent in both hours and content to those courses in pharmacology required of health professional students graduating after June, 1972.

In issuing an original or renewal license certificate pursuant to this chapter, the board shall expressly state whether such

* NOTE: This section is temporary and is therefore not codified as a section of North Dakota Century Code Chapter 43-13.

licensed person has been certified to prescribe and use such ocular diagnostic pharmaceutical agents, and such certification shall be prominently displayed on the license certificate.

The board shall adopt rules, including requirements for additional educational qualifications necessary to ensure the required professional competency by those practitioners who apply to the board to be certified in the use of such ocular diagnostic pharmaceutical agents.

In addition to the licensing fees charged by the board, an additional reasonable fee may be set for the examination, reexamination and certification of applicants for certification under this section.

SECTION 2. AMENDMENT.) Subsection 1 of section 43-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Optometry shall be defined as a profession whose practitioners are engaged in the refraction of the human eye and the examination thereof, together with its appendages, without the use of ~~drugs,--medicines---or~~ surgery; and by using such objective or subjective techniques as are necessary to enable recognition of disease for medical referral, ~~--and--to--determine--and interpret.~~ Included within the definition shall be the application of ocular diagnostic pharmaceutical agents as authorized by this chapter, and the determination and interpretation of any visual, muscular, neurological or anatomical anomaly of the eye, which may be aided, relieved or corrected through visual training procedures or through the use of lenses, prisms, filters, or combinations thereof held either in contact with the eye, or in frames or mountings. Any person so engaged in visual training procedures or who employs or prescribes lenses, prisms, filters, or combinations thereof held either in contact with the eye, or in frames or mountings, to aid, relieve or correct any visual anomaly, or holds himself out as being able to do so, shall be deemed to be engaged in the practice of optometry and must have a certificate of registration, as herein provided by this chapter.

* SECTION 3. AMENDMENT.) Subsection 4 of section 43-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 43-15-01 was amended by section 86 of House Bill No. 1073, chapter 187.

4. "Prescription" means any order for drugs or medical supplies, where such order is written or signed or transmitted by word of mouth, telephone, telegram or other means of communication by a duly licensed physician, optometrist, dentist, veterinarian or other practitioner, licensed by law to prescribe and administer such drugs or medical supplies intended to be filled, compounded or dispensed by a pharmacist.

SECTION 4. EXPIRATION DATE.) The provisions of section 1 of this Act expire at twelve midnight on June 30, 1981.

Approved March 21, 1979

CHAPTER 466

HOUSE BILL NO. 1456
(Martinson)

OPTOMETRIC SERVICE DISCRIMINATION PROHIBITED

AN ACT to prohibit discrimination in the choice of optometric services.

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

SECTION 1. DISCRIMINATION IN OPTOMETRIC SERVICES PROHIBITED.)
No person shall discriminate between licensed practitioners of optometry and physicians, or interfere with any individual's right to free choice of ocular practitioner, with respect to the providing of professional services within the scope of section 43-13-01. If a group health, accident or disability policy or contract of insurance, or any other type of employee group benefit or safety program specifically provides for the payment of optometric services within the scope of section 43-13-01, the payment shall be made regardless of whether the service is performed by a physician or optometrist. The provisions of this Act shall not apply to nonprofit medical service corporations or plans as set forth in chapter 26-27.

Approved March 7, 1979

CHAPTER 467

HOUSE BILL NO. 1557
(Conmy)

PHARMACIST REGISTRATION

AN ACT to amend and reenact subsections 1 and 3 of section 43-15-10, sections 43-15-14, 43-15-19, 43-15-20, 43-15-21, 43-15-22, 43-15-25, 43-15-26, 43-15-27, 43-15-28, 43-15-29, 43-15-32, 43-15-34, subsection 2 of section 43-15-38, and section 43-15-43 of the North Dakota Century Code, deleting references to assistant registered pharmacists and increasing fees charged by the board of pharmacy; and to repeal section 43-15-17 of the North Dakota Century Code, relating to the qualifications of assistant registered pharmacists.

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

SECTION 1. AMENDMENT.) Subsections 1 and 3 of section 43-15-10 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. To cancel, revoke, or suspend the certificate and registration of any registered pharmacist~~7--or--registered assistant-pharmacist7~~ who:
 - a. Is addicted to any drug habit.
 - b. Uses any advertising statements of a character tending to deceive or mislead the public~~7--or--uses---any advertising--in--which-reference-is-made-to-any-price, cost7--charge--or--fee--for--prescription--services--or prescription-materials7--elements7--or--compounds.~~
 - c. Is a chronic or persistent inebriate.
 - d. Permits or engages in the unauthorized sale of narcotic drugs.
 - e. Permits or engages an unauthorized person to practice pharmacy.

- f. Is mentally or physically incompetent to handle his pharmaceutical duties.
 - g. Is guilty of fraud, deception, or misrepresentation in passing his pharmacist examination.
 - h. Willfully and repeatedly violates any of the provisions of the laws regulating pharmacists or the rules and regulations established by the board.
3. To examine and register as pharmacist ~~and--assistant pharmacist~~ any applicant found entitled to such registration.

* SECTION 2. AMENDMENT.) Section 43-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-14. DRUGS, POISONS, MEDICINES, CHEMICALS - WHO MAY SELL.) No drug, poison, medicine, or chemical, except patent or proprietary preparations shall be manufactured, compounded, sold, or dispensed in this state for medicinal use by any person other than a registered pharmacist, ~~assistant-registered-pharmacist,~~ or pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in ~~subsectien-4*-of~~ section 43-15-15, or regularly licensed physician, nor shall any person except a registered pharmacist, ~~assistant--registered-pharmacist,~~ or a regularly licensed physician, or pharmacy intern enrolled in a school of pharmacy after the freshman year as provided in ~~subsectien-4*-of~~ section 43-15-15, dispense or compound a prescription of a medical practitioner except as provided in this chapter.

SECTION 3. AMENDMENT.) Section 43-15-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-19. EXAMINATION FOR REGISTRATION.) Except as otherwise provided in this chapter, every applicant for registration as a pharmacist ~~or--assistant-pharmacist,~~ before receiving a certificate from the board, shall pass such an examination as to his education and professional qualifications as the board shall prescribe.

SECTION 4. AMENDMENT.) Section 43-15-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-20. FEES FOR EXAMINATION.) Each applicant for registration as a pharmacist in this state shall pay to the secretary of the board ~~the--sum--of--twenty-five--dollars~~ before examination a fee to be set by the board not to exceed three hundred dollars. If the applicant fails to pass a satisfactory examination, he may be reexamined at any regular meeting of the board, upon the payment of a further fee ~~of--five~~ to be set by the board not to exceed three hundred dollars.

SECTION 5. AMENDMENT.) Section 43-15-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 43-15-14 was also amended by section 87 of House Bill No. 1073, chapter 187.

43-15-21. CERTIFICATE - ISSUANCE.) The board shall cause to be issued to each pharmacist ~~or-assistant-pharmacist~~ in this state whom it finds entitled thereto, a certificate showing:

1. The date of issue.
2. The fact that the person to whom it was issued is a registered pharmacist ~~or-assistant-pharmacist, as-the-case may-be.~~
3. The residence of the person to whom the certificate was issued.

The certificate shall be signed by a majority of the members of the board.

SECTION 6. AMENDMENT.) Section 43-15-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-22. REGISTRATION WITHOUT EXAMINATION.) The board, without examination, may register and issue a certificate as a pharmacist ~~or--assistant--pharmacist~~ to any person of good moral character who presents to the board satisfactory evidence that before coming to this state he legally had been licensed as a pharmacist ~~or-assistant--pharmacist~~ in another state or foreign country, in which the requirements for such license with respect to qualifications are equivalent to the requirements of this state, but the board need not recognize or accept such license, certificate, or registration as evidence of the applicant's qualifications unless it is satisfied that the applicant is in fact qualified to be a pharmacist ~~or-assistant-pharmacist~~ in this state. The board may deny recognition or acceptance of the license, certificate, or registration of any state or foreign country which does not accord similar recognition to licentiates of this state. A fee to be set by the board not to exceed three hundred dollars shall be paid prior to registration without examination as provided for herein.

SECTION 7. AMENDMENT.) Section 43-15-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-25. TERM OF CERTIFICATE - RENEWAL - FEE - WHERE DISPLAYED.) The certificate issued by the board to a pharmacist ~~or assistant--pharmacist~~ under the provisions of this chapter, and the registration thereof, shall entitle the holder to act in the capacity therein stated for one year unless duly canceled, suspended, or revoked. Every registrant who desires to retain his registration, on or before the first day of March in each year, shall pay to the secretary of the board a renewal fee in an amount to be fixed by the board not to exceed ~~fifty~~ two hundred dollars. Upon ~~the~~ payment of the fee, a renewal certificate shall be issued. The certificate and renewal shall be displayed in a conspicuous place in the pharmacy and drugstore where the holder is employed. After a registrant has held certificates duly issued over a period of fifty consecutive years, the secretary of the board may issue

~~such the~~ registrant a lifetime certificate which will entitle the registrant to act in the capacity of pharmacist thereafter without further payment unless such certificate is canceled, revoked, or suspended.

SECTION 8. AMENDMENT.) Section 43-15-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-26. FAILURE TO RENEW CERTIFICATE - RENEWAL FEE - CANCELLATION OF REGISTRATION AND CERTIFICATE - REINSTATEMENT.) If a registered pharmacist ~~or--assistant--registered-pharmacist~~ in this state fails to pay the fee for a renewal of his certificate within the time required, the secretary of the board shall mail him a notice, addressed to his last known place of residence, notifying him of his failure to obtain a renewal certificate. The delinquent certificate holder, within sixty days after the notice is mailed, may procure a renewal certificate upon the payment of a renewal fee ~~of seven~~ to be set by the board not to exceed two hundred dollars. If the certificate holder fails to have his certificate renewed within sixty days after the notice is mailed, his original or renewal certificate, as the case may be, shall become void and the registry thereof shall be canceled. The board, on application of the delinquent certificate holder and upon the payment of all unpaid fees, may authorize the issuance to him of a new certificate without examination, if it is satisfied that the applicant is a proper person to receive the same.

SECTION 9. AMENDMENT.) Section 43-15-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-27. CHANGE PLACE OF BUSINESS - RECORD - FEE.) Every registered pharmacist, ~~and every assistant-pharmacist in this state,~~ within thirty days after changing his place of business as designated on the books of the board, shall notify the secretary of the board of his new place of business and shall accompany the ~~said~~ notice with a fee ~~of fifty cents~~ to be set by the board not to exceed twenty-five dollars. Upon receipt of ~~said the~~ fee and the notice of change of place of business, the secretary shall make the necessary change in the register and issue a receipt for the ~~said~~ fee to the person sending it.

SECTION 10. AMENDMENT.) Section 43-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-28. CERTIFICATE OF REGISTRATION CANCELED - NOTICE OF HEARING.) The certificate and registration of a pharmacist ~~or assistant--pharmacist~~ in this state shall not be revoked or canceled until after a hearing before the board. The complaint against the person accused shall be in writing. He shall be given notice of the hearing, an opportunity to appear in person and by counsel, and an opportunity to produce witnesses in his own behalf. The notice shall contain a copy of the complaint. When a pharmacist ~~or assistant--pharmacist~~ has been convicted of an offense which is ground for the cancellation of the certificate or registration, a

certified copy of the judgment of conviction filed with the board authorizes the board summarily to cancel and revoke the certificate of the convicted pharmacist.

SECTION 11. AMENDMENT.) Section 43-15-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-29. FALSE REGISTRATION - PENALTY.) Any person who shall procure or attempt to procure registration as a pharmacist, ~~or assistant-pharmacist~~, for himself or any other person under this chapter, by making or causing to be made any false representations, or who falsely or fraudulently shall represent himself to be registered, shall be guilty of a class A misdemeanor, and in addition to the penalty imposed by the court, shall, if he is a registered pharmacist ~~or--registered--assistant--pharmacist~~, shall, have his registration canceled by the board.

SECTION 12. AMENDMENT.) Section 43-15-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-32. WHO MAY ENGAGE IN DRUG BUSINESS.) Every store, dispensary, pharmacy, laboratory, or office, selling, dispensing, or compounding drugs, medicines, or chemicals, or compounding or dispensing prescriptions of medical practitioners in the state, and every business carried on under a name which contains the words, "drugs", "drugstore", or "pharmacy" or which is described or referred to in such terms by advertisements, circulars, posters, signs, or otherwise, shall be in charge of a registered pharmacist, ~~or---during--his--temporary--absence--of--a--registered--assistant pharmacist~~.

SECTION 13. AMENDMENT.) Section 43-15-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-34. OPERATION OF PHARMACY - PERMIT REQUIRED - APPLICATION - FEE.) No person, copartnership, association, or corporation shall open, establish, operate, or maintain any pharmacy within this state without first obtaining a permit so to do from the board. Application for the permit shall be made upon a form to be prescribed and furnished by the board and shall be accompanied by a fee to be set by the board not to exceed ~~seventy-five~~ three hundred dollars. A like fee shall be paid upon each annual renewal thereof. Separate applications shall be made and separate permits required for each pharmacy opened, established, operated, or maintained by the same owner and for the change of location, name, or ownership of an existing pharmacy.

SECTION 14. AMENDMENT.) Subsection 2 of section 43-15-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Payment of the regular renewal fee and an additional five fee to be set by the board not to exceed two hundred dollars.

SECTION 15. AMENDMENT.) Section 43-15-43 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-15-43. PHARMACIST NEGLIGENTLY ENDANGERING LIFE - PENALTY.) Any pharmacist ~~ex-assistant-pharmacist~~ in this state, who in putting up any drug or medicine, willfully or negligently:

1. Omits to label the drug or medicine;
2. Puts an untrue label, stamp, or other designation of contents upon the box, bottle, or package containing the drug or medicine;
3. Substitutes a different article for an article prescribed or ordered;
4. Puts up a greater or less quantity of an article than that prescribed or ordered; or
5. Deviates from the terms of the prescription or order in any manner,

in consequence of which human life is endangered, is guilty of a class A misdemeanor.

SECTION 16. REPEAL.) Section 43-15-17 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

CHAPTER 468

HOUSE BILL NO. 1664
(Timm)

DENTAL HYGIENISTS AND DENTISTS

AN ACT to amend and reenact sections 43-20-06, 43-28-05, 43-28-14, and 43-28-17 of the North Dakota Century Code, relating to late registration fees for dental hygienists, compensation of members of the board of dental examiners, dental reexamination fees, and late registration fees for dentists.

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

SECTION 1. AMENDMENT.) Section 43-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-20-06. LICENSE - FEES - DISPLAY.) On or before January first of each year, every licensed dental hygienist shall pay to the board of dental examiners a registration fee as required by the board of dental examiners, and in default of such payment, the board, upon twenty days' notice, may revoke or suspend the license of the hygienist in default. The payment of such fee within such twenty-day period, with an additional sum of ~~five~~ ten dollars, shall excuse the default. The board may collect such fee by suit. Such licensed hygienist must display conspicuously at the place of his employment his annual registration license.

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~~ seventy-five dollars for each day actually engaged in the duties of his office, ~~ten~~ fifteen cents per mile [1.61 kilometers] for the distance necessarily traveled in going to and returning from meetings of the board, and not to exceed ~~ten-dollars-a~~ actual expenses per 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 43-28-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-14. REEXAMINATION - FEE.) If an applicant fails to pass the examination given by the board, he may apply for another examination, and upon the payment of a fee of ~~ten~~ twenty-five dollars shall be reexamined. The board shall determine the number of times an applicant may be reexamined.

SECTION 4. AMENDMENT.) Section 43-28-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-28-17. FAILURE TO PAY ANNUAL FEE - REVOCATION OF LICENSE.) Whenever a licensed dentist fails to pay the annual fee for the renewal of his certificate of registration, after thirty days' written notice of such default, the board may revoke his license to practice dentistry forthwith and notify such dentist thereof. The payment of the annual fee within the thirty-day period, with an additional sum of twenty-five dollars, will excuse the default.

Approved March 8, 1979

CHAPTER 469

SENATE BILL NO. 2153
(Committee on Industry, Business and Labor)
(At the request of the Real Estate Commission)

REAL ESTATE LICENSE STANDARDS AND SUSPENSION OR REVOCATION

AN ACT to amend and reenact subsection 2 of section 43-23-08 and subsection 1 of section 43-23-11.1 of the North Dakota Century Code, relating to license standards and grounds for suspension or revocation of licenses of real estate brokers and salesmen.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 43-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In addition to the requirements established by subsection 1, an applicant for a broker's or salesman's license must be at least eighteen years of age and shall be a citizen of the United States and a North Dakota resident.

SECTION 2. AMENDMENT.) Subsection 1 of section 43-23-11.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commission upon its own motion may, and upon the verified complaint in writing of any person shall, investigate the activities of any licensee or any person who shall assume to act in such capacity within the state, and shall have the power to suspend or revoke a license when the licensee, in performing or attempting to perform any of the acts included within the scope of this chapter, has performed one or more of the following:
 - a. Making a material false statement in the licensee's application for a license or in any information furnished to the commission.
 - b. Making any substantial and willful misrepresentation with reference to a real estate transaction which is injurious to any party.

- c. Making any false promise of a character such as to influence, persuade, or induce a party to a real estate transaction to his injury or damage.
- d. Acting for more than one party in a transaction without the knowledge and consent of all parties to that transaction for whom he acts.
- e. Failure to account for or to remit, within a reasonable time, any moneys coming into his possession belonging to others; commingling funds of others with his own, failing to keep such funds of others in an escrow or trust account with a bank or other recognized depository in this state, or keeping records relative to the deposit, which shall contain such information as may be prescribed by the rules and regulations of the commission relative thereto.
- f. ~~Been convicted or pleaded guilty or nolo contendere before a court of competent jurisdiction in this or any other state, or before any federal court, of an offense determined by the commission to have a direct bearing upon a person's ability to serve the public as a real estate broker or salesman, or the commission determines, following conviction of any offense, that the person is not sufficiently rehabilitated under section 12-1-33-02+1~~ any court of any felony, or of a misdemeanor involving theft, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or other similar offense. A certified copy of the record of conviction shall be conclusive evidence of conviction in such cases.
- g. Claiming or taking of any secret or undisclosed amount of compensation or commission or the failure of a licensee to reveal to his principal or employer the full amount of such licensee's compensation or commission in connection with any acts for which a license is required under this chapter.
- h. Failing or refusing upon demand to produce any document, book, or record in his possession or under his control, concerning any real estate transaction under investigation by the commission.
- i. Offering real property for sale or lease without the knowledge and consent of the owner or his authorized agent or on any terms other than those authorized by the owner or his authorized agent.
- j. Refusing, because of race, color, national origin or ethnic group, to show, sell, lease, or rent any real estate to prospective renters, lessees, or purchasers.

- k. Failing or refusing upon demand to furnish copies of any document pertaining to any transaction dealing with real estate to any person whose signature is affixed thereto.
- l. Paying compensation or commission in connection with any real estate sale, lease, or other transaction to any person who is not licensed as a real estate broker or real estate salesman under this chapter.
- m. Failing to disclose to an owner his intention or true position if he directly or indirectly through a third party purchases for himself or acquires or intends to acquire any interest in or any option to purchase property which has been listed with his office for sale or lease.
- n. Failure to include a fixed date of expiration in any written listing agreement and failure to leave a copy of such agreement with the principal.
- o. Failure by a broker to deliver to the seller in every real estate transaction, at the time said transaction is consummated, a complete, detailed closing statement, showing all of the receipts and disbursements handled by such broker for the seller; also failure to deliver to the buyer a complete statement showing all money received in said transaction from such buyer and how and for what the same was disbursed, and to retain true copies of such statements in his files.
- p. Violating any provisions of this chapter or rule or regulation promulgated by the commission.
- q. Violation of any provision of such realtor's code of ethics as the commission has or may promulgate and adopt.
- r. Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this chapter, or by rule or regulation of the commission, from any person except the licensed real estate broker under whom he is licensed as a salesman.
- s. If the licensee is a broker, allowing any unlicensed salesman to do any act or engage in any activity regulated by this chapter or under rule or regulation of the commission, which is carried on in the name of or under the authority of the broker.
- t. Failure of a salesman to place with his employing broker for deposit in the brokerage trust account all

real estate trust moneys received by him within twenty-four hours of the time of receipt; or failure of the employing broker to place such moneys for deposit within twenty-four hours of the time of receipt from his salesman. Provided that if trust money is received on a day prior to a holiday or on another day prior to which the depository is closed where the trust fund is maintained, the moneys shall then be deposited during the next business day of the depository.

- u. Failure of the licensee to reduce an offer to writing where a proposed purchaser requests that such offer be submitted to the seller, or failure of the licensee to submit all offers to a seller when such offers are received prior to the seller accepting an offer in writing and until the broker has knowledge of such acceptance.

- v. Any other conduct, whether of the same or of a different character than specified in this subsection, which constitutes dishonesty or fraudulent conduct, whether arising within or without the pursuit of his licensed privilege.

Approved April 7, 1979

CHAPTER 470

SENATE BILL NO. 2152

(Senators Wenstrom, Goodman, Tallackson)
(Representatives Mertens, Opedahl, Wessman)

PHYSICAL THERAPIST REGISTRATION

AN ACT to amend and reenact sections 43-26-01, 43-26-04, 43-26-05, 43-26-06, 43-26-07, 43-26-08, 43-26-09, 43-26-10, 43-26-11, 43-26-12, and 43-26-13 of the North Dakota Century Code, relating to the examination, registration, and practice of physical therapy and physical therapist assistants; and to repeal sections 43-26-02 and 43-26-03 of the North Dakota Century Code, relating to the duties of the state board of medical examiners and the state physical therapy examining committee.

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

SECTION 1. AMENDMENT.) Section 43-26-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Physical therapy" means the treatment-of-any-disability, injury, disease-or-other-condition-of-health-of-human beings,--or--the--prevention--of--such-disability, injury, disease-or-other-conditions-of-health--and--rehabilitation as--related--thereto--by--the-use-of-the-physical, chemical and-other-properties--of--air,--cold,--heat,--electricity, exercise,--massage,--radiant-energy,--including-ultraviolet, visible--and--infra-red--rays,--ultrasound,--water--and apparatus--and--equipment--used--in-the-application-of-the foregoing-or-related-thereto.--The-use-of--Roentgen-rays and--radium--for--diagnostic-and-therapeutic-purposes,--and the-use-of-electricity-for--surgical--purposes,--including cauterization,--are-not-authorized-under-the-term-"physical therapy"--as-used-in-this-chapter. art and science of a health speciality concerned with the prevention of disability and the physical rehabilitation for congenital or acquired disabilities resulting from, or secondary to, injury or disease. The practice of physical therapy means the practice of the health speciality, and encompasses

physical therapy evaluation, treatment planning, instruction, and consultative services, including:

- a. Performing and interpreting tests and measurements as an aid to physical therapy treatment.
 - b. Planning initial and subsequent treatment programs, on the basis of test findings.
 - c. Administering treatment by therapeutic exercise, neurodevelopmental procedures, therapeutic massage, mechanical devices, and therapeutic agents which employ the physical, chemical, and other properties of air, water, heat, cold, electricity, sound, and radiant energy for the purpose of correcting or alleviating any physical or mental condition or preventing the development of any physical or mental disability.
2. "Physical therapist" means a person who applies physical therapy as defined in this chapter ~~upon the prescription, and under the direct supervision, of a person licensed and registered in this state to practice medicine and surgery and whose license is in good standing.~~
 3. "Physical therapist assistant" means a person who assists, under the onsite direction of a registered physical therapist, in the practice of physical therapy and who performs such delegated procedures commensurate with the assistant's education and training. No more than two physical therapist assistants may be supervised by one physical therapist.

SECTION 2. AMENDMENT.) Section 43-26-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-04. STATE EXAMINING COMMITTEE - MEMBERS - TERMS - APPOINTMENTS - VACANCIES.) The state examining committee for physical therapists, hereinafter the "committee," shall administer this chapter. The committee shall consist of three registered physical therapists, two licensed physicians, and a citizen who is not a health care professional. The governor shall appoint the committee members of the state examining committee for physical therapists for a term of five years, staggered so the term of only one member terms of no more than two members shall expire each year. No person shall serve more than two full consecutive terms. The term of office shall commence Terms shall begin on July first of each year. All appointments to the examining committee shall be made by the governor from a list of three qualified physical therapists or doctors of medicine. The health care appointments will be made from a list of three qualified physical therapists submitted by the governing body of the North Dakota chapter of the American physical therapy association if a physical therapist is to be appointed and, or from a list of three doctors qualified

physicians submitted by the state board of medical examiners if a ~~doctor~~ physician is to be appointed. The governor shall appoint the citizen member at large. Appointments to the state-examining committee to fill a vacancy occurring for other than the expiration of a term shall only be made for the remainder of the unexpired term. Each physical therapist appointed ~~thereto--shall--be--a--duly~~ registered-physical-therapist, shall have had not less than three years experience in physical therapy immediately preceding his appointment, and shall be actively engaged in physical therapy in this state during his term of office. Each doctor of medicine appointed to said state-examining committee shall be duly licensed and registered to practice medicine and surgery in this state, and shall have had not less than four years actual experience in the practice of medicine and surgery must have had at least three years of physical therapy experience in North Dakota immediately prior to appointment, and must practice in North Dakota during the term. Each physician appointed must have practiced medicine at least three years in North Dakota immediately prior to appointment and must practice in North Dakota during the term. Each member of the state examining committee, before entering upon the discharge of his or her duties, shall take and file with the secretary of state the oath of office prescribed for state officials.

SECTION 3. 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, and a vice president, and secretary shall be elected annually by the board committee from its members to serve for one year or until their successors are elected and qualified. The committee shall designate a secretary who does not have to be a committee member. 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 and physical therapist assistant 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. Any committee member 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 committee 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. The committee shall conduct the examination examinations for the registration of physical therapists and physical therapist assistants at least once each year. The board of medical examiners may appoint and fix the compensation of such employees as may be necessary to assist the examining committee

~~and the board of medical examiners shall have the power to employ such expert assistance as it may deem necessary to carry out the purposes of~~ committee shall hire and set the compensation for any employees it needs to administer 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 Committee members shall receive expenses from committee funds for each day or a portion thereof spent in committee work as provided for other state officers in chapter 44-08. All funds collected or received by the board committee shall be deposited and disbursed in accordance with section 54-44-12.

SECTION 4. AMENDMENT.) Section 43-26-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-06. APPLICANTS - QUALIFICATIONS - EXAMINATIONS.) ~~It shall be the duty of the state board of medical examiners with the advice and assistance of the state examining committee to pass upon the qualifications of all applicants for physical therapy and physical therapist assistant examination and registration, provide for and conduct all examinations, determine the applicants who successfully pass the examination, and duly register such persons. A person who desires to be registered as a physical therapist or a physical therapist assistant, a person must have the following qualifications:~~

1. Be at least eighteen years of age.
2. ~~Be a citizen of the United States of America or have filed a declaration of intention to become a citizen and, having made such declaration of intention, have filed a petition for naturalization within sixty days after becoming eligible to do so.~~
3. Be of good moral character.
4. ~~Have successfully obtained a high school education or its equivalent, as determined by the board.~~
5. 3. Have been graduated by a school of physical therapy or a program of physical therapist assistant training approved by the board for training physical therapists committee.

~~Application shall be made on a form furnished by the board, for examination for registration as a physical therapist, in determining whether or not such approval shall be given, the board may take into consideration the approval or nonapproval of such schools by the appropriate association, if any, at the time of applicant's graduation, or if graduated prior to 1936, whether or not the school or course was approved by the American physical therapy association, at the time of graduation. The examination Examinations shall embrace the following subjects: the applied sciences of anatomy, neuroanatomy, kinesiology, physiology,~~

~~pathology,--psychology,--physies,--physical-therapy-as-defined-in-this chapter,--as-applied-to-medicine,--neurology,--orthopedies,--pediatrics,--psychiatry,--surgery,--medical--ethics,--and-technical-procedures-in physical-therapy-as-defined-in-this--chapter~~ subjects to test an applicant's knowledge of the basic and clinical sciences as they relate to physical therapy, and physical therapy theory and procedures, and such other subjects as the board committee may determine to be necessary. ~~At-the-time-of-making--such--application~~ When applying to take the registration examination, the applicant shall pay to the board committee a fee of ~~twenty-five~~ fixed by committee regulation and not exceeding seventy-five dollars which shall not be returned if ~~such~~ the application is denied.

SECTION 5. AMENDMENT.) Section 43-26-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-07. REGISTRATION.) The ~~state--board-of--medical examiners committee~~ shall register all applicants as physical therapists or physical therapist assistants who successfully pass the ~~examination~~ examinations provided for in this chapter and who are otherwise qualified as required herein, and shall furnish a certificate of registration to each successful applicant.

SECTION 6. AMENDMENT.) Section 43-26-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-08. WHEN EXAMINATION NOT REQUIRED - FEE.) The ~~state board-of--medical--examiners committee~~ may issue a registration certificate of registration in physical therapy without examination ~~therein~~ to an applicant who presents satisfactory evidence, ~~satisfactory--to--the--board,~~ of having passed the examination in physical therapy of the American registry of physical therapists, or an examination before a similar, lawfully authorized examining board in physical therapy or for physical therapist assistants of another state, the District of Columbia, a United States territory, or a foreign country. However, this reciprocity can be granted only if the standards for registration in physical therapy or physical therapist assistants in such other ~~state,--district,--territory--or foreign--country-as-determined-by-said-board-are-as-high-as-those-of this-state~~ jurisdiction are determined by the committee to be as high as North Dakota's. ~~At-the-time-of-making-such-application,--the applicant-shall-pay-to-the-board-a-fee-of-twenty-five-dollars--which shall--not--be--returned--if-the-application-is-denied~~ The committee shall establish a registration fee under this section within the limits of section 43-26-06.

SECTION 7. AMENDMENT.) Section 43-26-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-09. RENEWALS - CONTINUED CURRENCY - FEES.) In January of each year every physical therapist or physical therapist assistant shall apply to the board committee for an extension of his or her registration and pay a fee of ~~five~~ determined by committee regulation and not exceeding twenty-five dollars. Registration that

is not annually renewed on or before January thirty-first,--each year, shall lapse on said that date. The board committee, in its discretion, may reinstate a lapsed registration upon the payment of the full five--dollar renewal fee as provided in this section and may, in its discretion, require a late renewal fee of twenty-five dollars.

The committee may establish rules and regulations to require some evidence of continued currency for registration or re-registration as a physical therapist or a physical therapist assistant.

SECTION 8. AMENDMENT.) Section 43-26-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-10. RULES AND REGULATIONS.) The board may committee shall adopt such whatever rules and regulations as may be, pursuant to the provisions of chapter 28-32, that are necessary to carry out the provisions of this chapter. The committee secretary of--the board shall keep a record of all proceedings under this chapter and a list of all persons registered under it. The register shall show the name, address, date and number of the original registration, and the renewal thereof. The board secretary annually shall, on or before February fifteenth of--each--year, compile a list of all registered physical therapists and physical therapist assistants and mail a copy thereof to the state department of health and the state's attorney of each county. Any other--interested--person--may obtain a A copy of such this list on request--to be obtained from the board secretary for a fee upon payment of such amount as may be fixed by the board committee. The--board--shall--provide--blanks, books, application forms, registration certificates, stationery, and any--other--supplies--or--assistance--that--may--be--necessary--to--carry--out the provisions of this chapter. All money received by the board under this chapter shall be paid to the secretary of the board. Said money so received may be used by the board in defraying The committee shall use the funds it receives under this chapter to defray its expenses in carrying out the provisions of administering this chapter. It shall be the duty of the The secretary to shall sign all orders for payment of money and other accounts and other orders of the board committee.

SECTION 9. AMENDMENT.) Section 43-26-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-11. REFUSAL, SUSPENSION OR REVOCATION OF CERTIFICATE.) The state board of medical examiners committee may refuse to grant registration---to register any physical therapist or physical therapist assistant, or may suspend or revoke the registration of any physical therapist or physical therapist assistant, for any of the following grounds:

1. Habitual--indulgence--in--the--use--of--narcotic--drugs--or--other habit-forming drugs Use of controlled substances, drugs,

or liquor to an extent that affects professional competency.

2. ~~Excessive-indulgence-in-the-use-of-alcoholic-liquors-~~
- 3- Conviction of an offense determined by the board committee to have a direct bearing upon a holder's ability to serve the public as a physical therapist or physical therapist assistant, or if the board committee determines, following conviction of any offense, that a holder is not sufficiently rehabilitated under section 12.1-33-02.1.
- 4--~~Conviction-of-a-crime-involving-moral-turpitude-~~
- 5--~~Conviction--for--violating-any-municipal,-state-or-federal-narcotic-law-~~
- 6- 3. Procuring, aiding, or abetting a--~~criminal~~ an illegal abortion.
- 7- 4. Obtaining or attempting to obtain registration by fraud or deception.
- 8- 5. ~~Finding~~ A finding by a court of competent jurisdiction that the registrant is a mentally ill person and has not thereafter been restored to legal capacity.
- 9- 6. Conduct unbecoming a person registered as a physical therapist or physical therapist assistant, or detrimental to the best interests of the public.
- 10--~~Failure--to--file--a--petition--for--naturalization-within-ninety-days-after-becoming-eligible-to-do-so,-or,-if--such-petition--has--been--filed,-failure-to-become-a-citizen-of-the-United-States-of-America-within-six-months-after--such-filing-~~
- 11- 7. For treating or attempting to treat ailments or other health conditions of human beings other than by physical therapy and as authorized by this chapter.
- 12- 8. For applying or offering to apply physical therapy independent-of-the-prescription-and-direct-supervision--of-a-person-licensed-and-registered-in-this-state-to-practice-medicine-and-surgery exclusive of initial evaluation or screening other than upon the referral of a licensed physician, or a licensed dentist, or in the case of a physical therapist assistant, practicing or offering to practice other than under the onsite direction of a licensed physical therapist.

SECTION 10. AMENDMENT.) Section 43-26-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-12. USE OF CERTAIN WORDS AND INITIALS PROHIBITED.) It shall be unlawful for any ~~person~~ persons, corporations, or associations to, in any manner, represent ~~himself~~ themselves as a ~~physical--therapist~~ physical therapists or physical therapist assistants, as providing physical therapy services, or to use in connection with his their name names the words or letters physical therapist, physiotherapist, physical therapy technician, registered physical therapist, physical therapist assistant, P.T.A., P.T., Ph. T., P.T.T., or R.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that he--is--a--physical--therapist they are physical therapists or physical therapist assistants, or provide physical therapy services, without a valid existing certificate or registration as a--physical--therapist physical therapists or physical therapist assistants issued to him them pursuant to ~~the provisions of~~ this chapter. Nothing in this chapter shall prohibit any ~~person~~ persons licensed or registered in this state, under chapter 43-17 or another law, from carrying out the therapy or practice for which ~~he--is~~ they are duly licensed or registered. Nor shall it prevent schools, ~~Y-M-C-A- clubs~~ YMCA's, athletic clubs, and similar organizations from furnishing therapy service to their players and members. This chapter, ~~also, shall not be construed so as to~~ does not prohibit masseurs and masseuses from engaging in their practice ~~not--otherwise--prohibited--by--law--and~~ provided they do not represent themselves as physical therapists or physical therapist assistants.

SECTION 11. AMENDMENT.) Section 43-26-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-26-13. PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT MUST BE REGISTERED - REPRESENTATIONS AND BILLINGS WITHOUT REGISTRATION PROHIBITED - ENFORCEMENT - INJUNCTIONS.) ~~No person shall practice physical therapy or hold himself out--as--a--physical therapist--unless--he--has--been--registered--by--the--state--board--of medical-examiners--as--provided--for--in--this--chapter.~~ No person, persons, corporations, or associations shall practice physical therapy or hold themselves out, represent themselves, or send out billings as providing physical therapy services, without personal registration or the use of registered employees as provided in this chapter. It shall be unlawful to employ an unregistered physical therapist or physical therapist assistant to provide physical therapy services. The secretary, under the direction of the committee, shall aid the state's attorneys of the various counties in the enforcement of the provisions of this chapter and the prosecution of any violations thereof. In addition to the criminal penalties provided by this chapter, the civil remedy of injunction shall be available to restrain and enjoin violations of any provisions of this chapter without proof of actual damages sustained by any person.

SECTION 12. REPEAL.) Sections 43-26-02 and 43-26-03 of the North Dakota Century Code are hereby repealed.

Approved March 12, 1979

CHAPTER 471

HOUSE BILL NO. 1224
(Committee on Industry, Business and Labor)
(At the request of the Attorney General)

POLYGRAPH EXAMINER INTERNSHIP

AN ACT to create and enact a new section to chapter 43-31 of the North Dakota Century Code, relating to an internship period for polygraph examiners; to create and enact new subsections to sections 43-31-01 and 43-31-14 of the North Dakota Century Code, relating to the definition of a polygraph examiner internship and the license fees for a polygraph examiner intern; and to amend and reenact subsection 6 of section 43-31-07 of the North Dakota Century Code, relating to qualifications for licensing as a polygraph examiner.

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

SECTION 1.) A new section to chapter 43-31 of the North Dakota Century Code is hereby created and enacted to read as follows:

INTERNSHIP LICENSE.)

1. Upon approval by the attorney general, an internship license shall be issued to a trainee provided he applies for such license and pays the required fee within ten days prior to the commencement of his internship. The application shall contain such information as may be required by the attorney general.
2. An internship license shall be valid for the term of twelve months from the date of issue. Such license may be extended or renewed for any term not to exceed six months upon good cause shown to the attorney general.
3. A trainee shall not be entitled to hold an internship license after the expiration of the original twelve month period and six month extension, if such extension is granted by the attorney general until twelve months after the date of expiration of the last internship license held by said trainee.

SECTION 2.) A new subsection to section 43-31-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Internship" means the study of polygraph examinations and of the administration of polygraph examinations by a trainee under the personal supervision and control of a licensed examiner in accordance with a course of study prescribed by the attorney general at the commencement of such internship.

SECTION 3. AMENDMENT.) Subsection 6 of section 43-31-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Who has satisfactorily completed ~~specialized--training deemed-acceptable-by--the--attorney--general~~ a polygraph examiners course approved by the attorney general and has satisfactorily completed not less than six months of internship training.

SECTION 4.) A new subsection to section 43-31-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

The fee to be paid for an internship license, and for the extension or renewal thereof, is twenty-five dollars.

Approved March 7, 1979

CHAPTER 472

HOUSE BILL NO. 1216
 (Committee on Industry, Business and Labor)
 (At the request of the Attorney General)

POLYGRAPH EXAMINER LICENSE RENEWAL

AN ACT to amend and reenact sections 43-31-08 and 43-31-14 of the North Dakota Century Code, relating to the renewal of lapsed polygraph examiners licenses.

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

SECTION 1. AMENDMENT.) Section 43-31-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-31-08. REINSTATEMENT OF LICENSE.) An examiner whose license has expired may be reinstated at any time within ~~five--years~~ one year after the expiration thereof, by making a renewal application therefor and by paying the renewal license fee ~~and--all lapsed--renewal--fees--for--each--year--since--the--expiration--of--his~~ license.

SECTION 2. AMENDMENT.) Section 43-31-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-31-14. EXAMINATION AND LICENSE FEES.)

1. The fee to be paid by an applicant for examination to determine his fitness to receive an examiner's license is fifty dollars.
2. The annual license fee is twenty-five dollars, and shall be due and payable on or before October first of each year.
3. The fee to be paid for the issuance of a duplicate license is five dollars.
4. ~~The--fee--to--be--paid--for--the--reinstatement--of--an--examiner's license--within--five--years--of--the--lapse--thereof--shall--be five--dollars--and--all--of--the--lapsed--annual--license--fees.~~

Approved March 7, 1979

CHAPTER 473

SENATE BILL NO. 2463
(Senators Thane, Sandness)
(Representative Dietz)

PSYCHOLOGIST LICENSURE EXEMPTION

AN ACT to create and enact a new subsection to section 43-32-30 of the North Dakota Century Code, relating to the exemption from licensure as a psychologist of persons practicing as school psychologists.

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

SECTION 1.) A new subsection to section 43-32-30 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any person employed by a public school whose activities and services are restricted to the practice of psychology in the district or service unit of employment. This exemption shall apply only when the person to be exempted has received a master's degree in school psychology from an accredited graduate training program. Standards will be established by mutual consent of the board of psychological examiners and the department of public instruction.

Approved April 7, 1979

CHAPTER 474

HOUSE BILL NO. 1236
(Nicholas)

NURSING HOME ADMINISTRATORS

AN ACT to amend and reenact section 43-34-02 and subsection 1 of section 43-34-03 of the North Dakota Century Code, relating to the composition of the state board of examiners for nursing home administrators, and to qualifications for licensure.

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

SECTION 1. AMENDMENT.) Section 43-34-02 of 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~~ Two members of the board shall be the state health officer, and the executive director of the social service board of North Dakota,~~---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 licensed nursing home administrator appointed to the board for a three-year term

by the governor from a list of three names submitted by the North Dakota health care association.

- 5- 6. 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- 7. 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- 8. Appointive members may be removed by the governor for cause after due notice and hearing.

SECTION 2. AMENDMENT.) Subsection 1 of section 43-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. He or she is at least eighteen years of age, a ~~citizen of the United States~~, of good moral character, and of sound physical and mental health.

Approved March 18, 1979

CHAPTER 475

SENATE BILL NO. 2295
(Lodoen)

WATER WELL CONTRACTORS

AN ACT to amend and reenact subsection 5 of section 43-35-02, and sections 43-35-07 and 43-35-17 of the North Dakota Century Code, relating to certificates issued by the state board of water well contractors.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 43-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Well" shall mean any artificial opening or artificially altered natural opening, however made, by which ground water is sought, including test holes drilled for the purpose of exploration for and development of ground water, 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 2. AMENDMENT.) Section 43-35-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-07. 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-reeive-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~~ 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 board meetings or otherwise engaged in the official business of the board.

SECTION 3. AMENDMENT.) Section 43-35-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-35-17. RENEWAL OF CERTIFICATE.) A certificate issued under the provisions of this chapter shall be valid for up to 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 made prior to April first in the year following its expiration accompanied by a fee in the an amount of--twenty--dollars to be set by the board not to exceed fifty dollars and the furnishing of a bond as provided in section 43-35-14.

Approved March 15, 1979

CHAPTER 476

HOUSE BILL NO. 1398
(Wald)

ELECTROLOGISTS AND ELECTRONIC HAIR REMOVAL TECHNICIANS

AN ACT to provide for the licensing of electrologists and electronic hair removal technicians, relating to the definitions of terms relating to electrology, qualifications and examinations of electrologists and electronic hair removal technicians, and the special licensing of electrologists and electronic hair removal technicians by the state health council; and providing a penalty.

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

43-38-01 SECTION 1. DEFINITIONS.) In this chapter unless the context or subject matter otherwise requires:

- 1* ② "Electrolysis" means the removal of superfluous hair by use of the electric needle or electronic process;
- 2* ① "Electrologist" means a qualified and licensed person proficient in the removal of hair by means of the electric needle;
3. "Electronic hair removal technician" means a qualified and licensed person proficient in the removal of hair by means of an electronic process other than the electric needle;
4. "State health council" means the state health council as defined in chapter 23-01.

43-38-02 SECTION 2. DUTIES OF STATE HEALTH COUNCIL.) The state health council shall issue an electrologist's or electronic hair removal technician's license. The annual license shall be determined annually by the council but shall not exceed fifty dollars for new licenses and not exceed twenty-five dollars for relicensure.

43-38-03 SECTION 3. RULEMAKING AUTHORITY OF COUNCIL.) The state health council shall establish standards, rules and regulations which are found necessary for the maintenance of public health,

including sanitation and disease control. The council shall have the following powers:

1. To establish minimum age levels;
2. To establish education and training levels for electrologists and electronic hair removal technicians;
3. To issue, deny, suspend, or revoke licenses;
4. To develop application and licensure forms;
5. To delegate the administration of the program to the state health officer, subject to such provisions as the council may make for appeal to it; and
6. To promulgate such requirements as may be found necessary to carry out the intent of this Act.

All electrologists and electronic hair removal technicians practicing in North Dakota prior to July 1, 1979, may, without examination, be issued a license by the council upon proof, satisfactory to the council, of having met the qualifications.

47-38-04 SECTION 4. PENALTY.) Any person who holds himself out as an electrologist or an electronic hair removal technician without having met the requirements and without an annual license or violates any of the provisions of this Act or rules and regulations promulgated hereunder shall be guilty of an infraction.

Approved March 19, 1979

OFFICES AND OFFICERS

CHAPTER 477

HOUSE BILL NO. 1380
(Representative Stenehjem)
(Senator Holmberg)

NOTICE OF PUBLIC MEETINGS

AN ACT requiring full, adequate, and timely notice of the meetings of all public bodies.

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

SECTION 1. NOTICE OF PUBLIC MEETINGS REQUIRED - EXCEPTIONS - SCHEDULE SET BY STATUTE, ORDINANCE, OR RESOLUTION.) Unless otherwise provided by law, public notice must be given in advance of all meetings governed by section 44-04-19. This notice shall contain the date, time, and location of the meeting and, where practicable, the topics to be considered. However, the lack of an agenda in the notice, or a departure or an addition to the agenda at a meeting, shall not affect the validity of the meeting or the actions taken thereat. In cases where the public body holds regularly scheduled meetings, the schedule of these meetings, including the aforementioned notice information, shall be filed annually in January with the secretary of state for state-level bodies, the city auditor for city-level bodies, and the county auditor for all other public bodies. This schedule shall be furnished to anyone who requests the information. In addition, every public body shall post public notice of each of its meetings at its principal office, if such exists, and at the location of the meeting. The public body's presiding officer shall have the responsibility of assuring that such public notice is given at the same time as such public body's members are notified, and that this notice is available to anyone requesting such information.

In the event of emergency or special meetings of a public body, the person calling such a meeting shall notify representatives of the news media, if any, located where the meeting is to be held and which have requested to be so notified of such special or emergency meetings, of the time, place, date, and topics to be considered at the same time as such public body's members are notified.

Where reasonable and practicable, a public body should attempt to set a regular schedule for its meetings by statute, ordinance, or resolution.

The attorney general shall prepare general guidelines to assist public bodies in following the provisions of this Act.

Unless otherwise specified by law, resolution, or ordinance, or as decided by the public body, notices required by this Act do not have to be published. The provisions of section 12.1-11-06 shall not apply to this Act.

Approved March 19, 1979

CHAPTER 478

SENATE BILL NO. 2346
(Senator Holmberg)
(Representative Stenehjem)

OPEN VOTING AT PUBLIC MEETINGS

AN ACT requiring open voting at all public meetings.

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

SECTION 1. OPEN VOTING AT PUBLIC MEETINGS REQUIRED - RESULTS RECORDED IN MINUTES.) Unless otherwise specifically provided by law, all votes of whatever kind taken at any public meeting governed by the provisions of section 44-04-19 must be open, public votes, and all nonprocedural votes must be recorded roll call votes, with the votes of each member being made public at the open meeting. The minutes shall show the results of every vote taken at the meeting, and shall show the recorded vote of each member on every recorded roll call vote.

Approved March 10, 1979

CHAPTER 479

HOUSE BILL NO. 1207

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

EXPENSE AND MILEAGE ALLOWANCES

AN ACT to amend and reenact sections 44-08-04 and 54-06-09 of the North Dakota Century Code, relating to expense accounts and mileage and travel expenses of state officers and employees.

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

SECTION 1. AMENDMENT.) Section 44-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-04. EXPENSE ACCOUNT - AMOUNT ALLOWED - VERIFICATION.) Except as provided in section 44-08-04.1, each elective or appointive officer, employee, representative, or agent of this state, or of any of its subdivisions, agencies, bureaus, boards, or commissions, may make claim and shall upon approval of such claim be paid as an allowance for meals and lodging while engaged within this state in the discharge of a public duty away from his normal working and living residence for all or any part of any quarter of a day at the following rates for each quarter of any twenty-four-hour period:

1. First quarter shall be from six a.m. to twelve noon and the sum shall not exceed two dollars and ~~twenty-five~~ seventy-five cents.
2. Second quarter shall be from twelve noon to six p.m. and the sum shall not exceed ~~two~~ three dollars and seventy-five cents.
3. Third quarter shall be from six p.m. to twelve midnight and the sum shall not exceed ~~five~~ six dollars and fifty cents.
4. Fourth quarter shall be from twelve midnight to six a.m. and the sum shall be the actual lodging expenses not to exceed ~~sixteen~~ twenty dollars.
5. Provided, however, that the preceding four subsections shall not be applicable unless the person concerned has

been out of the headquarters or normal place of employment for six hours or overnight.

Verifications of claims shall not be required for the first three quarters listed above and only a lodging receipt shall be required for the fourth quarter.

Such persons engaged in travel outside state boundaries shall receive ~~fifteen~~ eighteen dollars a day for meals and in addition thereto actual lodging expenses. Verification by receipt for such out-of-state travel expense shall be required only for lodging expense claimed.

The head of any department, institution, or agency of this state may set a rate for such expenses less than those set forth in this section for any person or persons under his authority. Verification of any other type of expense not prescribed by this section shall be as prescribed by the office of the budget except no receipt shall be required for taxi or cab fares up to and including the sum of ten dollars. The department of accounts and purchases shall disapprove any claim it shall determine to be in error or unlawful or not within the limits of legislative appropriations. The travel expenses of the governor, governor's personal traveling aides, lieutenant governor, judges of the supreme court, district courts, and county courts of increased jurisdiction, and members of the legislative assembly shall not be limited by the expense allowance limitations prescribed by this section.

SECTION 2. AMENDMENT.) Section 54-06-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-06-09. MILEAGE AND TRAVEL EXPENSE OF STATE OFFICERS AND EMPLOYEES.) State officials, whether elective or appointive, and their deputies, assistants, and clerks, or other state employees, entitled by law to be reimbursed for mileage or travel expense, shall be allowed and paid for mileage and travel expense the following amounts:

1. The sum of ~~fifteen~~ twenty 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 ~~twenty~~ twenty-six 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 ~~eleven~~ fourteen 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.

2. When travel is by rail or certificated air taxi commercial operator or other common carrier, including regularly scheduled flights by airlines, the amount actually and necessarily expended therefor in the performance of official duties.
3. Notwithstanding the other provisions of this section, state employees permanently located outside the state or on assignments outside the state for an indefinite period of time, exceeding at least thirty consecutive days, shall be allowed and paid ~~fiifteen~~ twenty cents per mile for each mile actually and necessarily traveled in the performance of official duty when such travel is by motor vehicle, and the one hundred fifty mile restriction imposed by subsection 1 shall not apply.

Before any allowance for any such mileage or travel expenses shall be made, the official, deputy, assistant, clerk, or other employee shall file with the director of the department of accounts and purchases an itemized statement showing the mileage traveled, the days when and how traveled, the purpose thereof, and such other information and documentation as may be prescribed by rule of the office of the budget or specifically requested by such office, verified by his certification. The statement shall be submitted to the office of the budget for approval and shall be paid only when approved by the office of the budget. The head of any department, institution, or agency of this state may, for any person or persons under his authority, set a rate of no less than ~~twelve~~ fifteen cents per mile and no more than ~~fiifteen~~ twenty cents per mile.

Approved March 3, 1979

CHAPTER 480

HOUSE BILL NO. 1354
(Wald)

DEFENSE OF LAW ENFORCEMENT OFFICERS

AN ACT to amend and reenact section 44-08-11 of the North Dakota Century Code, relating to the defense of law enforcement officers by the state and political subdivisions.

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

SECTION 1. AMENDMENT.) Section 44-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

44-08-11. STATE AND OTHER POLITICAL SUBDIVISIONS TO FURNISH COUNSEL TO DEFEND LAW ENFORCEMENT OFFICERS.) The state or any political subdivision of the state ~~may~~ must furnish legal counsel to defend any law enforcement officer in any action brought against such officer to recover damages arising out of any act of such officer in good faith and in the performance of his official duties.

Approved March 3, 1979

PRINTING LAWS

CHAPTER 481

SENATE BILL NO. 2049
(Legislative Council)
(Interim Committee on Constitutional Revision)

PUBLICATION OF STATE CONSTITUTION

AN ACT to create and enact a new section to chapter 46-03 of the North Dakota Century Code, relating to the numbering and arrangement of the state constitution for publication.

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

SECTION 1.) A new section to chapter 46-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

PUBLICATION OF STATE CONSTITUTION - NUMBERING AND ARRANGEMENT.) The Constitution of this state shall be published in a format that will correlate and integrate all constitutional provisions in a numbering arrangement that avoids ambiguity and duplication and that aids in placing constitutional amendments into the Constitution. The Constitution of this state, as presently numbered and arranged, shall be republished in this new format by the legislative council. The publication of the Constitution under the format authorized by this section shall be accomplished when the code volume containing the Constitution is replaced.

Approved February 8, 1979

CHAPTER 482

SENATE BILL NO. 2454
(Strand)

LEGAL NOTICE PRINTING FEES

AN ACT to amend and reenact section 46-05-03 of the North Dakota Century Code, relating to the printing fees for legal publications.

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

SECTION 1. AMENDMENT.) Section 46-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-05-03. LEGAL NOTICES - FEES.) The fees to be paid to newspapers for the publication of:

1. Any notice or publication required to be published by any political subdivision of the state, or by any officer thereof;
2. Any summons, citation, notice, or other document, proceedings, or process in an action or proceedings in any court of the state, which is required by law to be published;
3. Any publication required to be published by any state officer, elected or appointive; and
4. Any legal notice and legal publication of whatever kind or character required by law to be published,

shall be ~~twenty-four~~ twenty-six cents per counted line of compugraphic six-point news type number nine for the first insertion, and ~~fifteen~~ sixteen cents per counted line for each subsequent insertion, based on a column width of eleven picas. Newspapers using a different column width or typeface shall submit a copy of their typeface and column to the department of accounts and purchases which will determine the legal rate to be charged by that newspaper to create parity with the base rate. Regardless of column width or size of type, all lines containing one or more columns of figures shall be ~~thirty-six~~ thirty-nine cents per counted line for

first publication and ~~thirteen~~ sixteen cents per counted line for subsequent insertions. However, in no instance shall the line be less than nine picas nor the type size smaller than five-point nor larger than nine-point. Published ballots or publications which by their nature require open display shall be computed at ~~thirty-six~~ thirty-nine cents per counted line for first publication and ~~thirteen~~ sixteen cents per counted line for subsequent insertions, based on the following ballot and open display line count chart.

Column Widths	Lines Per	Column Inch
9		14.6
9 1/2		13.9
10		13.2
10 1/2		12.6
11		12
11 1/2		11.5
12		11
12 1/2		10.6
13		10.2
13 1/2		9.8
14		9.4
14 1/2		9.1
15		8.8

To effect uniformity, the department of accounts and purchases may compute a standard price on those legal notices which are widely published such as ballots, insurance statements, and official proclamations. In computing standard pricing, the department shall utilize the standard six-point type, eleven pica column rate. All newspapers must use the rates, type size, and column width as shown on its legal notice rate certification issued by the state purchasing and printing agent of the department of accounts and purchases. Certifications shall be issued within fifteen days after samples are submitted.

Approved March 21, 1979

PROPERTY

CHAPTER 483

HOUSE BILL NO. 1095
(Erickson)

NONTESTAMENTARY TRANSFER PRESUMPTION

AN ACT to create and enact new sections to chapters 47-10 and 47-11 of the North Dakota Century Code, relating to a presumption that a nontestamentary transfer of real or personal property between spouses is always for a consideration, and not a gift, unless stated in writing; and setting out legislative intent.

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

SECTION 1.) A new section to chapter 47-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

A nontestamentary transfer of real property between spouses shall be presumed to be for a consideration, and not a gift, unless otherwise stated in writing at the time of transfer. This presumption is conclusive.

SECTION 2.) A new section to chapter 47-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

A nontestamentary transfer of personal property between spouses shall be presumed to be for a consideration, and not a gift, unless otherwise stated in writing at the time of transfer. This presumption is conclusive.

SECTION 3. LEGISLATIVE INTENT.) The legislative assembly intends that the provisions of sections 1 and 2 of this Act be in recognition of the contribution of spouses to the marital and familial relationship. It is not the intent of the legislative assembly that the provisions of sections 1 and 2 of this Act be utilized for evasion of a legal tax liability owed to the state of North Dakota, or to the United States government; but it is the intent of the legislative assembly that for purposes of chapter 57-37.1 equal monetary contribution or its equivalent to the acquisition of property held in joint tenancy by a husband and wife shall be presumed except that if House Bill No. 1156 as passed by the forty-sixth legislative assembly becomes effective this presumption shall not apply.

Approved March 26, 1979

CHAPTER 484

HOUSE BILL NO. 1209
(Strinden, Berge, Melby, Swiontek, Vander Vorst)

AGRICULTURAL LAND OWNERSHIP BY ALIENS

AN ACT to prohibit the sale of agricultural lands to nonresident aliens, to prohibit the recording of instruments of title for nonresident alien purchases of agricultural land, to provide for enforcement by the attorney general, and to require annual reports to the commissioner of agriculture; to amend and reenact section 47-01-11 of the North Dakota Century Code, relating to qualifications for private ownership of property; and to provide a penalty.

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

SECTION 1. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "Agricultural land" means land capable of use in the production of agricultural crops, livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit and other horticultural products but does not include any land zoned by a local governmental unit for a use other than, and nonconforming with, agricultural use, but does not include any oil, gas, coal, or other minerals underlying the land, any interest in minerals, separate from the surface, whether acquired by lease or otherwise, or any easements or tracts of land acquired in connection with the extraction, refining, processing, or transportation of minerals.

2. "Interest in agricultural land" includes any leasehold interest.

SECTION 2. RESTRICTION ON ACQUISITION - EXCEPTIONS.) A person who is not a citizen of the United States or a citizen of Canada, except a permanent resident alien of the United States, may not acquire directly or indirectly any interest in agricultural land. A partnership, limited partnership, trustee, or other business entity may not, directly or indirectly, acquire or otherwise obtain any interest, whether legal, beneficial, or

otherwise, in any title to agricultural land unless the ultimate beneficial interest of the entity is held directly or indirectly by citizens of the United States or permanent resident aliens of the United States. This section does not apply to agricultural land that may be acquired by devise, inheritance, as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, that all agricultural land acquired in the collection of debts or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this section. This section does not apply to citizens or subjects of a foreign country whose rights to hold land are secured by treaty or to common carriers by railroad subject to the jurisdiction of the interstate commerce commission.

SECTION 3. RECORDING.) A register of deeds in this state shall not record any instrument affecting title to, possession of, or interest in agricultural land where the acquiring person or business entity is in violation of section 2.

SECTION 4. ENFORCEMENT.) If the attorney general has reason to believe that any person is violating section 2, the attorney general shall commence an action in the district court in which any agricultural land relative to the violation is situated, or if situated in two or more counties, in the district court for that county in which a substantial part of the land is situated. The attorney general shall file for record with the register of deeds in each county in which any portion of the land is located a notice of the pendency of the action. If the court finds that the land in question is being held in violation of section 2, it shall enter an order so declaring. The attorney general shall file for record any such order with the register of deeds of each county in which any portion of the land is located. Thereafter, the person, partnership, limited partnership, trustee, or other business entity owning the land has a period of one year from the date of the order to divest itself of the lands. The one-year limitation period is deemed a covenant running with the title to the land against any grantee or assignee. Any land not divested within the time prescribed shall be sold at public sale in the manner prescribed by law for the foreclosure of a real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law. No title to land shall be invalid or subject to forfeiture by reason of the alienage of any former owner or person having a former interest therein.

SECTION 5. REPORTS.) Any individual, partnership, limited partnership, trustee, or other business entity prohibited from future acquisition of agricultural land may retain title to any agricultural land within this state acquired prior to July 1, 1979, but it shall file a report with the commissioner of agriculture by October 1, 1979, and annually before July first thereafter, containing a description of all agricultural land held within this

state, the purchase price and market value of the land, the use to which it is put, the date of acquisition and any other reasonable information required by the commissioner. The commissioner shall make the information available to the public.

SECTION 6. PENALTY.) Willful failure to properly register any parcel of land as required by section 5; recording, with knowledge, of any instrument in violation of section 2; or any other failure to comply with the provisions of sections 1 through 5 is a class A misdemeanor.

SECTION 7. AMENDMENT.) Section 47-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-01-11. PRIVATE OWNERSHIP - PERSONS QUALIFIED - CITIZEN - ALIEN.) Any Except as provided in sections 1 through 6 of this Act, any person, whether citizen or alien, may take, hold, and dispose of property, real or personal, within this state.

Approved April 7, 1979

CHAPTER 485

SENATE BILL NO. 2418
(Lodoen)

DEFINITION OF USURY

AN ACT to amend and reenact section 47-14-09 of the North Dakota Century Code, relating to the definition of usury, its prohibition and the maximum contract rate.

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

SECTION 1. AMENDMENT.) Section 47-14-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-14-09. USURY - DEFINITION - MAXIMUM CONTRACT RATE - PROHIBITION.) Except as otherwise provided by the laws of this state, no person, ~~co-partnership~~ partnership, limited partnership, trust, association, or corporation, or other form of business entity, either directly or indirectly, shall take or receive, or agree to take or receive, in money, goods, or things in action, or in any other way, any greater sum or greater value for the loan or forbearance of money, goods, or things in action than ~~three~~ five and one-half percent per annum higher than the maximum rate of interest payable on time deposits maturing in thirty months as defined and authorized by the state banking board under section 6-03-63, but that in any event the maximum allowable interest rate ceiling shall not be less than seven percent, and in the computation of interest the same shall not be compounded, provided, however, that a minimum interest charge of fifteen dollars may be made. ~~This section shall not apply to a loan made to a foreign or domestic corporation, or a cooperative corporation or association, nor to any business loan the principal amount of which amounts to more than twenty-five thousand dollars.~~ No contract shall provide for the payment of interest on interest overdue, but this section shall not apply to a contract to pay interest at a lawful rate on interest that is overdue at the time such contract is made. Any violation of this section shall be deemed usury. This section shall not apply to a loan made to a foreign or domestic corporation, cooperative corporation or association, trust, or to a partnership, limited partnership, or association which files a state or federal partnership income tax return, nor to any business loan or forbearance of money, goods, or things in action the principal amount of which amounts to more than

thirty-five thousand dollars. Further, without regard to the interest rate limit set forth herein, state chartered banks and the Bank of North Dakota may charge interest at a rate equal to the maximum allowable rate which lawfully may be charged for a particular type of loan by national banking associations or state or federally chartered savings and loan associations operating out of facilities located in this state.

Approved March 28, 1979

CHAPTER 486

HOUSE BILL NO. 1160
(Black)

NOTICE TO CHANGE OR TERMINATE LEASE

AN ACT to amend and reenact sections 47-16-07 and 47-16-15, relating to the notice required to be given by a landlord to change the terms of a lease and the notice required to be given by either party to terminate a lease.

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

SECTION 1. AMENDMENT.) Section 47-16-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-07. LEASES - NOTICE BY LANDLORD TO CHANGE TERMS - WHEN EFFECTIVE.) In all leases of land or tenements, or of any interest therein, from month to month, the landlord may change the terms of the lease to take effect at the expiration of the month upon giving notice in writing at least ~~fifteen~~ thirty days before the expiration of the month. The notice, when served upon the tenant, ~~of--itself~~ shall operate and be effectual to create and establish as a part of the lease the terms, rent, and conditions specified in the notice, if the tenant shall continue to hold the premises after the expiration of the month. For the purpose of this section, notice may be served in any reasonable manner which actually informs the tenant of the changes in the terms of the lease.

SECTION 2. AMENDMENT.) Section 47-16-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-16-15. NOTICE OF TERMINATION OF LEASE.) A hiring of real property for a term not specified by the parties is deemed to be renewed as stated in section 47-16-06 at the end of the term implied by law, unless one of the parties gives notice to the other of his intention to terminate the same, at least as long before the expiration thereof as the term of the hiring itself, not exceeding thirty days; provided, however, that as to tenancies from month to month, either of the parties may terminate the same by giving at least thirty days' notice thereof at any time, and the rent shall be due and payable to and including the date of termination; and provided further that if a landlord changes the terms of the lease pursuant to section 47-16-07, the tenant may terminate the lease at the end of the month by giving at least twenty-five days' notice.

Approved March 3, 1979

CHAPTER 487

HOUSE BILL NO. 1365
(Berge)

LEASE SECURITY DEPOSITS

AN ACT to amend and reenact subsection 1 of section 47-16-07.1 of the North Dakota Century Code, relating to real property and dwelling security deposits.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 47-16-07.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The lessor of real property or a dwelling who requires money as a security deposit, however denominated, shall deposit the money ~~in an interest-bearing account at the maximum rate allowed for passbook savings~~ any federally insured interest-bearing savings or passbook account established solely for security deposits. The security deposit and any interest accruing thereon shall be paid to the lessee upon termination of a lease, subject to the conditions of subsection 2. A landlord may not demand or receive security, however denominated, in an amount or value in excess of one month's rent.

Approved March 8, 1979

CHAPTER 488

HOUSE BILL NO. 1582
(Lardy, Brokaw, Hanson, Melby)

HOMESTEAD AVAILABILITY

AN ACT to amend and reenact sections 47-18-01, 47-18-03, 47-18-14, 47-18-17, 47-18-18, and 47-18-19 of the North Dakota Century Code, relating to the homestead; and to repeal section 47-18-02 of the North Dakota Century Code, relating to the homestead.

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

* SECTION 1. AMENDMENT.) Section 47-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-18-01. HOMESTEAD EXEMPTION - AREA AND VALUE.) The homestead of ~~every head of the family~~ any person, whether married or unmarried, residing in this state shall consist of the land upon which the claimant resides, and the dwelling house ~~situated thereon~~ on that land in which the homestead claimant resides, with all its appurtenances, and all other improvements on ~~said~~ the land, the total not to exceed ~~sixty~~ sixty eight thousand dollars in value, over and above liens or encumbrances or both. ~~Such~~ The homestead shall be exempt from judgment lien and from execution or forced sale, except as otherwise provided in this chapter. In no case shall the homestead embrace different lots or tracts of land unless they are contiguous.

SECTION 2. AMENDMENT.) Section 47-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-18-03. SELECTION OF HOMESTEAD EXEMPTION.) If a homestead claimant is married, the homestead may be selected from the separate property of ~~the husband or either spouse~~, with the consent of the ~~wife, from her separate property.~~ ~~When the homestead claimant is not married but is the head of a family within the meaning of section 47-18-02, the homestead may be selected from his property~~ other spouse.

** SECTION 3. AMENDMENT.) Section 47-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 47-18-01 was also amended by section 1 of Senate Bill No. 2336, chapter 489.

** NOTE: Section 47-18-14 was also amended by section 92 of House Bill No. 1073, chapter 187, and by section 3 of Senate Bill No. 2336, chapter 489.

47-18-14. PROCEEDS OF SALE EXEMPT - DISPOSITION.) If the sale of a homestead is made as provided in section 47-18-13, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution. When the execution is against a husband-whose-wife married claimant whose spouse is living, the court may direct that the ~~forty~~ eighty thousand dollars be deposited in court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the protection against legal process and voluntary disposition by ~~the--husband~~ either spouse as did the original homestead premises whether paid directly to the claimant or to the husband and wife jointly.

SECTION 4. AMENDMENT.) Section 47-18-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-18-17. WHO MAY MAKE DECLARATION OF HOMESTEAD.) Any person ~~who-is-the-head-of-a-family~~ may make a declaration of homestead in the manner provided in sections 47-18-18 and 47-18-19. A failure to make such declaration shall not impair the homestead right.

SECTION 5. AMENDMENT.) Section 47-18-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-18-18. DECLARATION OF HOMESTEAD - HOW EXECUTED AND ACKNOWLEDGED.) In order to select a homestead the ~~husband-or--either head-of--the--family,--or--in--case--the--husband-has-not-made-such selection,--the-wife,~~ claimant must execute and acknowledge, in the same manner as a grant of real property is acknowledged, a declaration of homestead, and file the same declaration for record.

A finding of a homestead exemption by the bankruptcy court on behalf of a person discharged from his debts pursuant to the Act of the Congress of the United States known as "an act to establish a uniform system of bankruptcy throughout the United States, approved July 1, 1898", ~~and-aets-amendatory-thereof~~ as amended [ch. 541, 30 Stat. 544], shall be a declaration of homestead.

Filing for record in the register of deeds office of the county where the homestead is located a certified copy of the bankrupt's discharge of bankruptcy constitutes notice that the property has been found to be a homestead and exempt from those judgments determined by the bankruptcy court to be discharged.

SECTION 6. AMENDMENT.) Section 47-18-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-18-19. CONTENTS OF DECLARATION OF HOMESTEAD.) The declaration of a homestead must contain:

1. ~~A--statement-showing-that-the-person-making-it-is-the-head of-a-family-or,--when-the-declaration-is-made-by-the--wife, showing-that-her-husband-has-not-made-such-declaration-for their-joint-benefit,~~

- 2- A statement that the person making it is residing on the premises and claims them as a homestead;
- 3- 2. A description of the premises; and
- 4- 3. An estimate of their cash value.

SECTION 7. REPEAL.) Section 47-18-02 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

CHAPTER 489

SENATE BILL NO. 2336
(Farrington)

HOMESTEAD VALUE

AN ACT to amend and reenact section 47-18-01, subsection 4 of section 47-18-04, and section 47-18-14 of the North Dakota Century Code, relating to the value of a homestead exempt from execution, the value of a homestead subject to execution, and the disposition of the proceeds from the execution.

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

* SECTION 1. AMENDMENT.) Section 47-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-18-01. HOMESTEAD EXEMPTION - AREA AND VALUE.) The homestead of every head of the family residing in this state shall consist of the land upon which the claimant resides, and the dwelling house situated thereon in which the homestead claimant resides, with all its appurtenances, and all other improvements on said land, the total not to exceed ~~sixty~~ sixty eight thousand dollars in value, over and above liens or encumbrances or both. Such homestead shall be exempt from judgment lien and from execution or forced sale, except as otherwise provided in this chapter. In no case shall the homestead embrace different lots or tracts of land unless they are contiguous.

SECTION 2. AMENDMENT.) Subsection 4 of section 47-18-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. On all other debts when, upon an appraisal as provided by section 47-18-06, it appears that the value of said homestead is more than ~~sixty~~ sixty eight thousand dollars over and above liens or encumbrances thereon, and then only to the extent of any value in excess of the sum total of such liens and encumbrances plus said ~~sixty~~ sixty eight thousand dollars.

** SECTION 3. AMENDMENT.) Section 47-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 47-18-01 was also amended by section 1 of House Bill No. 1582, chapter 488.

** NOTE: Section 47-18-14 was also amended by section 92 of House Bill No. 1073, chapter 187, and by section 3 of House Bill No. 1582, chapter 488.

47-18-14. PROCEEDS OF SALE EXEMPT - DISPOSITION.) If the sale of a homestead is made as provided in section 47-18-13, the proceeds thereof to the amount of the homestead exemption must be paid to the claimant and the residue applied to the satisfaction of the execution. When the execution is against a husband whose wife is living, the court may direct that the ~~forty~~ eighty thousand dollars be deposited in court to be paid out only on the joint receipt of the husband and wife, and it shall possess all the protection against legal process and voluntary disposition by the husband as did the original homestead premises whether paid directly to the claimant or to the husband and wife jointly.

Approved March 10, 1979

CHAPTER 490

HOUSE BILL NO. 1680
(Winkjer)

INSTRUMENTS RECORDED WITHOUT ACKNOWLEDGMENT

AN ACT to create and enact a new subsection to section 47-19-02 of the North Dakota Century Code, relating to instruments entitled to record without acknowledgment.

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

SECTION 1.) A new subsection to section 47-19-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

All instruments issued by the United States, or any agency, bureau, or department thereof and the state of North Dakota and all political subdivisions thereof which affect the title to real property.

Approved March 3, 1979

CHAPTER 491

HOUSE BILL NO. 1513
(Berg)

SURVEY CORNER MARKER REQUIREMENTS

AN ACT to amend and reenact section 47-20.1-10 of the North Dakota Century Code, relating to the minimum corner requirements of United States government survey corners.

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

SECTION 1. AMENDMENT.) Section 47-20.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

47-20.1-10. MINIMUM CORNER REQUIREMENTS.) The registered land surveyor establishing or rehabilitating corner markers shall place as a minimum acceptable marker, ~~an iron~~ a durable ferromagnetic monument not less than eighteen inches [45.72 centimeters] in length and not less than one-half inch [12.7 millimeters] in sectional dimension driven to a survey elevation depth to which is affixed a ~~metal~~ cap bearing the center point and the registered land surveyor's certificate number firmly impressed thereon.

Approved March 10, 1979

CHAPTER 492

SENATE BILL NO. 2221
(Committee on Industry, Business and Labor)
(At the request of the State Laboratories Department)

TRADEMARK PROVISIONS REPEALED

AN ACT to repeal chapter 47-23 of the North Dakota Century Code, relating to the use of the North Dakota trademark and to the approval, by the state laboratories department, for the use of the trademark.

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

SECTION 1. REPEAL.) Chapter 47-23 of the North Dakota Century Code is hereby repealed.

Approved March 10, 1979

PUBLIC BUILDINGS

CHAPTER 493

HOUSE BILL NO. 1694
(Strinden)

(Approved by Committee on Delayed Bills)

PUBLIC FACILITY ACCESSIBILITY BY HANDICAPPED

AN ACT to amend and reenact section 48-02-19 of the North Dakota Century Code, relating to making public buildings and facilities accessible and usable by the physically handicapped.

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

SECTION 1. AMENDMENT.) Section 48-02-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-19. PUBLIC BUILDINGS AND FACILITIES TO BE USABLE BY PHYSICALLY HANDICAPPED - DUTIES OF CONSTRUCTION SUPERINTENDENT.) All public buildings and facilities constructed, in whole or in part, from funds of the state or of its political subdivisions shall be accessible to, and usable by, the physically handicapped in accordance with the provisions of this section by July 1, 1979 1981, with the following exceptions:

1. Institutions under the supervision and control of the board of higher education, provided, however, that at least two institutions of higher education shall be so constructed or remodeled so as to make all programs offered therein accessible as required in this section.
2. Areas, offices, or levels of public buildings not used for activities open to members of the general public.

The state construction superintendent, after consultation with the state board of architecture, shall promulgate rules and regulations for agencies and institutions of the state and its political subdivisions to follow in making public buildings and facilities reasonably accessible and usable by the physically handicapped. The state construction superintendent, in preparing and promulgating such the rules, shall give full consideration to the rules and regulations recommended in and provided by the American standard specifications (A117.1-1961) approved October 31, 1961, by the American standards association, and future amendments thereto. Such

The rules and regulations promulgated by the state construction superintendent shall be issued in accordance with chapter 28-32. The state construction superintendent shall by July 1, 1980 prepare a statement showing:

1. A listing and description of the regular uses of each public building operated by counties, cities and agencies of the state of North Dakota.
2. A description of the degree of compliance of each listed public building with the accessibility standards promulgated under this section.
3. A description of the action planned to bring public buildings into accessibility compliance, with an estimate of the costs projected for the planned action, and an estimate of the cost of bringing the public building into full compliance.

In preparing such statement, the superintendent shall seek cooperation from the state agencies, the political subdivisions, and from any organizations and groups working to enhance the interests of the handicapped. The state construction superintendent shall annually revise and update such the rules and regulations. No state agency or institution shall construct a building or facility unless the state construction superintendent determines that the plans and specifications for such the building or facility are in conformity with the standards ~~provided in~~ promulgated pursuant to this section. Governing bodies of political subdivisions shall require a statement from the person or persons preparing the plans and specifications for the building or facility that such the plans and specifications are in conformance with the provisions of this section or that exceptions to the section have been granted by the state construction superintendent. Any exceptions granted to a governing body shall be made a part of the motion or resolution of approval of the drawings and specifications by the governing body and shall be recorded in the minutes of the meeting where such the approval is given. Adequate space for the physically handicapped to park automobiles near the facility without the necessity of crossing a street to reach such the facility shall be provided. All parking spaces reserved for use by motor vehicles operated by or for physically handicapped persons shall be designated by blue paint on the curb or edge of the paved portion of the parking space. All city curbs and crosswalks at principal intersections in the vicinity of public buildings shall be made usable to persons in wheelchairs. In cases of practical difficulty, unnecessary hardship, or extreme differences, the state construction superintendent may grant exceptions within the limits of legislative appropriation, from the literal requirements of the standards provided by this section or permit the use of other methods or materials, or, in the case of existing multiple-story buildings, provide such access to only one floor. The state construction superintendent shall notify each state agency, county and city, if the proposed actions constitute a reasonable effort toward compliance. The notice of reasonable compliance shall be an exception granted from full compliance required under this Act. The exception shall be valid for a period of two years from the date of issuance.

Approved April 3, 1979

CHAPTER 494

HOUSE BILL NO. 1117
 (Committee on State and Federal Government)
 (At the request of the
 Capitol Grounds Planning Commission)

CAPITOL BUILDING FUND

AN ACT to amend and reenact section 48-10-02 of the North Dakota Century Code, relating to the authority of the capitol grounds planning commission with respect to the capitol building fund, and making an appropriation.

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

SECTION 1. AMENDMENT.) Section 48-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-10-02. CAPITOL BUILDING FUND TO BE ADMINISTERED BY THE CAPITOL GROUNDS PLANNING COMMISSION - PROCEDURE FOR EXPENDITURE OF CERTAIN FUNDS ~~DEDICATED--FOR--USE--TO--CONSTRUCT--LEGISLATIVE--WING.)~~ Notwithstanding any other provision of law, the The capitol grounds planning commission, ~~acting through the state land commissioner and the state land department,~~ shall have general powers to superintend the administration of the capitol building fund, its interest and income fund, and its investments and properties. It may cause any lands now held in such funds to be sold at market value, direct the conversion of any securities now held by such funds to cash, approve expenditures from such funds subject to law and legislative appropriations, and to do all other things necessary to carry out the intent and purposes of this section. The board of university and school lands, or its designee, on the commission's behalf, shall see to the investment and management of the capitol building fund and its interest and income fund, and shall account to the commission concerning these funds at the commission's request.

Provided further, all moneys and other property ~~and the income therefrom~~ in the capitol building fund, except as otherwise appropriated, are hereby dedicated and reserved to the exclusive purpose of the construction of an addition to the legislative wing of the state capitol building, and the capitol grounds planning commission shall take necessary steps to accumulate and conserve the money and property ~~and the income therefrom~~ in the capitol building fund for such purpose.

The commission may, during any biennium, expend from the interest and income fund of the capitol building fund a sum not to exceed fifty percent of the unencumbered balance on the first day of any biennium, and such amount is hereby appropriated to the capitol grounds planning commission. The expenditure may be made, after consideration of the capitol grounds master plan, for projects or planning but shall not exceed fifty thousand dollars per biennium. The expenditure may only be made upon approval by two-thirds of the total membership of the commission. The expenditure shall be made upon a voucher, or vouchers, prepared by the legislative council staff at the direction of the commission.

Approved March 19, 1979

PUBLIC UTILITIES

CHAPTER 495

SENATE BILL NO. 2240

(Committee on Industry, Business and Labor)

(At the request of the North Dakota Public Service Commission)

PUBLIC SERVICE COMMISSION JURISDICTION

AN ACT to amend and reenact section 49-02-01 of the North Dakota Century Code, relating to public service commission jurisdiction over utilities.

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

SECTION 1. AMENDMENT.) Section 49-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-02-01. GENERAL JURISDICTION OF THE PUBLIC SERVICE COMMISSION OVER PUBLIC UTILITIES.) The general jurisdiction of the commission shall extend to and include:

1. Contract and common carriers ~~for~~ engaged in the transportation of persons and property, excluding air carriers.
2. Telegraph and, telephone, and communications companies utilities engaged in the transmission of messages or conversations.
3. Pipeline ~~companies---~~ for utilities engaged in the transportation of gas, oil, coal, and water.
4. ~~Electric light-companies-for-the-purpose-of-generating-and-distributing~~ utilities engaged in the generation and distribution of light, heat, or power.
5. ~~Gas companies-for~~ utilities engaged in the manufacture-or distribution of gas, natural, synthetic, or artificial gas.
6. ~~Water--companies-for-the-storage-and-distribution-of-water for-domestic-or-other-beneficial-use-~~
- 7- 6. All heating companies--for utilities engaged in the distribution of heat.

- 8- 7. Warehouse, ~~packing, and cold-storage~~ companies ~~for~~ engaged in the marketing, storage, or handling of ~~feed--and--other~~ agricultural products.
- ~~9--Steekyard-companies-engaged-in-the-business-of-caring-for, feeding, and watering livestock.~~
- 10- 8. All other public utilities engaged in business in this state or in any county, city, township, or other political subdivision of the state.

Approved March 22, 1979

CHAPTER 496

SENATE BILL NO. 2359
(Peterson)

COOPERATION IN DEALING WITH FEDERAL ENERGY LAWS

AN ACT to create and enact a new subsection to section 49-02-02 of the North Dakota Century Code, relating to cooperation with federal and state agencies dealing with federal energy laws.

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

SECTION 1.) A new subsection to section 49-02-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

Cooperate with and receive technical and financial assistance from the United States, any state, or any department, agency, or officer thereof for any purposes relating to federal energy laws that deal with energy conservation, coal conversion, rate reform, and utilities subject to the jurisdiction of the commission. The commission shall also have the authority to file any reports, hold hearings, and promulgate regulations for any such purposes.

Approved March 15, 1979

CHAPTER 497

SENATE BILL NO. 2230
(Committee on Industry, Business and Labor)
(At the request of the Public Service Commission)

DEFINITION OF PUBLIC UTILITY

AN ACT to amend and reenact section 49-03.1-02 of the North Dakota Century Code, relating to the definition of public utility.

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

SECTION 1. AMENDMENT.) Section 49-03.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-03.1-02. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Commission" means the public service commission.
2. "Public utility" includes any association, person, firm, corporation, or agency engaged or employed in this state to furnish its product or services to the public generally and which are statutorily subject to the jurisdiction of the commission. The words "public utility" as used in this chapter shall not apply to electric public utilities or motor carriers of persons or property for hire.

Approved March 12, 1979

CHAPTER 498

HOUSE BILL NO. 1280

(Committee on Industry, Business and Labor)

(At the request of the North Dakota Public Service Commission)

ISSUANCE OF PUBLIC UTILITY SECURITIES

AN ACT to amend and reenact section 49-04-04 of the North Dakota Century Code, relating to sales of securities by public utilities.

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

SECTION 1. AMENDMENT.) Section 49-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-04-04. POWER OF PUBLIC UTILITY TO ISSUE EVIDENCE OF INDEBTEDNESS.) The power of a public utility to issue stocks, bonds, notes, and other evidences of indebtedness or to create liens upon its property situated in this state, except such as are payable within one year from date of issue, is a special privilege and shall be exercised by such utility under the supervision, regulation, restriction, and control of the commission, subject to such rules and regulations as the commission may prescribe. This section does not apply to the issuance by public utilities of securities registered with the federal securities and exchange commission or to the issuance by public utilities of securities not involving any public offering.

Approved March 8, 1979

CHAPTER 499

HOUSE BILL NO. 1104
(Representative Erickson)
(Senator Solberg)

ABANDONED RAILWAY REOPENING TRUST AGREEMENTS

AN ACT to create and enact a new section to chapter 49-09 of the North Dakota Century Code, relating to authorizing the public service commission to enter into limited trust agreements with railway corporations abandoning railroad lines, for the purposes of reorganization or negotiated attempts to open the line for use, and to provide for reversion of the property to the railway corporation after five years in certain instances.

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

SECTION 1.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

ABANDONMENT OF RAILWAY LINES - PUBLIC SERVICE COMMISSION
AUTHORITY - TRUST AGREEMENT - TERM - REVERSION OF PROPERTY.)

1. If any railway corporation at any time abandons the use of any railway line in North Dakota, or if any railway corporation expresses an intent to abandon any railway line in North Dakota, the commission, as sole agent for the state, may enter into a trust agreement with the railway corporation for purposes of reorganization or reopening of the railway line. A trust agreement entered into pursuant to this subsection shall be for a period not to exceed five years.
2. If a railway corporation at any time abandons the use of any railway line in North Dakota, it may, at the request of the commission, execute a deed of trust transferring the railway track and ties, right of way, land, buildings, appurtenances, and other railway property necessary for the operation of railroads, to the commission, as trustee, for the purposes of reorganization or reopening of the railway line. Any deed of trust executed and delivered pursuant to this subsection shall provide for reversion of the deeded property to the railway corporation if there has been no reorganization or reopening of the railway line at the end of five years from the date of delivery of the deed.

Approved March 18, 1979

CHAPTER 500

HOUSE BILL NO. 1463
(Berg)

ABANDONED RAILROAD RIGHT-OF-WAY ACQUISITION

AN ACT to provide landowners adjoining abandoned railroad right of way options to acquire the right of way, and to regulate the acquisition of abandoned railroad right of way for wildlife programs or projects.

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

SECTION 1. ABANDONED RAILROAD RIGHT OF WAY - SALE - FIRST
OPTION - PUBLIC USE - WILDLIFE USE.)

1. Whenever any state-owned land taken, held, and used pursuant to section 49-09-01 for railroad right of way, or any railroad spur, industrial, switching, or side track right of way located entirely within the state is abandoned and offered for sale, lease, exchange, or other disposal, the landowner or landowners adjoining the abandoned right of way shall be given next option to acquire the right of way upon reasonable terms, second only to the right of the public service commission to receive in trust and transfer the right of way to any person, firm, or corporation for the continued operation of a railroad.
2. In all instances where railroad abandonment or discontinuance is governed by federal law and abandoned railroad right of way is first offered for public purposes and refused, the landowner or landowners adjoining the abandoned right of way shall be given the next option to purchase, lease, exchange, or otherwise acquire the right of way upon reasonable terms. However, the next option of the adjoining landowner does not supersede the right of the public service commission to receive in trust and transfer the right of way to any person, firm, or corporation for the continued operation of a railroad.
3. Whenever abandoned railroad right of way is offered for wildlife programs or projects, the proposed acquisitions

must first be submitted to the board of county commissioners of the county or counties in which the right of way is located for the board's approval pursuant to section 20.1-02-17.1 if offered to the state game and fish department or pursuant to section 20.1-02-18.1 if offered to the United States department of the interior, its bureaus or agencies.

Approved March 3, 1979

CHAPTER 501

HOUSE BILL NO. 1169
(Erickson, Hedstrom, Hove, Melby, Peltier)

ABANDONED RAILWAY REOPENING NEGOTIATIONS

AN ACT to create and enact seven new sections to chapter 49-09 of the North Dakota Century Code, relating to authority for the public service commission to enter into negotiations or aid in negotiation for the reopening or reorganization of abandoned railway lines or for the sale, transfer, or lease of railroad property; and to amend and reenact sections 49-11-02, 49-11-05, and 57-05-01 of the North Dakota Century Code, relating to railroad bridge repair, maintaining sufficient railway highway crossings, and assessment of railroad property.

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

SECTION 1.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

NEGOTIATIONS FOR REOPENING OF RAILWAY LINE - RAILROAD INTENDING TO ABANDON LINE.) The commission may enter into negotiations or aid in negotiation in cooperation with or on behalf of any railway corporation intending to abandon a railway line to sell, transfer, or lease all or any part of the real property to be abandoned to any person, firm, or corporation for continued operation of a railroad. However, approval for the continued operation must be granted by the interstate commerce commission of the United States, whenever approval is required.

SECTION 2.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

NEGOTIATIONS FOR REOPENING OF RAILWAY LINE - RAILROAD ABANDONING LINE.) The commission may enter into negotiations or aid in negotiation in cooperation with or on behalf of any railway corporation abandoning a railway line to sell, transfer, or lease all or any part of the real property to be abandoned to any person, firm, or corporation for continued operation of a railroad.

However, approval for the continued operation must be granted by the interstate commerce commission of the United States, whenever approval is required.

SECTION 3.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

NEGOTIATIONS FOR SALE, TRANSFER, OR LEASE OF RAILROAD PROPERTY - PUBLIC SERVICE COMMISSION AUTHORITY.) The commission may, upon the request of a railway corporation, cooperate with the railway corporation in negotiating the sale, transfer, or lease of all or any part of the railway track and ties, right of way, land, buildings, appurtenances, and other railway property necessary for the operation of railroads in this state. Upon request the commission may contact the other parties involved in the transaction, call a meeting to discuss the transaction, and act as negotiator in cooperation with the railroads involved in the transaction. The railroads, if all parties to the transaction agree, may provide for finalization of the transaction.

SECTION 4.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

COMMISSION'S AUTHORITY IN PUBLIC INTEREST - COOPERATION WITH OTHER STATES.) The authority of the commission in dealing with abandoned rail properties or negotiations for reopening of abandoned rail properties is for the purpose of continued and future operation of a railroad and is in the public interest. Actions taken by the commission are declared to be a public purpose and to be reasonably necessary. The commission may take action in concert with another state or states, as necessary to ensure continued rail service in this state.

SECTION 5.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

INTERSTATE COMMERCE COMMISSION CERTIFICATE.) The commission may assist any person, firm, or corporation to secure, as promptly as possible, any order or certificate required by the interstate commerce commission for the performance of rail service.

SECTION 6.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

PUBLIC SERVICE COMMISSION AUTHORIZED TO CONDUCT PERIODIC MEETINGS CONCERNING FUTURE OPERATION OF RAILROADS.) The commission may in the public interest call an annual meeting for the purpose of discussing efficient operations of railroads in the state. The commission may invite all railway corporations operating in the state, and the meeting shall be open to the public.

SECTION 7.) A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

RULES FOR ENFORCEMENT.) The commission is authorized to adopt rules, in accordance with chapter 28-32, consistent with and necessary for the enforcement of sections 1 through 4 of this Act.

SECTION 8. AMENDMENT.) Section 49-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-02. RAILROAD BRIDGES MUST BE IN GOOD REPAIR.) Every railroad corporation shall maintain and keep in good repair all bridges and their abutments which ~~such~~ the corporation shall construct for the purpose of enabling its road to pass over or under any public highway, watercourse, or other way. Railroad corporations which have transferred railway property to the public service commission in trust for the purposes of reorganization or reopening are not liable for failure to maintain railroad bridges in good repair during the period of trust.

SECTION 9. AMENDMENT.) Section 49-11-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-05. RAILROAD TO MAINTAIN SUFFICIENT HIGHWAY CROSSINGS.) All railroad corporations operating a line of railway in this state shall build or cause to be built and kept in repair safe and sufficient crossings in accordance with section 49-11-06 over ~~such~~ the railway line at all points where it shall ~~intersect~~ intersects any public highway in use. Any railway corporation transferring railway properties to the public service commission in trust for the purposes of reorganization or reopening is not liable for failure to maintain sufficient crossings during the period of trust.

* SECTION 10. AMENDMENT.) Section 57-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-05-01. RAILROAD PROPERTY TO BE ASSESSED BY STATE BOARD OF EQUALIZATION.) The state board of equalization, at its annual meeting in August in each year, shall assess at its actual value, the operating property, including franchises, ~~except that if of each railroad operated in this state including any electric or other street or interurban railway.~~ If any railroad allows any portion of its railway to be used for any purpose other than the operation of a railroad ~~thereon, such,~~ the portion of its railway while so used shall be assessed in a manner provided for the assessment of other real property, of each railroad operated in this state, including any electric or other street or interurban railway. To enable ~~said~~ the board to make a correct valuation of ~~such~~ property, it shall have access to all reports, estimates, and surveys of a line of railroad on file in the office of the public service commission and shall have power to summon and compel the attendance of witnesses, and to examine ~~such~~ witnesses under oath in any matter relating to the value of ~~such~~ the property. In fixing the value of any ~~such~~

* NOTE: Section 57-05-01 was also amended by section 3 of Senate Bill No. 2258, chapter 589.

railroad, and of ~~the-branches~~ branch lines and sidetracks ~~thereof~~, the board shall be governed by the rules prescribed for county and township assessors in valuing other property in this state. The board shall make a record of the value placed by it upon the property of the railroad, including the valuation per mile of main line and of branch lines and sidetracks. Railroad property held in trust by the public service commission for purposes of reorganization or reopening of the railway line shall be exempt from assessment as provided in this section.

Approved March 18, 1979

CHAPTER 502

HOUSE BILL NO. 1103
(Representative Erickson)
(Senator Solberg)

RAIL SERVICE ASSISTANCE

AN ACT to authorize the state highway department, upon approval by the public service commission, to apply for rail service assistance under the Railroad Revitalization and Regulatory Reform Act of 1976, to authorize the highway department to act as the designated state agency to receive rail service assistance, and to authorize cooperation between the highway department and the public service commission to take steps necessary to improve transportation utilization; and declaring an emergency.

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

SECTION 1. DEFINITIONS.)

1. "Commission" means the public service commission.
2. "Department" means the state highway department.

SECTION 2. HIGHWAY DEPARTMENT AS DESIGNATED STATE AGENCY.)
The department, with the approval of the commission, is authorized to exercise those powers necessary for the state to qualify for rail service assistance grants pursuant to provisions of the Railroad Revitalization and Regulatory Reform Act of 1976 [Pub. L. 94-210; 90 Stat 149; 49 U.S.C. 1651 et seq.], including authority to:

1. Prepare and recommend a state plan for all rail transportation and local rail services under the direction of an intermodal team appointed by the governor.
2. Administer and coordinate the state plan.
3. Provide in the plan for the equitable distribution of rail service assistance grants among state, local, and regional transportation authorities.

4. Promote and support safe, adequate, and efficient rail services for those railway lines receiving rail service assistance grants.
5. Employ sufficient trained and qualified personnel for these purposes.
6. Maintain adequate programs of investigation, research, promotion, and development in connection with these purposes and to provide for public participation therein.
7. Provide satisfactory assurances on behalf of the state that fiscal control and fund accounting procedures will be adopted by the state as may be necessary to assure proper disbursement of an account for federal funds paid to the state as rail service assistance grants.
8. Comply with the regulations of the secretary of transportation of the United States department of transportation affecting rail service assistance grants.
9. Do all things otherwise necessary to maximize federal assistance to the state under the Railroad Revitalization and Regulatory Reform Act of 1976, and any amendments to it.

SECTION 3. APPLICATION FOR ASSISTANCE.) The department, with the approval of the commission, may make application on behalf of the state for grants made available by the secretary of transportation under the Railroad Revitalization and Regulatory Reform Act of 1976.

SECTION 4. USE OF PUBLIC AND PRIVATE FUNDS - PUBLIC SERVICE COMMISSION PARTICIPATION.) The department, with the approval of the commission, may utilize public and private funds appropriated by the legislative assembly in carrying out the purpose of this Act. The department shall cooperate with the commission and with other states in the reorganization or reopening of any railway line which may have been abandoned by any railway corporation providing railway services within the state. In carrying out the authority conferred by this section, the department may enter into agreements, contracts, or other arrangements with the necessary parties to accomplish the purposes of this Act.

SECTION 5. SUBSIDY OF RAILWAY LINES.) The department, with the approval of the commission, may provide financial assistance, within the limits of funds appropriated by the legislative assembly, for the continuation of operations and maintenance of any railroad within the state, as provided for in the Railroad Revitalization and Regulatory Reform Act of 1976, or other relevant federal legislation. The department or the commission may act as the agent in cooperation with the federal government, any local or regional transportation authority, local governmental units, any group of rail users, or any person in any rail service assistance program.

SECTION 6. RAILROAD PLAN AND PROPOSALS.) The department and the commission may develop and make available to interested persons feasibility plans, proposals, and recommendations for mergers, consolidations, reorganizations, and other unification or coordination projects for rail services which the department and the commission believe would result in a rail system which is more efficient and consistent with public interest.

SECTION 7. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved February 20, 1979

CHAPTER 503

HOUSE BILL NO. 1285

(Committee on Transportation)

(At the request of the North Dakota Public Service Commission)

MOTOR CARRIER CERTIFICATES

AN ACT to create and enact a new section to chapter 49-18 of the North Dakota Century Code, relating to interstate carrier registration and identification; to create and enact a new section to chapter 49-18 of the North Dakota Century Code, relating to violation of commission order or rule and penalty; to amend and reenact subsections 4, 5, 6, 7, 8, 9, 10, and 11 of section 49-18-01, subsection 6 of section 49-18-02 and sections 49-18-14 and 49-18-17 of the North Dakota Century Code, relating to definitions, exemption of agricultural commodities, factors to be considered by the commission in granting certificates, and discontinuance of service by common motor carriers by order of the commission; and to repeal sections 49-18-34.1, 49-18-35, 49-18-36, 49-18-37, 49-18-38, 49-18-38.1, 49-18-38.2, 49-18-38.3, and 49-18-39 of the North Dakota Century Code, relating to regulation of agricultural carriers; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subsections 4, 5, 6, 7, 8, 9, 10, and 11 of section 49-18-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

~~4. "Agricultural carrier" shall mean any person, firm, association, or corporation, hauling and transporting for hire, poultry, livestock, and dairy products, from the farm where such products are produced, grown, or further processed, to the market or place where such products or supplies are sold, stored, disposed of, purchased or acquired, and from the market or place where the same are purchased or acquired to the farm where the same are to be used, consumed, or further processed.~~

5- 4. "Common motor carrier of property" shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle from place to place the property of others who may choose to

~~employ him. Transportation for more than one consignee, or to more than three consignees, by any motor carrier, shall be prima facie evidence that such motor carrier is operating as a common carrier.~~

- 6- 5. "Class A common carriers" shall mean those common motor carriers operating between fixed termini, over fixed routes, on schedule time.
- 7- 6. "Special common motor carrier" shall mean a common motor carrier operating over irregular routes, not on schedule time, at the will and command of the shipper.
- 8- 7. "Common motor carrier of passengers" shall mean any person who holds himself out to the public as willing to undertake for hire to transport by motor vehicle from place to place persons who may choose to employ him.
- 9- 8. "Contract motor carrier of property" shall mean any person engaged in the transportation by motor vehicle of property for hire and not included in the term "common motor carrier of property".
- 10- 9. "Contract motor carrier of passengers" shall mean any person engaged in the transportation by motor vehicle of persons for hire and not included in the term "common motor carrier of passengers".
- 11- 10. "Special common motor carrier of buildings" shall mean a common motor carrier of property engaged in the transportation of buildings, sections of buildings, and other bulky objects which, because of their nature, require the use of equipment characteristic to the house moving industry.

SECTION 2. AMENDMENT.) Subsection 6 of section 49-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. To the transportation, for hire, of non-liquid fertilizers or unmanufactured agricultural commodities, excluding including dairy commodities, poultry, and livestock.

SECTION 3. AMENDMENT.) Section 49-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-14. FACTORS TO BE CONSIDERED BY COMMISSION IN GRANTING CERTIFICATE.) Before granting a certificate to a common motor carrier, the commission shall take into consideration:

1. Existing travel upon the route of the carrier;
2. The increased cost of maintaining the highway concerned; and

3. The effect on other essential-forms-of-transportation,-and existing transportation facilities adequately serving the territory for which a certificate is sought.

~~4. Existing transportation facilities in the territory for which a certificate is sought.~~

In case it appears from the evidence that the service furnished or that could be furnished by existing transportation facilities is reasonably adequate, the commission shall not grant such certificate.

SECTION 4. AMENDMENT.) Section 49-18-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-17. DISCONTINUANCE OF SERVICE BY COMMON MOTOR CARRIER - ONLY BY ORDER OF COMMISSION.) No common motor carrier authorized by this chapter to operate shall abandon or discontinue any service established under the provisions thereof without an order of the commission. Non-user, plus inability to operate, refusal to accept business, or noncompliance with a proper commission order shall, in the discretion of the commission, constitute sufficient cause for revocation under section 49-18-16 of the North Dakota Century Code.

SECTION 5.) A new section to chapter 49-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

INTERSTATE CARRIER REGISTRATION AND IDENTIFICATION.) The public service commission is authorized to collect such fees as it may establish by rule for the registration and identification of interstate motor carriers operating within this state. Such fees shall not exceed the maximums provided for by the laws of the United States and shall be credited to the general fund pursuant to section 49-18-42 of the North Dakota Century Code.

SECTION 6.) A new section to chapter 49-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

VIOLATION OF COMMISSION ORDER OR RULE - PENALTY.) Any person who violates or fails to comply with any provision of this chapter, or who fails, omits, or neglects to obey, observe, or comply with any order, decision, decree, rule, direction, demand, or requirement of the commission, or any part or provision thereof issued pursuant to this chapter, shall be guilty of an infraction.

SECTION 7. REPEAL.) Sections 49-18-34.1, 49-18-35, 49-18-36, 49-18-37, 49-18-38, 49-18-38.1, 49-18-38.2, 49-18-38.3, and 49-18-39 of the North Dakota Century Code are hereby repealed.

SECTION 8. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 8, 1979

CHAPTER 504

SENATE BILL NO. 2233

(Committee on Natural Resources)

(At the request of the North Dakota Public Service Commission)

ENERGY FACILITY SITING AMENDMENTS

AN ACT to create and enact section 49-22-08.1 of the North Dakota Century Code, relating to applications for route permits and the designation of transmission facility routes; to amend and reenact section 49-22-02, subsections 1, 5, 10, 11, and 12 of section 49-22-03, sections 49-22-05.1, 49-22-07, 49-22-07.2, 49-22-08, 49-22-09, 49-22-13, 49-22-14.1, 49-22-16, and 49-22-18, subsections 3 and 4 of section 49-22-21, and section 49-22-22 of the North Dakota Century Code, relating to the statement of policy; definitions; the inventory of exclusion and avoidance areas; criteria; certificates of site compatibility and route permits; the waiver of procedures and time schedules; applications for certificates; the designation of sites and corridors; factors to be considered in evaluating applications and the designation of sites, corridors, and routes; public hearings; cooperation with state and federal agencies; the effect of issuance of certificates or permits; local land-use, zoning, or building rules, regulations, or ordinances; state agency rules; rules and regulations; penalties; and application fees; to repeal sections 49-22-10, 49-22-11, 49-22-12.1, and 49-22-15 of the North Dakota Century Code, relating to the designation of sites and corridors, the approval of specific routes, emergency certification, and public participation.

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

SECTION 1. AMENDMENT.) Section 49-22-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-02. STATEMENT OF POLICY.) The legislative assembly finds that the construction of energy conversion facilities and transmission facilities affects the environment and the welfare of the citizens of this state. Therefore, it is necessary to ensure that the location, construction, and operation of energy conversion facilities and transmission facilities will produce minimal adverse effects on the environment and upon the welfare of the citizens of this state by providing that no energy conversion facility or

transmission facility shall be located, constructed, and operated within this state without a certificate of site compatibility or a route permit acquired pursuant to this chapter. The legislative assembly hereby declares it to be the policy of this state to site energy conversion facilities and to route transmission facilities in an orderly manner compatible with environmental preservation and the efficient use of resources. In accordance with this policy, sites and routes shall be chosen which minimize adverse human and environmental impact while ensuring continuing system reliability and integrity and ensuring that energy needs are met and fulfilled in an orderly and timely fashion.

SECTION 2. AMENDMENT.) Subsections 1, 5, 10, 11, and 12 of section 49-22-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. "Certificate" means the certificate of site compatibility or the certificate of corridor compatibility issued under the provisions of this chapter.
5. "Energy conversion facility" means any plant, addition, or combination of plant and addition, designed for or capable of:
 - a. Generation of fifty thousand kilowatts or more of electricity;
 - b. Manufacture or refinement of one hundred million cubic feet [2,831,684.66 cubic meters] or more of gas per day, regardless of the end use of the gas;
 - c. Manufacture or refinement of fifty thousand barrels [7,949.36 cubic meters] or more of liquid hydrocarbon products per day; or
 - d. Enrichment of uranium minerals.
10. "Site" means the location of an energy conversion facility ~~or a corridor~~.
11. "Transmission facility" means any of the following:
 - a. An electric transmission line and associated facilities with a design in excess of one hundred fifteen kilovolts ~~or more~~.
 - b. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, or liquid hydrocarbon products. The provision of this subdivision shall not apply to ~~any person operating~~ an oil or gas pipeline gathering system. For purposes of this chapter a gathering system shall include the pipelines and associated facilities used to collect oil from the

lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility.

- c. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility.
12. "Utility" means any person engaged in and controlling the generation, manufacture, refinement, or transmission of electric energy, gas, liquid hydrocarbons, or liquid hydrocarbon products, including, but not limited to, electric power generation or transmission, coal gasification, coal liquefaction, petroleum refinement, uranium enrichment, and the transmission of coal, gas, liquid hydrocarbons, or liquid hydrocarbon products, or the transmission of water from or to any energy conversion facility.

SECTION 3. AMENDMENT.) Section 49-22-05.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-05.1. INVENTORY OF EXCLUSION AND AVOIDANCE AREAS - CRITERIA---PUBLIC-HEARINGS.)

1. The commission shall assemble and publish an energy conversion and transmission facility inventory of exclusion and avoidance areas. The commission shall have a continuing responsibility to evaluate, update, and publish its inventory. ~~An exclusion or avoidance area shall be removed from the inventory if, due to changed circumstances or information, it is inconsistent with the prescribed criteria, an area shall be included in the inventory if it is found to be consistent with the prescribed criteria.~~
2. ~~The inventory report prepared by the commission shall contain an identification of the exclusion and avoidance areas and the criteria used in identifying them. The criteria developed by the commission shall also guide the site or corridor suitability evaluation and designation process. A public hearing shall be held before any substantial modification to the criteria is adopted. The commission shall develop criteria which shall be used in identifying exclusion and avoidance areas and which shall guide the site, corridor, and route suitability evaluation and designation process. The criteria may also include an identification of impacts and policies or practices which may be considered in the evaluation and designation process.~~
The commission shall develop criteria which shall be used in identifying exclusion and avoidance areas and which shall guide the site, corridor, and route suitability evaluation and designation process. The criteria may also include an identification of impacts and policies or practices which may be considered in the evaluation and designation process.

SECTION 4. AMENDMENT.) Section 49-22-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-07. CERTIFICATE OF SITE COMPATIBILITY OR ROUTE PERMIT REQUIRED.) No utility shall begin construction of an energy conversion facility or transmission facility in the state, or exercise the right of eminent domain in connection with such construction, without first having obtained a certificate of site compatibility ~~issued with respect to such facility--by~~ or a route permit from the commission pursuant to this chapter. ~~Any A facility, with respect to which a certificate is required,~~ shall thereafter be constructed, operated, and maintained in conformity with such certificate or permit, and any terms and conditions contained therein and subsequent modifications thereof. A certificate or permit may be transferred, subject to the approval of the commission, to any person who agrees to comply with its terms, conditions, and modifications.

SECTION 5. AMENDMENT.) Section 49-22-07.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-07.2. WAIVER OF PROCEDURES AND TIME SCHEDULES.) Any utility which proposes to construct an energy conversion facility ~~with a design not in excess of one hundred thousand kilowatts~~ or a transmission facility within the state may make an application to the commission for a waiver of any of the procedures or time schedules set forth in this chapter or in the rules adopted pursuant to this chapter. The commission, after hearing and upon a finding that the proposed facility is of such length, design, location, or purpose that it will produce minimal adverse effects, or, after hearing and upon a finding that a demonstrable emergency exists which requires immediate construction and that adherence to the procedures and time schedules would jeopardize the utility's system, may issue an order waiving specified procedures and time schedules required by this chapter or by the rules adopted pursuant to this chapter, including, but not limited to, applications, notices, and hearings, and may forthwith issue a certificate of site compatibility, a certificate of corridor compatibility, or a route permit, ~~or both,~~ with such conditions as the commission may require. ~~The proposed facility shall thereafter be constructed, operated, and maintained in compliance with this chapter.~~

SECTION 6. AMENDMENT.) Section 49-22-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-08. APPLICATION FOR A CERTIFICATE - PROOF-OF-SERVICE---NOTICE OF FILING - AMENDMENT - DESIGNATION OF A SITE OR CORRIDOR.)

1. An applicant application for a certificate shall ~~file with the commission an application,~~ be in such form as the commission may prescribe, containing the following information:

- a. A description of the size and type of facility.
 - b. A summary of any studies which have been made of the environmental impact of the facility.
 - c. A statement explaining the need for the facility.
 - d. An identification of the location of the preferred site for any energy conversion facility.
 - e. An identification of the location of the preferred corridor for any transmission facility.
 - f. A description of the merits and detriments of any location identified, and a comprehensive analysis with supporting data showing the reasons why the preferred location is best suited for the facility.
 - g. A description of mitigative measures that will be taken to minimize all foreseen adverse impacts resulting from the location, construction, and operation of the proposed facility.
 - h. An evaluation of the proposed site or corridor with regard to the applicable considerations set out in section 49-22-09 and the criteria established pursuant to section 49-22-05.1.
- g- i. Such other information as the applicant may consider relevant or the commission may require.
2. After receiving determining that the application is complete, the commission shall serve a notice of filing of the application on the--chairman-of-the-board-of-county commissioners-of-each-county-in-which-any-portion-of--the facility--is--proposed--to-be-located,--the-chief-executive officer-of-each-city-in-the-county-in-which-any-portion-of the--facility--is--proposed-to-be-located,--and-the-head-of each-government-agency-charged-with-the-duty-of-protecting the--environment-or-planning-land-use-in-the-area-in-which any-portion-of-the-facility-is-to-be-located such persons and agencies that the commission may deem appropriate and shall publish a notice of filing of the application in the official newspaper of each county in which any portion of the site or corridor is proposed to be located.
 3. Copies A copy of the application shall be furnished to all entities-entitled-to-notice-of-filing any person or agency, upon request to the commission within thirty days of receipt either service or publication of the notice of filing. In-addition,--the-commission-shall-serve-notice-of the-filing-of-the-application-or-copies-thereof,--or--both, upon--such--other--persons--as--the--commission--may--deem appropriate.

4. An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe.
5. The commission shall designate a site or corridor for a proposed facility following the study and hearings provided for in this chapter. This designation shall be made in accordance with the evidence presented at the hearings, an evaluation of the information provided in the application, the criteria established pursuant to section 49-22-05.1, and the considerations set out in section 49-22-09 in a finding with reasons for the designation, and shall be made in a timely manner no later than six months after the filing of a completed application for a certificate of site compatibility or no later than three months after the filing of a completed application for a certificate of corridor compatibility. The time for designation of a site or corridor may be extended by the commission for just cause. The failure of the commission to act within the time limits provided in this section shall not operate to divest the commission of jurisdiction in any certification proceeding. The commission shall indicate the reasons for any refusal. Upon designation of a site or corridor, the commission shall issue a certificate of site compatibility or a certificate of corridor compatibility with such terms, conditions, or modifications deemed necessary.

SECTION 7.) Section 49-22-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

49-22-08.1. APPLICATION FOR A PERMIT - NOTICE OF FILING - AMENDMENT - DESIGNATION OF A ROUTE.)

1. An application for a route permit for a transmission facility within a designated corridor shall be filed no later than two years after the issuance of the certificate and shall be in such form as the commission may prescribe, containing the following information:
 - a. A description of the type, size, and design of the proposed facility.
 - b. A description of the location of the proposed facility.
 - c. An evaluation of the proposed route with regard to the applicable considerations set out in section 49-22-09 and the criteria established pursuant to section 49-22-05.1.
 - d. A description of mitigative measures that will be taken to minimize all foreseen adverse impacts

- resulting from the location, construction, and operation of the proposed facility.
- e. A description of the right-of-way preparation and construction and reclamation procedures.
 - f. A statement setting forth the manner in which: (1) The utility will inform affected landowners of easement acquisition, and necessary easement conditions and restrictions. (2) The utility will compensate landowners for easements, without reference to the actual consideration to be paid.
 - g. Such other information as the utility may consider relevant or the commission may require.
2. After determining that the application is complete, the commission shall serve a notice of filing of the application on such persons and agencies that the commission may deem appropriate and shall publish a notice of filing of the application in the official newspaper of each county in which any portion of the designated corridor is located.
3. A copy of the application shall be furnished to any person or agency, upon request to the commission within thirty days of either service or publication of the notice of filing.
4. An application for an amendment of a permit shall be in such form and contain such information as the commission shall prescribe.
5. The commission shall designate a route for the construction of a transmission facility following the study and hearings provided for in this chapter. This designation shall be made in accordance with the evidence presented at the hearings, an evaluation of the information provided in the application, the criteria established pursuant to section 49-22-05.1, and the considerations set out in section 49-22-09 in a finding with reasons for the designation, and shall be made in a timely manner no later than six months after the filing of a completed application. The time for designation of a route may be extended by the commission for just cause. The failure of the commission to act within the time limit provided in this section shall not operate to divest the commission of jurisdiction in any permit proceeding. Upon designation of a route the commission shall issue a permit to the applicant with such terms, conditions, or modifications deemed necessary.

SECTION 8. AMENDMENT.) Section 49-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-09. FACTORS TO BE CONSIDERED IN EVALUATING APPLICATIONS AND DESIGNATION OF SITES AND, CORRIDORS AND ROUTES.) The commission shall be guided by, but is not limited to, the following considerations, where applicable, to aid the study, ~~research, evaluation, and designation of sites and, corridors for energy conversion facilities and transmission facilities and the approval of specific transmission facilities,~~ and their routes:

1. ~~Evaluation~~ of Available research and investigations relating to the effects of ~~energy conversion facilities and transmission facilities on land, water, and air resources and the effects of water and air discharges from such facilities~~ the location, construction, and operation of the proposed facility on public health and welfare, ~~vegetation, animals, materials, and aesthetic values, including baseline studies, predictive modeling, and monitoring of the water and air mass at proposed sites and sites of operating energy conversion facilities, evaluation of new or improved methods for minimizing adverse impacts of water and air discharges, and other matters pertaining to the effects of energy conversion facilities on the water and air environment~~ natural resources, and the environment.
2. ~~Environmental evaluation of energy conversion facility sites and transmission facility corridors and routes proposed for future development and expansion and their relationship to the land, water, air, and human resources of the state.~~
3. 2. Evaluation of the The effects of new energy conversion and transmission technologies and systems designed to minimize adverse environmental effects.
4. 3. Evaluation ~~of the~~ The potential for beneficial uses of waste energy from a proposed energy conversion ~~facilities~~ facility.
5. 4. Evaluation ~~of~~ adverse Adverse direct and indirect environmental effects which cannot be avoided should the proposed site, ~~corridor,~~ or route be accepted designated.
6. 5. Evaluation ~~of alternatives~~ Alternatives to the proposed site, corridor, or route which are developed during the hearing process and which minimize adverse effects.
7. 6. Evaluation ~~of irreversible~~ Irreversible and irretrievable commitments of natural resources should the proposed site, corridor, or route be approved designated.
8. 7. Analysis ~~of the~~ The direct and indirect economic impact impacts of the proposed ~~energy conversion facilities and transmission facilities~~ facility.

- 9- 8. ~~Analysis-of-existing~~ Existing plans of the state, local government, and private entities for other developments at or in the vicinity of the proposed site, corridor, or route.
- 10- 9. ~~Evaluation-of-the~~ The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites at-or-in-the vicinity-of-the-proposed-site,-corridor,-or-route.
- 11- 10. ~~Evaluation-of-the~~ The effect of the proposed site or route on areas which are unique because of biological wealth or because they are habitats for rare and endangered species at-or-in-the-viceinity-of-the-proposed-site,-corridor,-or-route.
- 12- 11. ~~Where-appropriate,-consideration-of-problems~~ Problems raised by federal agencies, other state agencies, and local entities.

SECTION 9. AMENDMENT.) Section 49-22-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-13. PUBLIC HEARINGS - NOTICE.) ~~The-commission-shall hold-public-hearings-as-prescribed-by-regulation-to-afford interested-persons-an-opportunity-to-be-heard-regarding-its inventory-of-exclusion-and-avoidance-areas-and-any-other-aspects-of the-commission's-activities,-duties,-or-policies-arising-under-or set-forth-in-this-chapter.-The-commission-shall-hold-at-least-one public-hearing-in-each-county-where-a-site-or-corridor-is-being considered-for-designation-pursuant-to-section-49-22-10-as-suitable for-construction-of-an-energy-conversion-facility-or-transmission facility,-however,-where-more-than-one-county-is-involved,-the commission-may-consolidate-the-county-hearings-and-hold-a consolidated-hearing-or-hearings-in-a-place-designated-by-the commission.-Notice-of-public-hearings-shall-be-given-by-the commission-at-the-expense-of-the-applicant-at-least-twenty-days prior-to-such-hearings.-In-an-emergency,-the-commission,-in-its discretion,-may-notice-a-hearing-upon-less-than-twenty-days.-Notice shall-be-by-publication-in-the-official-county-newspaper-of-the county-in-which-the-public-hearing-is-to-be-held-and-by-mailed notice-to-the-persons-designated-in-subsection-2-of-section 49-22-08-~~

1. The commission shall hold a public hearing in each county in which any portion of a site, corridor, or route is proposed to be located in an application for a certificate or a permit. Where more than one county is involved the commission may hold a consolidated hearing in one or more of the affected counties. A hearing for any county shall not be consolidated if five or more affected landowners in such county file a petition with the commission within ten days of the publication of the notice of hearing.

2. The commission shall not be required to hold a public hearing on an application for the transfer of a certificate or a permit, or an application for a waiver of procedures and time schedules, but shall publish a notice of opportunity for a public hearing in the official newspaper of each county in which any portion of the facility or the proposed site, corridor, or route is located. If requested by any interested person and good cause has been shown therefor, the commission shall hold a public hearing. Where more than one county is involved, the commission may hold a consolidated hearing in one or more of the affected counties.
3. One or more public hearings shall be held at a location or locations determined by the commission concerning the following matters:
 - a. A substantial or material change in the criteria established pursuant to section 49-22-05.1.
 - b. A substantial or material change in the rules adopted pursuant to section 49-22-18.
 - c. The revocation or suspension of a certificate or permit.
4. Notice of a public hearing shall be given by the commission by service on such persons and agencies that the commission may deem appropriate and by publication at least twenty days prior to such hearing. Notice of a public hearing and notice of opportunity for a public hearing on an application for a certificate, a permit, a transfer, or a waiver shall be given at the expense of the applicant. In an emergency the commission, in its discretion, may notice a hearing upon less than twenty days.

SECTION 10. AMENDMENT.) Section 49-22-14.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-14.1. COOPERATION WITH STATE AND FEDERAL AGENCIES.) The commission shall have the authority may, and is encouraged to, cooperate with and receive and exchange technical information and assistance from and with the--United--States,--any--state,--or any department, agency, or officer thereof of any state or of the federal government to eliminate duplication of effort, to establish a common data base, or for any other purpose relating to the siting of energy conversion and transmission facilities provisions of this chapter and in furtherance of the statement of policy contained herein.

SECTION 11. AMENDMENT.) Section 49-22-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-16. EFFECT OF ISSUANCE OF CERTIFICATE OR PERMIT - ~~FACILITY LICENSING~~ LOCAL LAND-USE, ZONING, OR BUILDING RULES, REGULATIONS, OR ORDINANCES - STATE AGENCY PARTICIPATION RULES.)

1. The issuance of a certificate of site compatibility or a ~~transmission-facility route permit and subsequent purchase and use of such site or route locations for energy conversion facilities and transmission facilities~~ shall, subject to subsections 2 and 3, be the sole site or route approval required to be obtained by the utility.
2. A certificate of site compatibility for an energy conversion facility shall not supersede or preempt any ~~county or city~~ local land-use, zoning, or building rules, regulations, or ordinances and no site shall be designated which violates local land-use, zoning, or building rules, regulations, or ordinances. A permit for the construction of a transmission facility within a designated corridor may supersede and preempt any ~~county or city~~ local land-use, zoning, or building rules, regulations, or ordinances upon a finding by the commission that such rules, regulations, or ordinances, as applied to the proposed route, are unreasonably restrictive in view of existing technology, factors of cost or economics, or needs of consumers ~~whether located in or out of the county or city~~ regardless of their location. Without such a finding by the commission, no route shall be designated which violates local land-use, zoning, or building rules, regulations, or ordinances.
3. Utilities subject to this chapter shall obtain state permits that may be required to construct and operate energy conversion facilities and transmission facilities. A state agency in processing a utility's facility permit application shall be bound to the decisions of the commission with respect to the site designation for the energy conversion facility or the corridor or route designation for the transmission facility and with respect to other matters for which authority has been granted to the commission by this chapter.
4. ~~State agencies authorized to issue permits required for construction or operation of energy conversion facilities or transmission facilities shall participate in and present the position of the agency at public hearings and all other activities of the commission on specific site, corridor, or route designations of the commission, which position shall clearly state whether the site, corridor, or route being considered for designation or permit approval for a certain size and type of facility will be in compliance with state agency standards, regulations, or policies. No site or route shall be designated which violates the rules of any state agency regulations. A~~

state agency with jurisdiction over any aspect of a proposed facility shall present the position of the agency at the public hearing on an application for a certificate, a permit, or a waiver, which position shall clearly state whether the site, corridor, or route being considered for designation will be in compliance with such agency's rules. For purposes of this chapter it shall be presumed that a proposed facility will be in compliance with a state agency's rules if such agency fails to present its position on the proposed site, corridor, or route at the appropriate public hearing.

SECTION 12. AMENDMENT.) Section 49-22-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-18. RULES AND REGULATIONS.) The commission shall adopt rules and regulations with respect to the promulgation of facility siting criteria, information to be furnished by the utilities, guidelines for public participation in the development, revision, and enforcement of any regulation, plan, or program of the commission, and other matters of procedure and enforcement pursuant to chapter 28-32 in conformity with the provisions of this chapter and to prescribe methods and procedures required therewith.

SECTION 13. AMENDMENT.) Subsections 3 and 4 of section 49-22-21 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. Any person who violates this chapter willfully engages in any of the following conduct shall be subject to a civil penalty of not more than ten thousand dollars:
 - a. Begins construction of an energy conversion facility or a transmission facility without having been issued a certificate or permit pursuant to this chapter.
 - b. Constructs, operates, or maintains an energy conversion facility or a transmission facility other than in compliance with the certificate or permit and any terms, conditions, or modifications contained therein.
 - c. Violates any provision of this chapter or any rule adopted by the commission pursuant to this chapter.
 - d. Falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained pursuant to a certificate or permit issued pursuant to this chapter.

The civil penalty provided for in this section shall be recoverable by suit filed subsection may be compromised by the commission and. The amount of the penalty when finally determined or agreed upon in compromise shall be

deposited in the general fund and, if not paid, may be recovered in a civil action in the courts of the state.

4. Notwithstanding any other provision of this chapter, the commission may, by injunctive procedures, without bond or other undertaking, proceed against any person in violation of the provisions of this chapter, or the rules and regulations issued thereunder who willfully engages in any conduct described in subsection 3 of this section. No liability whatsoever shall accrue to the commission or its authorized representative in proceeding against any person pursuant to this section.

SECTION 14. AMENDMENT.) Section 49-22-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-22-22. APPLICATION FEES - ADDITIONAL FEES - DEPOSIT GENERAL FUND.)

1. Every applicant for a certificate of site compatibility for an energy conversion facility shall pay to the commission an application fee in an amount equal to five hundred dollars for each one million dollars of investment in the proposed installation facility as defined in the federal power energy regulatory commission uniform system of accounts. Every applicant for a certificate of site corridor compatibility for a transmission facility shall pay to the commission an application fee in an amount equal to five thousand dollars for each one million dollars of investment in the proposed installation facility as defined in the federal power energy regulatory commission uniform system of accounts. Every applicant for a waiver shall pay to the commission an application fee in the amount which would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, such application fee paid shall be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility. The application fee under this subsection shall not be less than five thousand dollars nor more than one hundred fifty thousand dollars. The commission shall specify the time and manner of payment of the application fee.
2. The applicant shall pay such additional fees as are reasonably necessary for completion of the energy conversion facility site, transmission facility corridor, or transmission facility route evaluation and designation process by the commission. The commission shall specify the time and method of payment of any additional fees and shall refund the portion of such additional fees received from the applicant for completion of the site, corridor,

or route evaluation and designation process which exceeds the expenses incurred for the evaluation and designation process. In no event shall the application fee under subsection 1 and any additional fees required of the applicant under this subsection exceed an amount equal to one thousand dollars for each one million dollars of investment in a proposed energy conversion facility or ten thousand dollars for each one million dollars of investment in a proposed transmission facility.

3. All fees collected under the provisions of this chapter shall be deposited in the general fund.

SECTION 15. REPEAL.) Sections 49-22-10, 49-22-11, 49-22-12.1, and 49-22-15 of the North Dakota Century Code are hereby repealed.

Approved April 7, 1979

CHAPTER 505

HOUSE BILL NO. 1461
(Representatives Dietz, Crabtree, Erickson)
(Senators Naaden, Smykowski)

ELECTRIC TRANSMISSION FACILITY
EASEMENT PAYMENT

AN ACT to create and enact a new section to chapter 49-22 of the North Dakota Century Code, relating to payment terms of easements for electric transmission facilities.

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

SECTION 1.) A new section to chapter 49-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

EASEMENTS FOR A FACILITY - TERMS.) Any easement for an electric transmission facility as defined in chapter 49-22 acquired contractually by a utility after July 1, 1979, shall give the landowner the option of receiving a single sum payment for the easement or receiving payment in annual installments of equal amount including interest on the outstanding balance to be paid by the utility at a rate equal to the average rate paid during that year by the Bank of North Dakota on a certificate of deposit in an amount equal to the outstanding balance. The first annual installments shall be prorated to July 1 and all following annual installments shall fall due on July 1. The option provided herein shall not apply to any easement providing for compensation of less than \$5,000.00. In the event the landowner elects to receive the compensation in annual payments, the benefits unpaid at the time of sale of the real estate to which the easement attaches shall accrue to the purchaser of said real estate thereafter. The utility right-of-way agent shall inform the property owner of his option to choose annual installments.

Approved March 19, 1979

PUBLIC WELFARE

CHAPTER 506

HOUSE BILL NO. 1545
(Mertens)

COUNTY POOR RELIEF

AN ACT to create and enact a new section to chapter 50-01 of the North Dakota Century Code, relating to the determination of eligibility for county poor relief, notice of the determination regarding county poor relief eligibility, and appeals from such determination; and to amend and reenact section 50-01-01 of the North Dakota Century Code, relating to eligibility for county poor relief.

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

SECTION 1.) A new section to chapter 50-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

DETERMINATION OF ELIGIBILITY - NOTICE - APPEAL.) The director of the county social service board, or an individual designated by the county social service board, shall be responsible for determining, within a reasonable period of time, an applicant's eligibility for relief under this chapter. Applicants shall be provided written notice of the determination, such notice to include the reasons for such determination, as well as an explanation of the applicant's right to a timely appeal of the determination to the county social service board if aggrieved by the decision. Decisions of the county social service board regarding appeals taken pursuant to this section shall be subject to judicial review in the manner prescribed by chapter 28-32.

SECTION 2. 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 Within the limits of the county poor relief appropriation therefor, and utilizing reimbursement under section 50-01-09.2, each county in this state is obligated, upon receipt of a written application on a form prescribed by the social service board of North Dakota, 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~~ applicant:

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~~ written eligibility standards for county poor relief established by the county social service board. A copy of the written standards shall be available upon request. Pursuant to this requirement, the ownership of real or personal property by an applicant for county poor relief, 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 relief if the applicant is without funds for his support. However, as a condition to the granting of county poor relief, the applicant may be required to transfer such property in trust by appropriate instrument as security for relief the applicant may thereafter receive, unless the property consists of one of the following:
 - a. A homestead.
 - b. A life insurance policy having a cash surrender value of less than three hundred dollars.
 - c. Personal property of a value less than three hundred dollars, not including household goods, wearing apparel, and personal effects, such as money.
 - d. Property selected by the applicant having a value of less than three hundred dollars.
 - e. Real or personal property held in trust for the applicant by the federal government.
 - f. Real or personal property on which the taking of security may be prohibited through legislation enacted by the Congress of the United States.

Approved March 15, 1979

CHAPTER 507

HOUSE BILL NO. 1622
(Representatives Mushik, Olson, Stenehjem)
(Senators Christensen, Redlin)

DISPLACED HOMEMAKERS

AN ACT to create and enact chapter 50-06.2 of the North Dakota Century Code, providing counseling, training, jobs, services, and health care for displaced homemakers; and providing a termination date.

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

* SECTION 1.) Chapter 50-06.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

50-06.2-01. LEGISLATIVE FINDING AND DECLARATION.) The legislative assembly finds that there is an ever-increasing number of persons in this state, who, having fulfilled a role as homemaker, find themselves "displaced" in their middle years through divorce, death of spouse, or other loss of family income. As a consequence, displaced homemakers are very often without any source of income; they are usually ineligible for categorical welfare assistance; they are subject to one of the highest unemployment rates of any sector of the work force; they face continuing discrimination in employment because they are older and have no recent paid work experience; they are often ineligible for unemployment insurance because they have been engaged in unpaid labor in the home; they are often ineligible for social security because they are too young, and for many, they will never qualify for social security because they have been divorced from the family wage earner; they have often lost their rights as beneficiaries under employers' pension and health plans through divorce or death of spouse, despite many years of contribution to the family well-being; and they are most often ineligible for medical assistance and are generally unacceptable to private health insurance plans because of their age.

It is the intention of the legislative assembly in enacting this chapter to provide the necessary counseling, training, jobs, services, and health care for displaced homemakers so that they may enjoy the independence and economic security vital to a productive life and to improve the health and welfare of this ever-growing group of citizens.

* NOTE: This chapter is temporary and is therefore not codified as North Dakota Century Code Chapter 50-06.2.

50-06.2-02. DEFINITIONS.)

1. "Bureau" means the employment security bureau of North Dakota.
2. "Displaced homemaker" means an individual who meets all of the following criteria:
 - a. Is over thirty-five years of age.
 - b. Has worked in the home, providing unpaid services for household members.
 - c. Is not gainfully employed, or is underemployed.
 - d. Has had, or would have, difficulty finding employment.
 - e. (1) Has depended on the income of a family member and has lost that income; or
(2) Has depended on government assistance as the parent of dependent children, but who is not eligible for such assistance.
 - f. Is not eligible for any other assistance programs.
3. "Executive director" means the executive director of the employment security bureau.

50-06.2-03. PILOT MULTIPURPOSE SERVICE CENTER - ESTABLISHMENT - GRANTS - DESIGN AND STAFF.) The executive director may establish a pilot multipurpose service center for displaced homemakers in an urban area, and a mobile unit to serve rural areas. To the greatest extent possible, the executive director shall make grants to nonprofit agencies or organizations to carry out the various programs, as enumerated in sections 50-06.2-05 to 50-06.2-11, inclusive. The service center and mobile unit shall be designed and staffed as follows:

1. The multipurpose service center and mobile unit shall be designed to provide displaced homemakers with the necessary counseling, training, skills, services, and education to become gainfully employed, healthy, and independent.
2. To the greatest extent possible, the staffing of the service center and mobile unit, including supervisory, technical, and administrative positions, shall be by displaced homemakers. Where necessary, potential staff members shall be provided with on-the-job training by independent contractors or volunteer agencies.

50-06.2-04. SOURCES OF FUNDING AND IN-KIND CONTRIBUTIONS.) The executive director shall explore all possible sources of funding

and in-kind contributions from federal, local, and private sources in establishing the service center and mobile unit, including building space, equipment, and qualified personnel for training programs.

50-06.2-05. JOB COUNSELING PROGRAM - DESIGN - EMPHASIS.) The multipurpose service center and mobile unit shall have a job counseling program for displaced homemakers. Job counseling shall be specifically designed for the person reentering the job market after a number of years as a homemaker. The counseling shall take into account and build upon the skills and experiences of a homemaker. Peer counseling and job readiness as well as skill updating and development shall be emphasized.

50-06.2-06. JOB TRAINING PROGRAM - DEVELOPMENT - STIPEND FOR TRAINEES.) The multipurpose service center and mobile unit shall have job training programs for displaced homemakers. The staffs of the center and mobile unit shall contract or enter into cooperative agreements, or both, with the state board for vocational education, other government agencies, and private employers to develop training programs for available jobs in the public and private sectors for the purpose of promoting self-sufficiency. The job training programs shall provide a stipend for trainees.

50-06.2-07. JOB TRAINING PROGRAMS - LAY ADVOCATES - HOME HEALTH TECHNICIANS - HEALTH CARE COUNSELORS.) The service center and mobile unit may include, but not be limited to, the following job training programs:

1. Lay advocates. This program shall be directed toward developing skills in counseling and advising on administrative procedures in government programs such as social security, supplemental security income, welfare, and unemployment, in order that trainees will be trained for employment in social service agencies on a community level, such as senior citizen centers and legal aid offices.
2. Home health technicians. This program shall be directed toward developing skills in nutrition, basic health care, and nursing for the disabled and elderly, in order that trainees will be trained for employment by persons who are homebound through illness or disability and unable to care for themselves and their own households.
3. Health care counselors. This program shall be directed toward developing skills in counseling techniques and in basic health care, especially for middle-aged individuals, in order that trainees will be trained for employment in community and hospital outpatient health clinics.
4. Youth workers. This program shall be directed toward developing skills in working with children and youth in order that trainees will be trained for employment in

community facilities and agencies such as day care centers, public and private schools, special education programs and other educational, social and recreational activities or programs designed to meet the needs and interests of youth.

5. Other nontraditional and traditional jobs.

50-06.2-08. JOB TRAINING PROGRAMS - GOAL.) Each of the job training programs enumerated in section 50-06.2-07 shall have a goal for the first year, training and placing a stated number of displaced homemakers, some of whom could be employed in the service programs specified in section 50-06.2-10. In addition, the service center and mobile unit staffs shall develop, in conjunction with the bureau, plans for including more displaced homemakers in existing job training and placement programs.

50-06.2-09. ASSISTANCE IN FINDING PERMANENT EMPLOYMENT FOR TRAINEE.) Service center and mobile unit staffs shall be responsible for assisting the trainee in finding permanent employment. To this end, the executive director and the service center and mobile unit staffs shall work with the bureau, and the prime sponsors under the Comprehensive Employment and Training Act of 1974 in the area of the center, to secure employment for displaced homemakers.

50-06.2-10. SERVICE PROGRAMS.) The multipurpose service center and mobile unit shall include, but not be limited to, providing and coordinating with other existing service programs, the following service programs for displaced homemakers:

1. A health counseling and referral clinic. Based on principles of preventive health care and consumer health education, each clinic shall be staffed to the greatest extent possible by displaced homemakers. The functions of the clinic shall include:
 - a. Examinations conducted by nurse practitioners. The emphasis of the program shall be on explanation and education about health care and physical well-being.
 - b. Information and referral to physicians and clinics.
 - c. Discussion and activity groups on aging, weight, and nutrition.
 - d. Alcohol and drug addiction programs designed specifically to deal with the social and physical causes of addiction among displaced homemakers.
2. Money management courses, including information and assistance in dealing with insurance programs (life, health, home, and car), taxes, mortgages, loans, and probate problems.

3. Outreach and information for government programs, including concrete information and assistance with supplemental security income, social security, veterans administration benefits, welfare, food stamps, unemployment insurance, and medical assistance.
4. Educational programs, including courses offered for credit through universities or colleges or leading toward a high school equivalency degree. These courses shall be designed to supplement the usual academic course offerings with classes geared toward older persons to improve their self-image and abilities.

50-06.2-11. REGULATIONS - ELIGIBILITY FOR PROGRAMS - LEVEL OF STIPENDS - SLIDING FEE SCALE FOR SERVICE PROGRAMS.) The executive director, in consultation with the directors of the service center and mobile unit, is authorized to adopt rules, within six months from the effective date of this chapter, concerning the eligibility of persons for the job training and other programs of the multipurpose service center and mobile unit, the level of stipends for the job training programs described in sections 50-06.2-06 and 50-06.2-07, a sliding fee scale for the service programs described in section 50-06.2-10, and other matters as the executive director deems necessary. Eligibility for services shall be limited to those persons described in section 50-06.2-02.

50-06.2-12. DELEGATION OF AUTHORITY.) The executive director may delegate any or all of the authority granted him by this chapter to whatever department within the bureau the director deems appropriate.

SECTION 2. DURATION OF CHAPTER - FUNDING.) This Act shall remain in effect until June 30, 1981.

Approved April 3, 1979

CHAPTER 508

SENATE BILL NO. 2158
(Committee on Social Welfare and Veterans Affairs)
(At the request of the Social Service Board)

INVESTIGATION BY COUNTY AGENCY

AN ACT to amend and reenact section 50-09-07 of the North Dakota Century Code, relating to county social service board investigations of applicants for aid to dependent children.

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

SECTION 1. AMENDMENT.) Section 50-09-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-09-07. INVESTIGATION BY COUNTY AGENCY --REPORT-TO-STATE'S ATTORNEY.) Whenever a county agency shall receive an application for assistance, or assistance has been granted, under this chapter, the agency promptly shall make an investigation and record of the circumstances of the applicant, or child, or both, in order to ascertain the facts supporting the application, or the granting of assistance, and shall obtain such other information as may be required by the rules and regulations of the state agency.

Approved March 8, 1979

CHAPTER 509

HOUSE BILL NO. 1186
(Committee on Social Services and Veterans Affairs)
(At the request of the Social Service Board)

SUPPLEMENTAL PARENTAL CARE FOR CHILDREN

AN ACT to amend and reenact sections 50-11.1-01, 50-11.1-02, 50-11.1-04, 50-11.1-05, 50-11.1-06, subsections 1 and 3 of section 50-11.1-07, subsection 2 of section 50-11.1-08, subsection 2 of section 50-11.1-09, and section 50-11.1-11 of the North Dakota Century Code, relating to the regulation of supplemental parental care for children.

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

SECTION 1. AMENDMENT.) Section 50-11.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-01. PURPOSE.) The purpose of this chapter is to assure that children ~~requiring~~ receiving supplemental parental care be provided ~~such~~ such food, shelter, ~~security-and~~ security and safety, ~~guidance-and~~ guidance and ~~direction,--nurture---~~ direction, nurture, and comfort, supervision, and learning experiences commensurate to their age and capabilities, so as to safeguard the ~~growth~~ growth health, safety, and development of ~~such~~ such those children, ~~thereby--facilitating--their--proper--physical--and--emotional--maturation.~~

SECTION 2. AMENDMENT.) Section 50-11.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-02. DEFINITIONS.) As used in this chapter:

1. "Supplemental parental ~~child~~ care" shall mean the provision of food, shelter, ~~security-and~~ security and safety, ~~guidance and--direction,--nurture--and~~ guidance and nurture and comfort, supervision, and a learning experience commensurate ~~to~~ with a child's age and capabilities, so as to safeguard ~~such~~ such the child's growth health, safety, and development on a supplemental basis, ~~either in~~ either in inside or outside of the child's home by persons other than a parent, guardian, person in loco parentis, or relative, ~~on--a--regular--basis--for--daily--periods--of--less~~

than-twenty-four-hours which is, or is anticipated to be, ongoing for periods of four or more hours per day or for three or more days per week. Supplemental parental care shall not include substitute parental child care provided pursuant to chapter 50-11.

- 2. "Family day care home" shall mean an occupied private residence in which supplemental parental ~~child~~ care is regularly provided for no more than twelve children from more than one family.
- 3. "Day care center" shall mean:
 - a. Any facility, other than an occupied private residence, which regularly receives one or more children for supplemental parental ~~child~~ care; or
 - b. Any facility, including an occupied private residence, which regularly provides supplemental parental ~~child~~ care for thirteen or more children.
- 4. "Child care attendant" shall mean any person who ~~receives public-funds-in-consideration-for-providing~~ provides, for purchase by any agency of state or local government, supplemental ~~child~~ parental care to children from one family in the ~~child's~~ children's home.
- 5. "Registration" shall mean the process whereby the board maintains a record of all family day care homes and child care attendants,~~---prescribes---standards---and---promulgates regulations-under-section---50-11-1-08,---and---requires---the operator-of-a-family-day-care-home-or-child-care-attendant to-certify who have certified that he---has they have complied or will comply with the prescribed standards and promulgated regulations.~~
- 6. "Registrant" shall mean the holder of a registration certificate issued by the board in accordance with the provisions of this chapter.
- 7. "Registration certificate" is a written instrument issued by the ~~social-service board of North--Dakota~~ to publicly document that the certificate holder has ~~in--writing certified to-the-board~~ compliance with this chapter and the applicable regulations and standards ~~for-supplemental parental-child-care--established~~ as prescribed by the board.
- 8. "Board" shall mean the social service board of North Dakota.
- 9. "Relative" shall mean any person having the following relationship to the child by marriage, blood, or adoption:

grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, or aunt.

SECTION 3. AMENDMENT.) Section 50-11.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-04. APPLICATION FOR LICENSE - PREREQUISITES FOR ISSUANCE - LICENSE GRANTED - TERM.) Applications for day care licenses shall be made on forms provided, in the manner prescribed, by the board. The board shall investigate the applicant's activities and proposed standards of care and shall make an inspection of the proposed center. A license for the operation of a center shall be granted by the board ~~to reputable and responsible persons~~ upon a showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide good care for the health and safety for all children who may be received;
2. The persons in charge of such center and their assistants are properly qualified to carry on efficiently fulfill the duties required of them according to the provisions of this chapter and the rules, regulations, and standards prescribed by the board; and
- ~~3. The center is likely to be conducted for the public good in accordance with sound social policy and with due regard to the health, morality, and well-being of all children cared for therein; and~~
- 4- 3. The center will be maintained according to the standards prescribed for its conduct by the rules and regulations of the board.

The license shall be in force and effect for a period of not more than two years.

SECTION 4. AMENDMENT.) Section 50-11.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-05. OPERATION OF FAMILY DAY CARE HOME - REGISTRATION REQUIRED - ISSUANCE OF REGISTRATION CERTIFICATE - TERM.) No person, partnership, firm, corporation, association, or nongovernmental organization intending to provide supplemental parental care shall operate a family day care home without first procuring a family day care registration certificate from the board. The board shall determine whether the standards have been met and shall issue or deny a registration certificate based upon the finding that the registrant has certified in writing that the home is in compliance with the requirements of this chapter and the standards prescribed by the board for the operation of the home that determination.

Family day care registration certificates shall be in force and effect for a period of not more than two years.

SECTION 5. AMENDMENT.) Section 50-11.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-06. CHILD CARE ATTENDANTS - REGISTRATION REQUIRED - ISSUANCE OF REGISTRATION CERTIFICATE - TERM.) Child care attendants, prior to providing in-home supplemental parental child care, shall procure a registration certificate from the board. The board shall ~~issue a registration certificate~~ determine whether the standards have been met and shall issue or deny a registration certificate based upon the finding that the registrant has certified in writing that he is in compliance with the requirements of this chapter and the standards prescribed by the board for child care attendants that determination. Registration certificates for child care attendants shall be in force and effect for not more than two years.

SECTION 6. AMENDMENT.) Subsections 1 and 3 of section 50-11.1-07 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The board and its authorized agents at any time may investigate and inspect the conditions and of the facility, the qualifications of the providers of supplemental parental care in any day care center, or family day care home, ~~or~~ and the qualifications of any child care attendant seeking or holding such a license or registration certificate under the provisions of this chapter. Upon request of the board, the state department of health or the state fire marshal, or his designee, shall inspect any home or facility for which a license or registration certificate is applied for or issued and shall report its findings to the board.
3. All records and information maintained with respect to children receiving supplemental parental child care shall be deemed confidential and be properly safeguarded and shall not be disclosed except:
 - a. In a judicial proceeding;
 - b. To officers of the law or other legally constituted boards or agencies; or
 - c. To persons having a definite interest in the well-being of the child or children concerned and who, in the judgment of the board, are in a position to serve their interests should that be necessary.

SECTION 7. AMENDMENT.) Subsection 2 of section 50-11.1-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Take such action and make such reasonable rules and regulations for the regulation of supplemental parental ~~child~~ care as may be necessary to carry out the purposes of this chapter and entitle the state to receive aid from the federal government.

SECTION 8. AMENDMENT.) Subsection 2 of section 50-11.1-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The ~~license~~ licensee or registrant is no longer in compliance with the minimum standards prescribed by the board.

SECTION 9. AMENDMENT.) Section 50-11.1-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-11.1-11. ~~USE--OF--PUBLIC--FUNDS~~ PUBLIC AGENCY PURCHASE OF SUPPLEMENTAL PARENTAL CARE.) ~~Public-funds--for--the~~ No agency of state or local government shall purchase of supplemental parental ~~child~~ care, including such care provided by relatives or in the home of a relative, ~~shall-be-used-only-in-licensed~~ unless the day care ~~centers-or~~ center, registered family day care homes home, or child care attendant is licensed, registered or approved by the board. ~~The-provisions-of-this-section--shall--not--apply--to--any--home--or--institution-under-the-management-and-control-of-the-state-~~

Approved March 3, 1979

CHAPTER 510

HOUSE BILL NO. 1077
(Legislative Council)
(Interim Committee on Social Services)

BOARDING HOMES FOR THE AGED AND INFIRM

AN ACT to create and enact two new sections to chapter 50-18 of the North Dakota Century Code, relating to cooperation between the state laboratories department and the state social service board in determining licensing responsibility and actions against operations without a license; and to amend and reenact section 50-18-01 of the North Dakota Century Code, relating to the definition of boarding home for the aged and infirm.

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

SECTION 1.) A new section to chapter 50-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

COOPERATION BETWEEN STATE LABORATORIES DEPARTMENT AND SOCIAL SERVICE BOARD - RESPONSIBILITY FOR LICENSING - JOINT INSPECTION.)
When, in the opinion of the state laboratories department director, an establishment licensed as a hotel, lodginghouse, or boardinghouse under chapter 23-09 is exceeding the authority or responsibility it has under chapter 23-09, the state laboratories department director shall cause a written notice to be sent to the board. The notice shall give the name and address of the establishment, the name of the owner or manager, and shall clearly state specific reasons why the establishment is believed to be in violation of chapter 23-09. Upon receipt of the notice the board shall arrange for a joint inspection of the establishment with the intention of determining which agency is responsible for licensing the establishment.

When any place licensed under this chapter changes its operation to that of a hotel, lodginghouse, or boardinghouse, the board shall notify the state laboratories department in the manner required above and the state laboratories department shall arrange for a joint inspection of the facility.

After a joint inspection, the responsible licensing agency shall be identified and shall conduct subsequent investigations.

SECTION 2.) A new section to chapter 50-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

INJUNCTION.) The board, in accordance with the laws of this 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 home without first having a license under this chapter.

SECTION 3. AMENDMENT.) Section 50-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-18-01. "BOARDING HOME FOR THE AGED AND INFIRM" DEFINED.) As used in this chapter, the term "boarding home for the aged and infirm" ~~shall--mean~~ means any place, not licensed by the state department of health, operated by any person, institution, organization, or private or public corporation, in which three or more adults who are aged or infirm and not related by blood or marriage to the owner or manager of ~~said~~ the place, are received, kept, and provided with food, shelter, and care for hire or compensation. Care for hire or compensation includes routine maintenance and supportive care which need not be provided in an institutional setting by trained and skilled medical personnel, can be administered without any possible harm to the health of the aged or infirm individual in care, and has no significant relationship to medical care of any type. Any place which assists its residents with walking, dressing, or toilet usage, or which promotes supervision of person, or which employs any staff to aid residents in addition to cooks or maids for cleaning, is considered to be a home subject to regulation by the social service board of North Dakota.

Approved March 3, 1979

CHAPTER 511

HOUSE BILL NO. 1576
(Mertens)

NONGERIATRIC PATIENT RULES

AN ACT to require the social service board and the state department of health to adopt rules which would ensure nongeriatric patients and residents the full benefits of care and the screening process for appropriate medical, social, and psychological services, and to permit nursing homes, intermediate care facilities, and boarding homes for the aged and infirm to establish residential areas specifically for the inhabitation of nongeriatric patients.

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

SECTION 1. RULES - NONGERIATRIC PERSONS.) The social service board, under chapter 50-18, and the state department of health, under chapter 23-16, shall adopt rules for patient and resident care and quality care review which are not in conflict with any federal laws, as are necessary to ensure the appropriate medical, social, and psychological services to nongeriatric persons residing in a nursing home, intermediate care facility, boarding home for the aged and infirm, or any combination of a nursing home, intermediate care facility, or boarding home for the aged and infirm.

SECTION 2. RESIDENTIAL AREAS - NONGERIATRIC PATIENTS.) A nursing home, intermediate care facility, boarding home for the aged and infirm, or any combination of a nursing home, intermediate care facility, or boarding home for the aged and infirm may establish residential areas specifically for inhabitation by nongeriatric patients subject to any reasonable rules adopted by the social service board or the state department of health.

Approved March 19, 1979

CHAPTER 512

SENATE BILL NO. 2344
(Reiten)

RECOVERY FROM RECIPIENT'S ESTATE

AN ACT to amend and reenact sections 50-24-33 and 50-24.1-07 of the North Dakota Century Code, relating to recovery from estates of recipients of assistance to the aged, blind, or disabled.

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

* SECTION 1. AMENDMENT.) Section 50-24-33 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-24-33. RECOVERY FROM ESTATE OF RECIPIENT OF ASSISTANCE TO THE AGED, BLIND, OR DISABLED.) On the death of any recipient of assistance to the aged, blind, or disabled under the provisions of this chapter, the total amount of assistance paid under this chapter shall be allowed as a preferred claim against the estate of such person in favor of the state pursuant to subdivision e of subsection 1 of section 30.1-19-05 except that such "reasonable funeral expenses" shall not exceed the sum of ~~nine~~ twelve hundred dollars and except that claims on behalf of the Jamestown state hospital shall have priority over any claims of the state filed under the authority of this section. No claim shall be enforced against any of the following:

1. Real estate of a recipient for the support, maintenance, or comfort of the surviving spouse or a dependent.
2. Personal property necessary for the support, maintenance, or comfort of the surviving spouse or a dependent.
3. Any real or personal property of a recipient which is held in trust for him by the federal government.

SECTION 2. AMENDMENT.) Section 50-24.1-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Chapter 50-24 was repealed by section 1 of House Bill No. 1695, chapter 513.

50-24.1-07. RECOVERY FROM ESTATE OF MEDICAL ASSISTANCE RECIPIENT.) On the death of any recipient of medical assistance who was sixty-five years of age or older when he received such assistance, the total amount of medical assistance paid on behalf of the decedent following his sixty-fifth birthday shall be allowed as a preferred claim against the decedent's estate after funeral expenses not in excess of ~~nine~~ twelve hundred dollars, expenses of last illness, and expenses of administering the estate, including attorney's fees approved by the court, and claims on behalf of the state hospital have been paid. No claim shall be allowed during the lifetime of the decedent's surviving spouse, if any, nor while there is a surviving child who is under the age of twenty-one years or is blind or permanently and totally disabled.

Approved March 23, 1979

CHAPTER 513

HOUSE BILL NO. 1695

(Stenehjem)

(Approved by Committee on Delayed Bills)

AGED, BLIND, OR DISABLED AID PROGRAM REPEALED

AN ACT to repeal chapter 50-24 of the North Dakota Century Code, relating to aid to aged, blind, or disabled program, but continuing certain provisions in effect.

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

* SECTION 1. REPEAL.) Chapter 50-24 of the North Dakota Century Code is hereby repealed.

SECTION 2.) Rights existing and vested or instruments executed under sections 50-24-13, 50-24-15, 50-24-30, 50-24-33, 50-24-34, and 50-24-38 prior to July 1, 1979, shall continue to be effective until their expiration according to their own terms or by force of law.

Approved April 3, 1979

* NOTE: Section 50-24-33 was amended by section 1 of Senate Bill No. 2344, chapter 512.

CHAPTER 514

HOUSE BILL NO. 1240
(Committee on Social Services and Veterans Affairs)
(At the request of the Social Service Board)

CHILD ABUSE AND NEGLECT

AN ACT to create and enact four new sections to chapter 50-25.1 of the North Dakota Century Code, relating to the reporting of child abuse and neglect; and to amend and reenact sections 50-25.1-02, subsection 1 of section 50-25.1-03, 50-25.1-04, 50-25.1-05, and subsection 3 of section 50-25.1-11 of the North Dakota Century Code, relating to the reporting of child abuse and neglect.

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

SECTION 1.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

STATE CHILD PROTECTION TEAM - HOW CREATED - DUTIES.) The director of the division shall name the members of the state child protection team. The members shall be appointed for three-year staggered terms. The member who represents the division shall serve as chairperson and shall be responsible for the transmittal of all team reports made pursuant to this chapter. The chairperson shall set meetings for the purposes of fulfilling the duties set forth in sections 2, 5, and 7 of this Act. Under procedures adopted by the team, it may meet at any time, confer with any individuals, groups and agencies, and may issue reports or recommendations on any aspect of child abuse or neglect it deems appropriate.

SECTION 2.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

DETERMINATION OF PROBABLE CAUSE.) Upon completion of the investigation of the initial report of child abuse or neglect, a determination shall be made that there does or does not exist probable cause to believe that child abuse or neglect is indicated.

1. This determination shall be the responsibility of:

- a. The state child protection team in all cases of alleged institutional child abuse or neglect; and
 - b. In all other cases of alleged abuse or neglect, by the director of the division or his designee.
2. Probable cause to believe that child abuse or neglect is indicated may not be determined where the suspected child abuse or neglect arises solely out of conduct involving the legitimate practice of religious beliefs by a parent or guardian. This exception shall not preclude a court from ordering that medical services be provided to the child where his life or safety requires it.

SECTION 3.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

REPORT TO THE COURT.)

1. The state child protection team, upon a determination that institutional child abuse or neglect is indicated, shall promptly make written report to the juvenile court having jurisdiction in the matter. When the subject of the report is a state-operated institution, the state child protection team shall promptly notify the governor that such report has been made to the juvenile court.
2. In all other cases, upon a determination that probable cause exists to believe that child abuse or neglect is indicated, the director of the division or his designee shall promptly make written report to the juvenile court having jurisdiction in the matter.

SECTION 4.) A new section to chapter 50-25.1 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

PHOTOGRAPHS AND X-RAYS.) Any person or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who is the subject of a report and, if indicated by medical consultation, cause to be performed a radiological examination of the child without the consent of the child's parents or guardian. All photographs taken pursuant to this section shall be taken by law enforcement officials upon the request of any person or official required to report under this chapter. All photographs and x-rays taken, or copies of them, shall be sent to the division at the time the initial report of child abuse or neglect is made or as soon thereafter as possible.

SECTION 5. AMENDMENT.) Section 50-25.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-02. DEFINITIONS.)

1. "Abused child" means an individual under the age of eighteen years who is suffering from serious physical harm or traumatic abuse caused by other than accidental means by a person responsible for the child's health or welfare.
2. "Neglected child" means a deprived child as defined in chapter 27-20.
3. "Division" means the division of community services of the social service board of North Dakota.
4. "Harm" means negative changes in a child's health which occur when the parent or other person responsible for his health:
 - a. Inflicts or allows to be inflicted, upon the child, physical or mental injury, including injuries sustained as a result of excessive corporal punishment; or
 - b. Commits, allows to be committed or conspires to commit, against the child, a sex offense as defined in chapter 12.1-20.
5. "A person responsible for a child's welfare" means the child's parents, guardian, foster parent, an employee of a public or private school or nonresidential child care facility, an employee of a public or private residential home, institution, or agency, or other person responsible for the child's welfare in a residential setting.
6. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect where the person responsible for the child's welfare is an employee of: a residential child care facility, a treatment or care center for mentally retarded, a public or private residential educational facility, a maternity home or any residential facility owned or managed by the state or a political subdivision of the state.
7. "State child protection team" means a multi-disciplinary team consisting of the designee of the director of the division and, where possible of a physician, a representative of a child placing agency, a representative of the state department of health, a representative of the office of the attorney general, a representative of the department of public instruction, a representative of the director of institutions, one or more representatives of the lay community, and, as an ad hoc member, the designee of the chief executive official of any institution named in a report of institutional abuse or neglect. All team members, at the time of their selection and thereafter,

shall be staff members of the public or private agency which they represent, or shall serve without remuneration. In no event shall an attorney member of the child protection team be appointed to represent the child or the parents at any subsequent court proceeding nor shall the child protection team be composed of fewer than three persons.

SECTION 6. AMENDMENT.) Subsection 1 of section 50-25.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any physician, nurse, dentist, optometrist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, social worker, day care center or any other child care worker, police or law enforcement officer having knowledge of or reasonable cause to suspect that a child coming before him in his official or professional capacity is abused or neglected shall report the circumstances to the division.

SECTION 7. AMENDMENT.) Section 50-25.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-04. METHOD OF REPORTING.) All persons mandated or permitted to report cases of known or suspected child abuse or neglect shall immediately cause oral or written reports to be made to the division. Oral reports shall be followed by written reports within forty-eight hours if so requested by the director of the division or his designee. Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made under this chapter.

SECTION 8. AMENDMENT.) Section 50-25.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

50-25.1-05. INVESTIGATION ~~AND--REPORT--TO--THE--COURT.~~) The director of the division shall forthwith investigate, or cause to be investigated, any initial report of child abuse or neglect made directly to him, including the home or the residence of the child, and the circumstances surrounding the reported report of abuse or neglect, ~~and, upon a finding of abuse or neglect, shall promptly make written report to the juvenile court having jurisdiction of the matter.~~

SECTION 9. AMENDMENT.) Subsection 3 of section 50-25.1-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Authorized staff of the division and, appropriate county social service boards, and appropriate state and local child protection team members;

Approved March 3, 1979

SALES AND EXCHANGE

CHAPTER 515

SENATE BILL NO. 2267
(Committee on Industry, Business and Labor)
(At the request of the Attorney General)

TRANSIENT MERCHANT LICENSURE

AN ACT to create and enact a new section to chapter 51-04 of the North Dakota Century Code, relating to optional licensing of transient merchants by the attorney general; and to amend and reenact subsection 1 of section 51-04-01 of the North Dakota Century Code, relating to the definition of transient merchants; to amend and reenact section 51-04-02 of the North Dakota Century Code, relating to the application for a transient merchants license; to amend and reenact section 51-04-03 of the North Dakota Century Code, relating to license fees and issuance of a bond; to amend and reenact section 51-04-05 of the North Dakota Century Code, relating to the failure of a transient merchant's affidavit for certain sales; to amend and reenact section 51-04-07 of the North Dakota Century Code, relating to service of process; and to amend and reenact section 51-04-08 of the North Dakota Century Code, relating to certain excepted sales from the transient merchants law.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 51-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Transient merchant" includes any person, individual, copartnership, or corporation, either as principal or agent, who engages in, does, or transacts any temporary or transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise, personal property, and personal services including, but not limited to, spraying, trimming, or pruning of trees and shrubs of all species, painting or repairing buildings or structures, and pest or rodent control, who does not intend to become and does not become a permanent merchant of such place, ~~and who, for the purpose of carrying on such business, hires, leases, occupies, or uses a building, structure, lot, tract,~~

~~railroad-car,-or-meter-vehicle-for-the-exhibition-and-sale
of-such-goods,-wares,-and-merchandise.~~

SECTION 2. AMENDMENT.) Section 51-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-04-02. APPLICATION FOR LICENSE.) Any transient merchant desiring to engage in, do, or transact business by auction or otherwise, in any county in this state, shall file an application for a license for that purpose with the auditor of that county, or with the attorney general as provided in section 7 of this ACT, which shall be in writing and include the following:

1. Applicant's name, present residence, present home address, and present business address;
2. Applicant's residence and business address for the prior two-year period, if different from the present residence and address;
3. Type of business in which applicant has been engaged in the previous two years;
4. Proposed location of the business to be licensed;
5. Kind of business to be conducted;
6. Length of time desired or estimated for completion of sale in the county;
7. Name and address of the auctioneer, if any, who will conduct the sale; and
8. An itemized list of merchandise to be offered for sale reciting as to each item a description thereof including serial number, if any, the owner's actual cost thereof, and a designation by number corresponding with a number to be affixed to each item by a tag which shall be kept fastened to the item at all times until sold.

SECTION 3. AMENDMENT.) Section 51-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-04-03. LICENSE FEE, BOND, ISSUANCE.) An applicant for a transient merchant's license shall pay to the treasurer of the county of application a license fee of ~~one-hundred-fifty~~ twenty-five dollars, ~~any personal property taxes payable by him pursuant to statute,~~ and shall give a surety bond, or the deposit of cash in lieu thereof, to the county in an amount to be determined by the county treasurer which shall be not less than one thousand dollars nor more than ~~three~~ twenty thousand dollars, the surety on which shall be a surety company authorized to transact business in the state of North Dakota. The contents and surety therein shall be subject to the approval of the county treasurer, and be conditioned

that the applicant will in all things conform to the laws relating to transient merchants and further conditioned upon full compliance with all material oral or written statements and representations made by the applicant, his agents, representatives, or auctioneers with reference to merchandise sold or offered for sale, and on faithful performance under all warranties made with reference thereto. The bond shall not be revocable nor terminate prior to passage of two years' time after the expiration of the license issued pursuant thereto nor until due notice that the terms of the bond are to be canceled has been given to the county auditor.

The county treasurer shall issue to the applicant receipts for the foregoing payments and when the applicant files these receipts, and his application, with the county auditor, the auditor may issue to the applicant a transient merchant's license to do business as such at the place described in the application, and the kind of business to be done shall be described therein.

No license shall be valid for more than one person unless he shall be a bona fide member of a copartnership, nor for more than one place, and shall not be valid outside the county for which it is issued, except that licenses issued by the attorney general shall be valid in all counties of the state. The license shall expire after one year from date of issuance.

No sale under the purview of this chapter shall be conducted in the name of any person other than the bona fide owner of the goods, wares, and merchandise.

The files and records of the county treasurer and auditor pertaining to transient merchants shall be kept in convenient form and open for public inspection.

SECTION 4. AMENDMENT.) Section 51-04-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-04-05. FAILURE OF AFFIDAVIT - PENALTY.) If the affidavit filed as prescribed in section 51-04-04 shows that the sale is not of the kind or character proposed to be advertised or represented, or fails to disclose the facts as required, then the county auditor or the attorney general shall refuse the applicant a license for the sale. Should a license be issued to the applicant, it shall state that the applicant is authorized and licensed to sell such goods, wares, and merchandise, and advertise and represent and hold forth the same as being sold as such insurance, bankrupt, insolvent, assignee, trustee, testator, executor, administrator, receiver, syndicate, wholesaler or manufacturer, or closing out sale, or as a sale of any goods, wares and merchandise damaged by smoke, fire, water, or otherwise, as shown in the affidavit.

The affidavit shall be sworn to by the applicant before a person authorized to administer oaths.

SECTION 5. AMENDMENT.) Section 51-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-04-07. SERVICE OF PROCESS.) Prior to the issuance of a transient merchant license and approval of his bond, the applicant shall in writing appoint the county auditor, or the attorney general where the attorney general has issued the license, his agent to accept service of process in any action or proceeding involving the applicant and arising out of the sale for which the license is sought. Such action shall be brought in the county where the sale was held.

SECTION 6. AMENDMENT.) Section 51-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-04-08. CERTAIN EXCEPTED SALES.) The provisions of this chapter shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, ~~nor to bona fide sales of goods, wares, and merchandise by sample for future delivery, or to hawkers on the street, or to peddlers from vehicles, baskets, or packs carried on their backs, or to sheriffs, constables, or other public officers or their agents, or to administrators or executors selling goods, wares, and merchandise according to law, nor to bona fide receivers or assignees selling goods, wares, and merchandise for the benefit of creditors.~~

SECTION 7.) A new section to chapter 51-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPLICATION TO ATTORNEY GENERAL FOR LICENSE.) Any transient merchant desiring to engage in, do, or transact business by auction or otherwise, in two or more counties in this state, may file an application for a license for that purpose with the attorney general. In such case, the license fees shall be paid to, and the bond subject to the approval of, the attorney general. The amount of the license fee and surety bond shall be determined by the provisions of section 51-04-03.

Approved March 23, 1979

CHAPTER 516

HOUSE BILL NO. 1457
(Richie)

FAIR TRADE LAW REPEALED

AN ACT to repeal chapter 51-11 of the North Dakota Century Code, relating to fair trade.

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

SECTION 1. REPEAL.) Chapter 51-11 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

CHAPTER 517

SENATE BILL NO. 2404
(Melland)

RETAIL INSTALLMENT SALES

AN ACT to create and enact five new sections to chapter 51-13 of the North Dakota Century Code, relating to retail installment contract prohibited provisions, payments to last known contract holders, statements of unpaid balance, authority to purchase contracts, and applicability; and to amend and reenact sections 51-13-01, 51-13-02, 51-13-03, and 51-13-06 of the North Dakota Century Code, relating to retail installment contract definitions, contents, finance charges, and refinancing.

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

SECTION 1. AMENDMENT.) Section 51-13-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-13-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Retail buyer" or "buyer" means a person who buys personal property from a retail seller ~~and who executes in a retail installment contract in connection therewith,~~ sale.
2. "Retail seller" or "seller" means a person who sells personal property to a retail buyer ~~under or subject to a retail installment contract,~~ .
3. "Retail installment sale" or "sale" means a sale, other than for the purpose of resale, of personal property by a retail seller to a retail buyer for a ~~time-sale price payable in one or more installments, payment of which is secured by a retail installment contract,~~ price payable in one or more deferred payments.
4. "Retail installment contract" or "contract" means an agreement, entered into in this state, pursuant to which the title to ~~the property in~~ or a lien upon the personal property, which is the subject matter of a retail

- installment sale, is retained or taken by a retail seller from a retail buyer as security, in whole or in part, for the buyer's obligation. ~~The term includes a chattel mortgage, a conditional sales contract and, or a contract for the bailment or leasing of personal property by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or has the option of becoming, the owner of the personal property upon full compliance with the terms of the contract.~~
5. "Cash sale price" means the cash sale price stated in a retail installment contract for which the seller would sell to the buyer, and the buyer would buy from the seller, the personal property which is the subject matter of the contract if the sale were a sale for cash instead of a retail installment sale. The cash sale price may include any taxes, ~~registration, license and other fees and charges~~ and cash prices for accessories and ~~their installation and for delivering, servicing or improving the personal property~~, included in a retail installment sale.
 6. "Time-sale Deferred payment price" means the sum total of the cash sale price, and the amount amounts, if any, included for insurance and ~~other benefits~~, official fees, and the ~~credit service~~ finance charge.
 7. "Finance charge" means the amount which the retail buyer contracts to pay or pays for the privilege of purchasing the personal property to be paid for by the buyer in installments; it does not include the amounts, if any, charged for insurance premiums, delinquency charges, attorney's fees, court costs, collection expenses, or official fees.
 8. "Amount financed" or "unpaid balance" means the cash price of the personal property which is the subject matter of the retail installment sale, plus the amounts, if any, included in a retail installment sale for insurance and official fees, minus the amount of the buyer's downpayment in money or goods.
 9. "Total of payments" or "time balance" means the total of the unpaid balance and the amount of the finance charge, if any, payable by the buyer.
 10. "Official fees" means the filing or other fees required by law to be paid to a public officer to perfect the interest or lien retained or taken by a seller under the retail installment contract, and to file or record a release, satisfaction, or discharge of the contract, and license,

certificate of title, and registration fees imposed by law.

- 8- ~~"Credit--service--charge" means that part of the time-sale price by which it exceeds the aggregate of the--cash--sale price--and--the--amount,--if--any,--included--in--a--retail installment--sale--for--insurance--and--other--benefits--and official--fees.~~
- 9- 11. "Financing agency" means a person engaged, in whole or in part, in the business of purchasing retail installment contracts from one or more retail sellers. The term includes ~~but-is-not-limited--to~~ a bank, trust company, finance company, or investment company, if so engaged. The term also includes a retail seller engaged, in whole or in part, in the business of holding retail installment contracts acquired from retail buyers. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon.
- 10- 12. ~~The--"holder"--of--a--retail--installment--contract~~ "Holder" means the seller of the personal property under or subject to the contract, or, if the contract is purchased by a financing agency or other assignee, the financing agency or other assignee.
- 11- 13. "Person" means an individual, partnership, corporation, association or other group, however organized.
- 12- ~~"Motor--vehicle,--new--and--used" as used in this chapter, shall--include--automobiles,--motor--trucks,--motorcycles, house--trailers,--trailer--coaches,--cabin--trailers, semitrailers,--trailers,--road--tractors,--farm--tractors,--farm machinery--mounted--upon,--drawn--by,--or--attached--to--farm tractors,--and--all--vehicles--with--any--power,--other--than muscular--power,--except,--however,--any--vehicles--which--run only--on--rails.~~

SECTION 2. AMENDMENT.) Section 51-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-13-02. REQUIREMENTS AS TO RETAIL INSTALLMENT CONTRACTS.)

1. A retail installment contract shall be dated and in writing, shall--be--dated, and shall contain all the agreements of the parties and--shall--be--signed--by--the--buyer--and--the--seller with respect to the cost and terms of payment for the personal property, including any promissory notes or other evidences of indebtedness between the parties relating to the transaction.
2. The printed portion of the contract shall be in at least eight-point type. The contract shall contain printed or written in a size equal to at least ten-point bold type:

- a. Both Either at the top of the contract and or directly above the space reserved for the signature of the buyer, the words "RETAIL INSTALLMENT CONTRACT"7.
 - b. A specific statement that liability insurance coverage for bodily injury and property damage caused to others is not included, if that is the case; and
 - c. The following notice: "NOTICE TO THE BUYER: 1. Do not sign this contract before you read it or if it contains any blank space. 2. You are entitled to a completely filled in copy of this contract when you sign it. 3. Under the law, you have the following rights, among others: (a) right to pay off in advance the full amount due and to obtain a partial refund of the ~~credit-service~~ finance charge; (b) to redeem the property if repossessed for a default within the time provided by law; (c) to require, under certain conditions, a resale of the property if repossessed. 4. If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."
3. The seller shall deliver to the buyer, ~~ex-mail-to-him-at his-address-shown-on-the-contract,~~ a legible copy of the contract ~~signed-by-the-seller~~ or any other document the seller has required or requested the buyer to sign. Until the seller does so, a buyer who has not received delivery of the personal property ~~shall-have~~ has an unconditional right to cancel the contract and to receive immediate refund of all payments made and redelivery of all goods traded in to the seller on account of or in contemplation of the contract. Any acknowledgment by the buyer of delivery of a copy of the contract shall be printed or written in a size equal to at least ten-point bold type and, if contained in the contract, shall also appear directly above the ~~legend-required-above~~ space reserved for the buyer's signature ~~by--subsection--2(a)-of-this section.~~ The buyer's written acknowledgment of delivery of a copy of a contract shall be conclusive proof of such delivery and of compliance with this subsection in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.
4. The contract shall contain ~~the~~:
- a. The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the personal property including its make, year model, model and identification numbers or marks, if any, and whether it is new or used.

~~5. The contract shall contain the following items:~~

- a. b. The cash sale price of the personal property which is the subject matter of the retail installment sale.
- b. c. The amount of the buyer's down payment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in.
- e. d. The difference between items a b and b c, which is the unpaid balance of cash price.
- d. e. The amount, if any, included for insurance and ~~other benefits~~, specifying the coverages and ~~benefits~~ and ~~the cost of each type of coverage or benefit~~, ~~except that motor vehicle material damage premiums need not be separately specified.~~
- e. f. The amount, if any, of official fees, ~~as defined in section 51-13-01.~~
- f. g. The ~~principal balance~~ amount financed, which is the sum of items e, d, and e, d, e, and f.
- g. h. The amount of the ~~credit service~~ finance charge, if any.
- h. i. The ~~time balance~~ total of payments, which is the sum of items f g and g h, payable ~~in installments~~ by the buyer to the seller, the number of installments required, the amount of each installment expressed in dollars and the due date or period thereof.
- i. j. The ~~time sale price~~ deferred payment price, which is the sum of the amounts determined in items b, e, f, and h.
- j. k. If any installment substantially exceeds in amount any prior installment other than the down payment, the following legend printed in at least ten-point bold type or typewritten: "THIS CONTRACT IS NOT PAYABLE IN INSTALLMENTS OF EQUAL AMOUNTS", followed, if there be but one larger installment, by: "AN INSTALLMENT OF \$ _____ WILL BE DUE ON _____", or, if there be more than one larger installment, by: "LARGER INSTALLMENTS WILL BE DUE AS FOLLOWS: _____", in such latter case inserting the amount of every larger installment and its due date.
- l. Any balloon payments. If any payment under a contract is more than twice the amount of an otherwise regularly scheduled equal payment, the seller shall identify the amount of such payment by the term "balloon payment".

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the calculations involved in determining the stated-time balance amount to be paid by the buyer.

~~The amount of the credit service charge may be expressed as a simple interest charge not exceeding seven percent per year computed on the principal balance unpaid from time to time, if so expressed, the time balance and the time sale price need not be set forth.~~

~~6. The amount, if any, included for insurance, shall not exceed the premiums chargeable in accordance with rate filings made with the insurance commissioner for similar insurance. The~~

5. If the cost of any insurance is included in the contract and a separate charge is made to the buyer for the insurance:

a. The contract shall state whether the insurance is to be procured by the buyer or the seller.

b. If the insurance is to be procured by the seller or financing agency holder, if insurance on the personal property is included in a retail installment contract, the seller or holder shall within thirty days after execution of the retail installment contract send or cause to be sent to the buyer a policy or policies or certificate of insurance, written by an insurance company authorized to do business in this state and sold by a licensed insurance agent, clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all the terms, exceptions, limitations, restrictions and conditions of the contract or contracts of insurance. The buyer of personal property under a retail installment contract shall have the privilege of purchasing such insurance from an agent or broker of his own selection and of selecting an insurance company acceptable to the seller, provided, however that the inclusion of the insurance premium in the retail installment contract when the buyer selects the agent, broker or company, shall be optional with the seller and in such case the seller or financing agency shall have no obligation to send, or cause to be sent, to the buyer the policy or certificate of insurance. Nothing contained in this subsection however shall be deemed to modify, limit or in any way contravene the provisions of title 26, insurance, of this code.

If any such policy or certificate is canceled, the unearned insurance premium refund received by the holder of the contract shall be credited to the final maturing

installments of the retail installment contract except to the extent applied toward payment for similar insurance protecting the interests of the buyer and holder of the contract or either of them.

- 7- 6. A contract ~~or obligation~~ may provide for the payment by the buyer of a delinquency and collection charge on each installment in default ~~when such default continues for a period of more than ten days in an amount not in excess of five percent of each installment or five dollars, whichever is less~~ equal to ten percent of the delinquent installment payment or ten dollars, whichever is less, provided that only one such delinquency and collection charge may be collected on ~~any such~~ each installment ~~regardless of the period during which it remains in default~~ in addition to interest accruing thereon.
- 8- 7. No retail installment contract shall be signed by any party thereto when it contains blank spaces to be filled in after it has been signed except that, if delivery of the personal property is not made at the time of the execution of the contract, the identifying numbers or marks of the property or similar information and the due date of the first installment may be inserted in the contract after its execution. ~~The buyer's written acknowledgment, conforming to the requirements of subsection 3 of this section, of delivery of a copy of a contract shall be conclusive proof of such delivery and of compliance with this subsection in any action or proceeding by or against an assignee of the contract without knowledge to the contrary when he purchases the contract.~~
- 9- ~~Notwithstanding any contrary provision of the personal property law, lien law, banking law or other law:~~
- a- ~~A financing agency may purchase a retail installment contract from a seller on such terms and conditions and for such price as may be mutually agreed upon, and~~
- b- ~~No filing of the assignment, no notice to the buyer of the assignment, and no requirement that the seller be deprived of dominion over payments upon the contract or over the personal property if repossessed by the seller, shall be necessary to the validity of a written assignment of a retail installment contract as against creditors, subsequent purchasers, pledgees, mortgagees or encumbrancers of the seller.~~
- 10- ~~Unless the buyer has notice of actual or intended assignment of a retail installment contract, payment thereunder made by the buyer to the last known holder of such contract shall be binding upon all subsequent holders or assignees.~~

11. Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under such contract. A buyer shall be given a written receipt for any payment when made in cash.
12. No provision in a retail installment contract by which, in the absence of the buyer's default, the holder may arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the time balance shall be enforceable.
13. No provision in a retail installment contract for confession of judgment, power of attorney therefor, or wage assignment shall be enforceable in this state.
14. No provision in a retail installment contract which authorizes a seller or holder of the contract or other person acting on his behalf to enter upon the buyer's premises unlawfully, or to commit any breach of the peace in the repossession of personal property shall be enforceable.
15. No provision in a retail installment contract by which the buyer waives any right of action against the seller or holder of the contract, or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of the personal property shall be enforceable.
16. No provision in a retail installment contract for the subsequent inclusion of title to or a lien upon any goods, other than the personal property which is the subject matter of the retail installment sale, or accessories therefor or special or auxiliary equipment used in connection therewith, or in substitution, in whole or in part, for any thereof, as security for payment of the time sale price, shall be enforceable.
17. No provision in a retail installment contract by which the buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on his behalf, as the buyer's agent in collection of payments under the contract or in the repossession of the personal property shall be enforceable.
18. No provision in a retail installment contract relieving the seller from liability for any legal remedies which the buyer may have had against the seller under the contract, or any separate instrument executed in connection therewith, shall be enforceable.

SECTION 3.) A new section to chapter 51-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

RETAIL INSTALLMENT CONTRACTS - PROHIBITED PROVISIONS.) No contract shall contain any provision by which:

1. In the absence of the buyer's default, the holder may, arbitrarily and without reasonable cause, accelerate the maturity of any part or all of the time balance owing thereunder.
2. A power of attorney is given to confess judgment in this state, or an assignment of wages is given.
3. The buyer waives any right of action against the seller or holder of the contract, or other person acting on his behalf, for any illegal act committed in the collection of payments under the contract or in the repossession of the personal property.
4. The buyer executes a power of attorney appointing the seller or holder of the contract, or other person acting on his behalf, as the buyer's agent in collection of payments under the contract or in the repossession of the personal property.
5. The buyer relieves the seller from liability for any legal remedies which the buyer may have against the seller under the contract or any separate instrument executed in connection therewith.
6. The buyer may subsequently include the title to or a lien upon any goods, other than the personal property which is the subject matter of the retail installment sale and any accessories or special or auxiliary equipment used in connection therewith, or in substitution, in whole or in part, for any thereof, as security for payment of the deferred payment price.

* SECTION 4. AMENDMENT.) Section 51-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-13-03. CREDIT-SERVICE FINANCE CHARGE LIMITATION.)

1. A retail seller may contract for in a retail installment contract and charge, receive, and collect the credit service charge computed on the principal balance of the contract or obligation from the date thereof ~~to--and including--the--date--when--the--final--instalment--is--payable~~ until paid, at not exceeding ~~the--following--rates+~~ eighteen percent simple interest per annum upon the unpaid balance of the contract.

* NOTE: Section 51-13-03 was also amended by section 2 of House Bill No. 1388, chapter 518.

A--As-to-motor-vehicles

Class-1--Any-motor-vehicle-designated-by-the manufacturer-by-a-year-model-not earlier-than-the-year-in-which-the-sale is-made, not-more-than-seven-dollars per-one-hundred-dollars-

Class-2--Any-motor-vehicle-not-in-Class-1 designated-by-the-manufacturer-by-a year-model-of-not-more-than-four-years prior-to-the-year-in-which-the-sale is-made, not-more-than-ten-dollars per-one-hundred-dollars-

Class-3--Any-motor-vehicle-not-in-Class-1-or-2, not-more-than-thirteen-dollars per-one-hundred-dollars-

B--As-to-goods-other-than-motor-vehicles, ten-dollars-per one-hundred-dollars-per-annum-

2. ~~Such-credit-service~~ The finance charge shall be computed on the principal-balance amount financed as determined under subsection 5 4 of section 51-13-02 on contracts payable-in-successive-monthly-installments--substantially equal--in--amount--extending-for-a-period-of-one-year--On contracts--providing--for--installments--extending--for--a period--less--than--or--greater--than-one-year, the-credit service-charge-shall-be-computed--proportionately. This finance charge may be precomputed on the amount financed calculated on the assumption that all scheduled payments will be paid when due and the effect of prepayment is governed by the provisions on rebate upon prepayment.
3. When a retail installment contract provides for unequal or irregular installments, the ~~credit-service~~ finance charge shall be at the effective rate provided in subsection 1, having due regard for the schedule of installments.
4. The ~~credit-service~~ finance charge shall be inclusive of all charges incident to investigating and making the contract, and for the extension of the credit provided for in the contract and no fee, expense or other charge whatsoever shall be taken, received, reserved or contracted for except as provided in this section and in subsection 7 6 of section 51-13-02 and in section 51-13-06 and for those items expressly provided for in the retail installment contract as set forth in subsection 5 4 of section 51-13-02.

SECTION 5.) A new section to chapter 51-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

PAYMENT TO LAST KNOWN HOLDER.) Unless the buyer has notice of actual or intended assignment of a retail installment contract,

payment made by the buyer to the last known holder of the contract is binding upon all subsequent holders or assignees.

SECTION 6.) A new section to chapter 51-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATEMENT OF UNPAID BALANCE.) Upon written request from the buyer, the holder of a retail installment contract shall give or forward to the buyer a written statement of the dates and amounts of payments and the total amount unpaid under the contract. A buyer shall be given a written receipt for any payment when made in cash.

SECTION 7. AMENDMENT.) Section 51-13-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-13-06. REFINANCING RETAIL INSTALLMENT CONTRACTS.) The holder of a retail installment contract may, upon agreement with the buyer, extend the scheduled due date, or defer the scheduled payment of all or part of any installment or installments, or renew the balance of such contract. In any such case, the holder may restate the amount of the installments and the time schedule therefor, and collect as a refinance charge for such extension, deferment or renewal, a flat service fee not to exceed five dollars and a total additional charge not exceeding an amount equal to one and one-half percent per month simple interest on the respective descending balances computed from the date of such agreement of extension, deferment or renewal. Such agreement may also provide for the payment by the buyer of the additional cost to the holder of the contract or obligation of premiums for continuing in force, until the end of such period of extension or deferral, any insurance coverages provided for in the contract or obligation, subject to the provisions of subsection 6 of section 51-13-02.

SECTION 8.) A new section to chapter 51-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

AUTHORITY TO PURCHASE RETAIL INSTALLMENT CONTRACTS.) Notwithstanding any contrary provision of law:

1. A financing agency may purchase a retail installment contract from a seller on such terms and conditions and for such price as may be mutually agreed upon.
2. No filing of the assignment, no notice to the buyer of the assignment, and no requirement that the seller be deprived of dominion over payments upon the contract or over the personal property if repossessed by the seller, shall be necessary to the validity of a written assignment of a retail installment contract as against creditors, subsequent purchasers, pledgees, mortgagees or encumbrancers of the seller.

* SECTION 9.) A new section to chapter 51-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPLICABILITY.) No provision of this chapter shall apply to a retail installment sale of personal property if:

1. The cash price of the personal property exceeds thirty-five thousand dollars; and
2. The personal property is to be used primarily for a business or commercial purpose, not a personal, family, household or agricultural purpose.

Approved April 10, 1979

* NOTE: A similar section was also created by section 1 of House Bill No. 1388, chapter 518.

CHAPTER 518

HOUSE BILL NO. 1388
(Conmy)

RETAIL INSTALLMENT SALE SERVICE CHARGE

AN ACT to create and enact a new section to chapter 51-13 of the North Dakota Century Code, relating to applicability; and to amend and reenact section 51-13-03 of the North Dakota Century Code, relating to the credit service charge allowed on retail installment sales.

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

* SECTION 1.) A new section to chapter 51-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPLICABILITY.) No provision of this chapter shall apply to a retail installment sale of personal property if:

1. The cash price of the personal property exceeds twenty-five thousand dollars; and
2. The personal property is to be used primarily for a business or commercial purpose, not a personal, family, household or agricultural purpose.

** SECTION 2. AMENDMENT.) Section 51-13-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-13-03. CREDIT SERVICE CHARGE LIMITATION.)

~~1.~~ A retail seller may contract for in a retail installment contract and charge, receive, and collect the credit service charge computed on the principal balance of the contract or obligation from the date thereof ~~to--and including--the--date--when--the--final--installment--is--payable~~ until paid, at not exceeding ~~the--following--rates:~~

~~A--As--to--meter--vehicles~~

~~Class--1--Any--meter--vehicle--designated--by--the~~

* NOTE: A similar section was also created by section 9 of Senate Bill No. 2404, chapter 517.

** NOTE: Section 51-13-03 was also amended by section 4 of Senate Bill No. 2404, chapter 517.

- ~~manufacturer-by-a-year-model-not-earlier
 than-the-year-in-which-the-sale-is
 made, not more than seven dollars
 per one hundred dollars.~~
- ~~Class-2---Any-motor-vehicle-not-in-Class-1-designated
 by-the-manufacturer-by-a-year-model
 of-not-more-than-four-years-prior
 to-the-year-in-which-the-sale-is
 made, not more than ten dollars per
 one hundred dollars.~~
- ~~Class-3---Any-motor-vehicle-not-in-Class-1-or-2,
 not more than thirteen dollars per
 one hundred dollars.~~
- ~~B---As-to-goods-ether-than-motor-vehieles, ten-dollars-per
 one-hundred-dollars-per-annum.~~
- ~~2---Such-credit-service-charge-shall-be-computed-on-the
 principal-balance-as-determined-under-subsection-5-of
 section-51-13-02-on-contracts-payable-in-successive
 monthly-installments-substantially-equal-in-amount
 extending-for-a-period-of-one-year-On-contracts
 providing-for-installments-extending-for-a-period-less
 than-or-greater-than-one-year, the-credit-service-charge
 shall-be-computed-proportionately.~~
- ~~3---When-a-retail-installment-contract-provides-for-unequal-or
 irregular-installments, the-credit-service-charge-shall-be
 at-the-effective-rate-provided-in-subsection-1, having-due
 regard-for-the-schedule-of-installments.~~
- ~~4---The-credit-service-charge-shall-be-inclusive-of-all
 charges-incident-to-investigating-and-making-the-contract,
 and-for-the-extension-of-the-credit-provided-for-in-the
 contract-and-no-fee, expense-or-other-charge-whatsoever
 shall-be-taken, received, reserved-or-contracted-for
 except-as-provided-in-this-section-and-in-subsection-7-of
 section-51-13-02-and-in-section-51-13-06-and-for-these
 items-expressly-provided-for-in-the-retail-installment
 contract-as-set-forth-in-subsection-5-of-section-51-13-02
 eighteen percent simple interest per annum upon the unpaid
 balance of the contract. This finance charge may be
 precomputed on the amount financed calculated on the
 assumption that all scheduled payments will be paid when
 due and the effect of prepayment is governed by the
 provisions on rebate upon prepayment.~~

Approved March 21, 1979

CHAPTER 519

HOUSE BILL NO. 1544
(Representatives Stenehjem, Houmann, Swiontek)
(Senator Holmberg)

CONSUMER FRAUD ACTIONS

AN ACT to create and enact two new sections to chapter 51-15 of the North Dakota Century Code, relating to assurance of discontinuance and civil penalties in cases of consumer fraud; and to amend and reenact section 51-15-10 of the North Dakota Century Code, relating to costs recoverable in cases of consumer fraud.

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

SECTION 1.) A new section to chapter 51-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

ASSURANCE OF DISCONTINUANCE.) The attorney general may accept an assurance of discontinuance of any act or practice he deems to be in violation of any provision of this chapter or any of the provisions of chapters 51-12, 51-13, or 51-14 from any person he alleges is engaging in, or has engaged in, the act or practice. The assurance of discontinuance shall be in writing and shall be filed with and subject to the approval of the district court of the county in which the alleged violator resides or has his principal place of business or in Burleigh County. An assurance of discontinuance shall not be considered an admission of a violation. However, failure to comply with an assurance of discontinuance which has been approved by the district court shall be punishable as criminal contempt.

SECTION 2.) A new section to chapter 51-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

CIVIL PENALTIES.) The court may assess for the benefit of the state a civil penalty of not more than five thousand dollars for each violation of this chapter or for each violation of chapters 51-12, 51-13, or 51-14. The penalty provided in this section is in addition to those remedies otherwise provided by this chapter or by chapters 51-12, 51-13, or 51-14.

SECTION 3. AMENDMENT.) Section 51-15-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-15-10. COSTS RECOVERABLE.) In any action brought under the provisions of this chapter, the attorney general is entitled to recover costs ~~for the use of the state~~, expenses and attorney's fees incurred by the attorney general in the investigation and prosecution of such action.

Approved March 19, 1979

CHAPTER 520

HOUSE BILL NO. 1400
(Representatives Stenehjelm, Houmann, Swiontek)
(Senators Holmberg, Farrington, Lodoen)

PERSONAL SOLICITATION SALES

AN ACT to amend and reenact subsection 1 of section 51-18-01 of the North Dakota Century Code, relating to definitions, regulation of home solicitation sales; to amend and reenact section 51-18-02 of the North Dakota Century Code, relating to cancellation period, method of cancellation and intent, regulation of home solicitation sales; to amend and reenact section 51-18-03 of the North Dakota Century Code, relating to referral sales, rebate or discount violations, regulation of home solicitation sales; to amend and reenact section 51-18-04 of the North Dakota Century Code, relating to agreement requirement, regulation of home solicitation sales; to amend and reenact section 51-18-05 of the North Dakota Century Code, relating to evidence of indebtedness, regulation of home solicitation sales; to amend and reenact subsection 1 of section 51-18-06 of the North Dakota Century Code, relating to time limitation, regulation of home solicitation; to amend and reenact section 51-18-07 of the North Dakota Century Code, relating to buyer responsibility, services, regulation of home solicitation sales.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 51-18-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "~~Deer-to-deer~~ Personal solicitation sale" means a sale, lease, or rental of consumer goods or services in which the seller or his representative personally solicits the sale, lease, or rental, by telephone or in person, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the person soliciting the same and that agreement or offer to purchase is there given to the seller or his representative. A transaction is not a ~~deer-to-deer~~ personal solicitation sale if it is made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods

or services are offered or exhibited for sale, lease, or rental.

SECTION 2. AMENDMENT.) Section 51-18-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-18-02. CANCELLATION PERIOD - METHOD OF CANCELLATION - INTENT.)

1. In addition to any right otherwise to revoke an offer, the buyer may cancel a ~~deed-to-deed~~ personal solicitation sale until midnight of the third business day after the day on which the buyer enters into an enforceable agreement subject to this chapter. In addition to other requirements of this chapter, the seller shall orally inform the buyer, at the time the transaction is entered into, of the buyer's right to cancel.
2. Cancellation shall occur when the buyer gives written notice of cancellation to the seller at the address specified for notice of cancellation provided by the seller by any of the following methods:
 - a. Delivering written notice to the seller.
 - b. Mailing written notice to the seller.
 - c. Sending a telegram to the seller.
3. Notice of cancellation given by the buyer shall be effective if it indicates the intention on the part of the buyer not to be bound by the ~~deed-to-deed~~ personal solicitation sale.

SECTION 3. AMENDMENT.) Section 51-18-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-18-03. REFERRAL SALES - REBATE OR DISCOUNT VIOLATIONS.) No seller in a ~~deed-to-deed~~ personal solicitation sale shall offer to pay a commission or give a rebate or discount to the buyer in consideration of the buyer's giving to the seller the names of prospective purchasers or otherwise aiding the seller in making a sale to another person, if the earning of the commission, rebate, or discount is contingent upon an event that is to happen subsequent to the time the buyer agrees to buy. Any sale made in respect to which a commission, rebate, or discount is offered in violation of this chapter shall be voidable at the option of the buyer.

SECTION 4. AMENDMENT.) Section 51-18-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-18-04. AGREEMENT REQUIREMENT.) No agreement of the buyer in a ~~door-to-door~~ personal solicitation sale shall be effective enforceable unless it is in writing, dated, entered-into-by contains the signature of the buyer, and contains a conspicuous notice in substantially the following form:

NOTICE TO BUYER

1. Do not sign this agreement if any of the spaces intended for the agreed terms to the extent of then available information are left blank.
2. You are entitled to a copy of this agreement at the time you sign it.
3. You may pay off the full unpaid balance due under this agreement at any time, and in so doing you may receive a full rebate of the unearned finance and insurance charges.
4. You may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.
5. The seller cannot enter your premises unlawfully or commit any breach of the peace to repossess goods purchased under this agreement.

The agreement shall also have attached the following completed form, in duplicate:

NOTICE OF CANCELLATION

(enter date of transaction)

1. You may cancel this transaction, without any penalty or obligation, within three business days from the above date.
2. If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.
3. If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.
4. If you do make the goods available to the seller and the seller does not pick them up within twenty days of the date of your notice of cancellation, you may retain or

dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

5. To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram, to (name of seller), at (address of seller's place of business) not later than midnight of (date).

I hereby cancel this transaction.

(Date)

(Buyer's signature)

SECTION 5. AMENDMENT.) Section 51-18-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-18-05. EVIDENCE OF INDEBTEDNESS.)

1. A note or other evidence of indebtedness given by a buyer in respect of a ~~deex-te-deex~~ personal solicitation sale shall be dated not earlier than the date of the agreement or offer to purchase. Any transfer of a note or other evidence of indebtedness bearing the statement required by subsection 2 shall be deemed an assignment only and any right, title, or interest which the transferee may acquire thereby shall be subject to all claims and defenses of the buyer against the seller pursuant to this chapter.
2. Each note or other evidence of indebtedness given by a buyer in respect of a ~~deex-te-deex~~ personal solicitation sale shall bear on its face a conspicuous statement as follows: "This instrument is based upon a ~~deex-te-deex~~ personal solicitation sale, which is subject to the provisions of the North Dakota Century Code. This instrument is not negotiable."
3. Compliance with the requirements of this section shall be a condition precedent to any right of action by the seller or any transferee of an instrument bearing the statement required under subsection 2 against the buyer upon such instrument and shall be pleaded and proved by any person who may institute an action or suit against a buyer in respect thereof.

SECTION 6. AMENDMENT.) Subsection 1 of section 51-18-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as provided in this section, within ten days after a ~~deer-to-deer~~ personal solicitation sale has been canceled, the seller shall tender to the buyer any payments made by the buyer and any note or other evidence of indebtedness and shall take any action necessary to promptly terminate any security interest created in the transaction.

SECTION 7. AMENDMENT.) Section 51-18-07 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-18-07. BUYER RESPONSIBILITY - SERVICES.)

1. Except as provided in subsection 3 of section 51-18-05, within twenty days after a ~~deer-to-deer~~ personal solicitation sale has been canceled, the buyer upon demand shall tender to the seller any goods delivered by the seller pursuant to the sale, but he is not obligated to tender at any place other than his own address. If the seller fails to take possession of such goods within twenty days after cancellation, the goods shall become the property of the buyer without obligation to pay for them.
2. The buyer shall take reasonable care of the goods in his possession both prior to cancellation and during the following twenty-day period. During the twenty-day period after cancellation, except for the buyer's duty of care, the goods are at the seller's risk.
3. If the seller has performed any services pursuant to a ~~deer-to-deer~~ personal solicitation sale prior to its cancellation, and if the seller's services result in the alteration of property of the buyer, the seller shall restore the property to substantially as good condition as it was in at the time the services were rendered.
4. The buyer may not cancel a ~~deer-to-deer~~ personal solicitation sale if he initiates the contract with the seller and requests the seller to provide goods or services without delay because of an emergency and the seller in good faith makes a substantial beginning of performance before notice of cancellation, and the goods cannot be returned to the seller in substantially as good condition as when the buyer received them.

Approved March 19, 1979

CHAPTER 521

HOUSE BILL NO. 1368
(Representatives Dietz, Conmy)
(Senators Schirado, Sands)

CIVIL REMEDY AGAINST SHOPLIFTER'S PARENT

AN ACT to amend and reenact section 51-21-05 of the North Dakota Century Code, relating to civil remedies against adult shoplifters or against the parent or guardian of a minor shoplifter.

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

SECTION 1. AMENDMENT.) Section 51-21-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

51-21-05. CIVIL REMEDY AGAINST ADULT SHOPLIFTERS OR THE PARENT OF A MINOR SHOPLIFTER.) An adult who commits the offense of theft from a merchant shall be civilly liable to the merchant for the retail value of the merchandise, plus exemplary damages of not more than two hundred fifty dollars, costs of suit, and reasonable attorney's fees. The parent or legal guardian of an unemancipated minor who while living with the parent or legal guardian commits the offense of theft from a merchant shall be civilly liable to the merchant for the retail value of the merchandise, plus exemplary damages of not more than two hundred fifty dollars, costs of suit, and reasonable attorney's fees. A conviction or plea of guilty for the theft is not a prerequisite to the bringing of a suit hereunder. A parent or legal guardian of an unemancipated minor shall not be civilly liable under this section if it is determined by the court that one of the principal rationales for the shoplifting was a desire on the part of the minor to cause his parent or legal guardian to be liable under this section.

Approved March 19, 1979

SOCIAL SECURITY

CHAPTER 522

SENATE BILL NO. 2231
 (Committee on Industry, Business and Labor)
 (At the request of the Employment Security Bureau)

JOB SERVICE NORTH DAKOTA

AN ACT to amend and reenact subsections 6 and 26 of section 52-01-01, section 52-02-01 and section 52-07.1-02 of the North Dakota Century Code, relating to the North Dakota Unemployment Compensation Law, and to amend and reenact section 52-08-02 and section 52-08-03 of the North Dakota Century Code, relating to the North Dakota state employment service.

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

SECTION 1. AMENDMENT.) Subsections 6 and 26 of section 52-01-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

6. "Bureau" means ~~the--North-Dakota-employment-security job service North Dakota bureau,~~ job service North Dakota bureau.
26. "Executive director" means the executive director of ~~the employment-security-bureau,~~ job service North Dakota.

SECTION 2. AMENDMENT.) Section 52-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-02-01. ~~EMPLOYMENT-SECURITY-BUREAU~~ EMPLOYMENT-SECURITY-BUREAU JOB SERVICE NORTH DAKOTA CREATED.)

- 1- There is hereby created ~~a--bureau--to--be--known--as--the employment-security-bureau~~ job service North Dakota which is herewith charged with administering the provisions of the North Dakota Unemployment Compensation Law and the provisions of the North Dakota state employment service, as set forth in chapter 52-08 of the North Dakota Century Code, which shall be administered by a full-time salaried executive director, who shall be subject to the supervision and direction of the governor. The governor is authorized to appoint, fix the compensation of, and prescribe the duties of such executive director, provided that such appointment shall be made on a nonpartisan,

merit basis, in accordance with the provisions set forth at chapter 54-42. The duties and responsibilities of the executive director shall extend to and include the power of full administration of the provisions of the North Dakota Unemployment Compensation Law, and the provisions of chapter 52-08 of the North Dakota Century Code relating to the North Dakota state employment service, including job insurance programs, and the establishment and maintenance of free public employment offices. The executive director may also establish such separate divisions and make such separate appointments as he may deem advisable for efficient administration of the duties and responsibilities imposed hereunder. Any such separate appointments shall be on a nonpartisan, merit basis.

~~2--There--is--hereby--established--in--the--employment--security--bureau--two--coordinate--divisions,---the---North---Dakota--unemployment--compensation--division--and--the--North--Dakota--state--employment--service--division,--each--to--be--administered--by---a---full--time---salaried---director,--selected--on--a--nonpartisan,--merit--basis,--who--shall--be--subject--to--the--supervision--and--direction--of--the--bureau.---Each--division--shall--be--responsible--for--the--discharge--of--its--distinctive--functions,---Each---division---shall---be---a---separate--administrative--unit--with--respect--to--personnel,--budget,--and--duties,--except--insofar--as--the--executive--director--may--find--that--such--separation--is--impracticable.~~

SECTION 3. AMENDMENT.) Section 52-07.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-07.1-02. ADMINISTRATION.) ~~The North-Dakota-unemployment-compensation-division-of-the-employment-security-bureau~~ job service North Dakota, hereinafter called the "bureau", shall be vested with the duties, powers, and authority to administer the extended benefits program.

SECTION 4. AMENDMENT.) Section 52-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-08-02. ~~NORTH--DAKOTA--STATE--EMPLOYMENT--SERVICE~~ JOB SERVICE NORTH DAKOTA AGENT OF STATE FOR WAGNER-PEYSER ACT.) For the purposes provided for in the preceding section, the ~~North-Dakota state-employment-service~~ job service North Dakota is designated and constituted the agency of this state to carry out the purposes of this chapter.

SECTION 5. AMENDMENT.) Section 52-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-08-03. ~~NORTH--DAKOTA--STATE--EMPLOYMENT--SERVICE--A--DIVISION--OF--EMPLOYMENT--SECURITY--BUREAU~~ JOB SERVICE NORTH DAKOTA - OFFICES MAINTAINED.) ~~The--North--Dakota--state--employment--service--shall--constitute--a--division--of--the--employment--security--bureau.~~ The job service North Dakota executive director, ~~through such division,~~ shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of chapters 52-01 through 52-08.

Approved March 13, 1979

CHAPTER 523

SENATE BILL NO. 2265
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

UNEMPLOYMENT COMPENSATION
CONTRIBUTIONS

AN ACT to amend and reenact subsections 2 and 3 of section 52-04-03 of the North Dakota Century Code, relating to wages subject to unemployment compensation contributions; to amend and reenact section 52-04-05 of the North Dakota Century Code, relating to standard rate of unemployment compensation contributions; to amend and reenact section 52-04-06 of the North Dakota Century Code, relating to variations in standard rate of unemployment compensation contributions; to provide an effective date; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Subsections 2 and 3 of section 52-04-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. The amount of an individual's wages paid to him in a calendar year by each employer and subject to tax shall not be in excess of three thousand dollars for the years prior to 1968, nor in excess of three thousand three hundred dollars for 1968, nor in excess of three thousand four hundred dollars for 1969, nor in excess of three thousand eight hundred dollars for 1970, nor in excess of four thousand dollars for 1971, nor in excess of four thousand four hundred dollars for 1972, ~~and not nor~~ in excess of four thousand two hundred dollars for 1973, 1974, 1975, and 1976, nor in excess of four thousand three hundred dollars for 1977, and not in excess of six thousand dollars in 1978.
3. For the year ~~1974~~ 1979 and ~~for any~~ each year thereafter, the ~~maximum~~ amount of an individual's wages subject to tax, paid by each employer, shall be in such amount as may be determined ~~by either of the following:~~

~~a--When--the--unemployment--trust--fund--at--the--beginning--of
any--such--calendar--year--equals--or--exceeds--one--and--a~~

~~half---times---the---highest--amount--of--unemployment compensation-benefits-paid-in-any-calendar--year--the amount--of--an--individual's--wages-subject-to-tax-for such-year-shall-be-in-the-same-amount-that-is-subject to-tax-under-the-Federal-Unemployment-Tax-Act,--or~~

~~b.--When--the--unemployment-trust-fund-at-the-beginning-of any-such-calendar-year-does-not-equal-one-and--a--half times--the-highest-amount-of-unemployment-compensation benefits-paid-in-any-calendar-year,--the-amount--of--an individual's--wages-subject-to-tax-for-such-year-shall to be in an amount that is equal to seventy percent of a statewide average annual wage determined by the bureau on or before each first day of December October by the following computation:~~

~~(1) The total wages reported on contribution reports for the third and fourth quarters of the preceding calendar year and the first and second quarters of the current calendar year shall be divided by the average monthly number of covered workers for the same four quarters, whose number shall be determined by dividing by twelve the total covered employment reported on contribution reports for those quarters, and the quotient obtained by dividing the total wages by the average monthly number of covered workers, rounded to the nearest multiple of one hundred, shall be the statewide average annual wage,--and.~~

~~(2)--When--the--taxable--wage-base-is-determined-under this-subdivision-and-such-computation-results--in the--calculation--of--a-taxable-wage-base-that-is one-hundred--dollars--or--more--higher--than--the taxable--wage--base--of--the-Federal-Unemployment Compensation--Act,--then,--notwithstanding--such higher--taxable--wage-base,--the-taxable-wage-base shall--not--be-increased-in-any-one-year--more--than one-hundred-dollars-over-the-taxable-wage-base-of the-preceding-year.~~

SECTION 2. AMENDMENT.) Section 52-04-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-05. STANDARD RATE OF CONTRIBUTIONS - REDUCTION OF RATES.) For the calendar year ~~1976~~ 1979 and each calendar year thereafter, the standard rate of contributions payable by each employer shall be ~~two-and-seven-tenths-percent~~ the rate fixed for employers who have a minus balance reserve ratio which is applicable for the given year in the schedule of rates under section 52-04-06. No employer's rate shall be reduced below the standard rate for any calendar year unless and until his account has been chargeable with benefits throughout the thirty-six-consecutive-calendar-month period

ending on December thirty-first of the preceding calendar year, except that an employer who has not been subject to the law for a period of time sufficient to meet this requirement may qualify for a reduced rate if his account has been chargeable with benefits throughout a lesser period of time but in no event less than the twelve-consecutive-calendar-month period ending on December thirty-first of the preceding calendar year.

SECTION 3. AMENDMENT.) Section 52-04-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-04-06. VARIATIONS IN STANDARD RATE OF CONTRIBUTIONS - HOW DETERMINED.) Variations from the standard rate of contributions shall be determined in accordance with the following requirements:

1. For the calendar years ~~1977 and 1978~~ year 1979 the rate of contributions will not be higher than the rates at column ~~II~~ III of the schedule of rates.
2. For the calendar year ~~1979~~ 1980 and for each calendar year thereafter the bureau shall determine the ratio of reserves for the payment of benefits as of December thirty-first of the preceding calendar year, to ~~taxable wages for such preceding calendar year which have been reported to the bureau on or before January thirty-first of the succeeding calendar year~~ the highest amount of benefits paid, less reimbursables, in any one of the preceding five years. If such ratio is:
 - a. Less than ~~three-percent~~ .5, the schedule of rates at column I will be in effect;
 - b. ~~Three-percent~~ .5 but less than ~~four-percent~~ .7, the schedule of rates at column II will be in effect;
 - c. ~~Four-percent~~ .7 but less than ~~five-percent~~ .9, the schedule of rates at column III will be in effect;
 - d. ~~Five-percent~~ .9 but less than ~~six-percent~~ 1.1, the schedule of rates at column IV will be in effect;
 - e. ~~Six-percent~~ 1.1 but less than ~~seven-percent~~ 1.3, the schedule of rates at column V will be in effect;
 - f. ~~Seven-percent~~ 1.3 but less than ~~eight-percent~~ 1.5, the schedule of rates at column VI will be in effect;
 - g. ~~Eight-percent~~ 1.5 but less than ~~nine-percent~~ 1.7, the schedule of rates at column VII will be in effect;
 - h. ~~Nine-percent~~ 1.7 or more, the schedule of rates at column VIII will be in effect.

~~If the fund reserve ratio decreases during the calendar year 1978 or any calendar year thereafter, the schedule of rates will not be advanced by more than one column for any calendar year, except that the schedule of rates at column I will be in effect for each calendar year that the fund reserve ratio is less than three percent on December thirty-first of the preceding calendar year.~~ The percent of the average annual payroll by which the cumulative contributions paid by an employer on or before January thirty-first of any year, with respect to wages paid by him prior to the first day of January of that calendar year, exceeds the cumulative benefits which were chargeable to his account and paid on or before December thirty-first of the preceding calendar year, shall be such employer's reserve ratio. The contribution rate for the ensuing calendar year of an employer eligible under section 52-04-05 will be the rate of contribution on the line in the schedule of rates opposite his reserve ratio as established for that year.

SCHEDULE OF RATES - FUND RESERVE RATIO
 (Reserve for payment of benefits to benefits paid)

	Col. II-	Col. III-	Col. IV-	Col. V-	Col. VI-	Col. VII-	Col. VIII-
EMPLOYER'S RESERVE RATIO	.5	.7	.9	1.1	1.3	1.5	1.7
Less Than	But	But	But	But	But	But	But
3%	4%	5%	6%	7%	8%	9%	and Over
Standard Rate	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%	4.2%
0% but less than 1%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%
1% but less than 2%	4.5%	4.3%	4.1%	3.9%	3.7%	3.5%	3.3%
2% but less than 3%	2.7%	2.7%	2.7%	2.7%	2.7%	2.7%	2.5%
3% but less than 4%	4.1%	3.9%	3.7%	3.5%	3.3%	3.1%	2.9%
4% but less than 5%	2.7%	2.7%	2.7%	2.7%	2.7%	2.5%	2.3%
5% but less than 6%	3.9%	3.7%	3.5%	3.3%	3.1%	2.9%	2.7%
6% but less than 7%	3.7%	3.5%	3.3%	3.1%	2.9%	2.7%	2.5%

	2.7% 3.3%	2.7% 3.1%	2.7% 2.9%	2.7%	2.5%	1.9% 2.3%	1.7% 2.1%	1.5% 1.9%
7% but less than 8%								
	2.7% 3.1%	2.7% 2.9%	2.7%	2.5%	2.3%	1.7% 2.1%	1.5% 1.9%	1.3% 1.7%
8% but less than 9%								
	2.7% 2.9%	2.7%	2.5%	2.3%	2.1%	1.5% 1.9%	1.3% 1.7%	1.1% 1.5%
9% but less than 10%								
	2.7%	2.5%	2.3%	2.1%	1.9%	1.3% 1.7%	1.1% 1.5%	0.9% 1.3%
10% but less than 11%								
	2.7%	2.3%	2.1%	1.9%	1.7%	1.1% 1.5%	0.9% 1.3%	0.7% 1.1%
11% but less than 12%								
	2.7%	2.1%	1.9%	1.7%	1.5%	0.9% 1.3%	0.7% 1.1%	0.5% 0.9%
12% but less than 13%								
	2.7%	1.9%	1.7%	1.5%	1.3%	0.7% 1.1%	0.5% 0.9%	0.3% 0.7%
13% but less than 14%								
	2.7%	1.7%	1.5%	1.3%	1.1%	0.5% 0.9%	0.3% 0.7%	0.3% 0.5%
14% but less than 15%								
	2.7%	1.5%	1.3%	1.1%	0.9%	0.3% 0.7%	0.3% 0.5%	0.3%
15% but less than 16%								
	2.7%	1.3%	1.1%	0.9%	0.7%	0.3% 0.5%	0.3%	0.3%
16% but less than 17%								
	2.7%	1.1%	0.9%	0.7%	0.5%	0.3%	0.3%	0.3%
17% but less than 18%								
	2.7%	0.9%	0.7%	0.5%	0.3%	0.3%	0.3%	0.2% 0.3%
18% but less than 19%								
	2.7%	0.7%	0.5%	0.3%	0.3%	0.3%	0.3%	0.2% 0.3%
19% and over								
	2.7%	0.5%	0.3%	0.3%	0.3%	0.3%	0.3%	0.2% 0.3%

3. Any employer may voluntarily pay into the unemployment compensation fund an amount in excess of the contributions required to be paid under the provisions of this section and such amount shall be credited to his separate account. His rate of contribution shall be computed or recomputed with such amount included in the calculation. Such contributions voluntarily paid shall not be refunded or used as a credit in the payment of contributions in whole or in part. In no event shall any such amount be included in the computation or recomputation for any year unless it is paid within ~~one-hundred-twenty-days~~ four months after the beginning of such year.

4. If the total benefits chargeable against an employer's account for all periods prior to January first of such calendar year, including benefits paid on or before January first, with respect to weeks of unemployment compensated prior to January first, exceed the total contributions paid by such employer for the same period, including contributions paid on or before January thirty-first with respect to wages paid prior to January first of the same year, his contribution rate for the ensuing calendar year shall be ~~four--and--two-tenths--percent~~ the standard rate.
5. In the bureau's determination of the trust fund reserve ratio, neither the amount of ~~contribution~~ paid by, nor the cost of benefits charged to, those employers who have elected to pay ~~contributions~~ on a basis other than that which is computed under the provisions of sections 52-04-03 and 52-04-06, shall be taken into account in the computation of contribution rates and taxable wage base.

SECTION 4. EFFECTIVE DATE.) The provisions of this Act shall become effective on January 1, 1979.

SECTION 5. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 13, 1979

CHAPTER 524

SENATE BILL NO. 2202
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

UNEMPLOYMENT COMPENSATION RATE VARIATIONS

AN ACT to create and enact a new subsection to section 52-04-06 of the North Dakota Century Code, relating to variations in unemployment compensation rates.

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

SECTION 1.) A new subsection to section 52-04-06 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

When an employer has a quarterly taxable payroll in excess of fifty thousand dollars and at least three times its established average annual payroll, the tax rate for such employer shall be the standard rate of contribution in effect that year, beginning the first day of the calendar quarter in which it occurred and for the remainder of the calendar year.

Approved March 15, 1979

CHAPTER 525

SENATE BILL NO. 2204
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

UNEMPLOYMENT COMPENSATION BENEFIT ELIGIBILITY

AN ACT to amend and reenact subsection 3 of section 52-06-01 of the North Dakota Century Code, relating to eligibility for unemployment compensation benefits.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 52-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. He is able to work and is available for suitable work and actively seeking work; provided,
 - 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.
 - b. and c. Repealed by S.L. 1973, ch. 391, § 24.
 - 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 not covered by workmen's compensation insurance and 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 15, 1979

CHAPTER 526

SENATE BILL NO. 2232
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

UNEMPLOYMENT COMPENSATION BENEFIT
DISQUALIFICATION

AN ACT to amend and reenact subsection 4 of section 52-01-01 and subsection 1 of section 52-06-02 of the North Dakota Century Code; and to repeal subsection 10 of section 52-06-02 of the North Dakota Century Code, relating to disqualification for unemployment compensation benefits.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 52-01-01 of the 1977 Supplement to 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 and in the event of a disqualification for benefits as provided for in subsections 1, 2, or 3 of section 52-06-02 the payment of benefits shall be postponed for the period of time prescribed therein ~~ex until--such--postponement--is--overcome--as--provided--for--in subsection-10.~~

SECTION 2. AMENDMENT.) Subsection 1 of section 52-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For the week in which he has filed an otherwise valid claim for benefits after he has left his last employment voluntarily without good cause attributable to the employer, and thereafter until such time as he:
- {a} a. Can demonstrate that he has earned remuneration for personal services in employment equivalent to at least ten five times his weekly benefit amount as determined under section 52-06-04; and
- {b} b. Has not left his last work under disqualifying circumstances.

SECTION 3. REPEAL.) Subsection 10 of section 52-06-02 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

CHAPTER 527

SENATE BILL NO. 2339
(Senators Tennesfos, Peterson, Solberg)
(Representative Kloubec)

DISQUALIFICATION FOR RECEIVING PENSION BENEFITS

AN ACT to create and enact a new subsection to section 52-06-02 of the North Dakota Century Code, relating to disqualification for unemployment compensation benefits.

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

SECTION 1.) A new subsection to section 52-06-02 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

For any week which begins after March 31, 1980, and which begins in a period with respect to which the individual is receiving a governmental or other pension, unless the weekly benefit amount payable to the individual for the week is reduced, but not below zero:

- a. By one-half the prorated weekly amount of the pension if at least one-half the cost of the pension plan was contributed by an employer who employed the individual during the base period, or whose account would be chargeable with any unemployment compensation paid to the individual for the week; or
- b. By the entire prorated weekly amount of the pension if the entire cost of the pension plan was contributed by such an employer; or
- c. By the entire prorated weekly amount of any governmental or other pension except service disability pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on any previous work of the individual if the reduction is required as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act.

Approved March 21, 1979

CHAPTER 528

SENATE BILL NO. 2229
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

WEEKLY AND MAXIMUM BENEFIT AMOUNTS

AN ACT to amend and reenact subsections 1 and 2 of section 52-06-04 of the North Dakota Century Code, relating to unemployment compensation weekly benefit amount and qualifying wages; and to amend and reenact section 52-06-05 of the North Dakota Century Code, relating to maximum potential unemployment compensation benefits.

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

SECTION 1. AMENDMENT.) Subsections 1 and 2 of section 52-06-04 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The procedures, provisions and conditions of this section shall determine the "weekly benefit amount" of those individuals who establish a benefit year on and after the first day of July of 1973:
 - a. For the purpose of this section the bureau shall each year, on or before the first day of June, determine the average annual wage paid to insured workers and, from that determination, an "average weekly wage", by the following computation:

the total wages reported on contribution reports for the preceding calendar year shall be divided by the average monthly number of covered workers, whose number shall be determined by dividing by twelve the total covered employment reported on contribution reports for the preceding calendar year, and the quotient obtained by dividing the total wages by the average monthly number of covered workers shall be the average annual wage; and such quotient shall be divided by fifty-two and the amount thus obtained, rounded to the nearest cent, shall be the "average weekly wage";

- b. An individual's "weekly benefit amount" shall be an amount equal to one twenty-sixth (if not a multiple of one dollar, to be computed to the next higher multiple of one dollar) of ~~his~~ the individual's total wages for insured work paid during the quarter of ~~his~~ the individual's base period in which ~~his~~ the individual's wages were the highest, but in no case to be less than a "minimum weekly benefit amount" of ~~fifteen--dollars~~ eighteen percent of the average weekly wage rounded to the next higher multiple of one dollar if not a multiple of one dollar nor more than a "maximum weekly benefit amount" as hereinafter provided:
- (1) Fifty-five percent of the "average weekly wage", rounded to the next higher multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after the first day of July of 1973.
 - (2) Sixty percent of the "average weekly wage", rounded to the next higher multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after the first day of July of 1975.
 - (3) Sixty-seven percent of the "average weekly wage", rounded to the next higher multiple of one dollar if not a multiple of one dollar, shall be the "maximum weekly benefit amount" that can be paid to any individual whose benefit year commences on or after the first day of July of 1976.
2. To qualify as an insured worker an individual must have been paid wages for insured work in at least two calendar quarters of ~~his~~ the individual's base period totaling not less than forty times ~~the minimum~~ the minimum weekly benefit amount ~~and--not-less-than-six-hundred-dollars~~. However, the wage credits of an individual earned during the period commencing with the end of the prior base period and ending on the date on which ~~he~~ the individual filed a valid claim shall not be available for benefit purposes in a subsequent benefit year unless, in addition thereto, such individual has subsequently earned wages for insured work in an amount equal to at least ten times ~~his~~ the individual's current weekly benefit amount.

SECTION 2. AMENDMENT.) Section 52-06-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-05. MAXIMUM POTENTIAL BENEFITS.) ~~The maximum potential benefits for any insured worker in a benefit year shall be equal to eighteen--times--his-weekly-benefit-amount-when-his-qualifying-wages~~

are forty times his weekly benefit amount but less than fifty-five times his weekly benefit amount, and twenty-two times his weekly benefit amount when his qualifying wages are fifty-five times his weekly benefit amount but less than seventy times his weekly benefit amount, and twenty-six times his weekly benefit amount when his qualifying wages are seventy times or over his weekly benefit amount. Any otherwise eligible individual shall be entitled during the individual's benefit year to benefits for the number of times the individual's weekly benefit amount appearing in the following table on the line which includes the individual's ratio of total base period earnings to highest quarter base period earnings:

<u>Ratio of Total Base Period Earnings to High Quarter</u>	<u>Times Weekly Benefit Amount</u>
<u>1.50 to 1.75</u>	<u>12</u>
<u>1.76 to 1.95</u>	<u>14</u>
<u>1.96 to 2.15</u>	<u>16</u>
<u>2.16 to 2.35</u>	<u>18</u>
<u>2.36 to 2.55</u>	<u>20</u>
<u>2.56 to 2.75</u>	<u>22</u>
<u>2.76 to 2.95</u>	<u>24</u>
<u>2.96 or more</u>	<u>26</u>

Not approved or disapproved by the Governor

Filed March 23, 1979

CHAPTER 529

SENATE BILL NO. 2278
(Senators Lips, Reiten, Tennefos)
(Representative Olson)

BENEFIT ELIGIBILITY NOTIFICATION

AN ACT to provide for notification by the employment security bureau to base-period employers of actual or estimated charges against the base-period employers' accounts.

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

SECTION 1. DETERMINATION OF ELIGIBILITY - NOTIFICATION OF CHARGES.) The bureau shall, upon determination of an individual's eligibility for benefits chargeable against each base-period employer's account, notify each of the individual's base-period employers, including employers electing to finance benefit payments on a reimbursable basis, of the individual's eligibility and maximum potential charges against the base-period employer's account resulting from the individual's eligibility for benefits.

Approved March 15, 1979

CHAPTER 530

SENATE BILL NO. 2201
(Committee on Industry, Business and Labor)
(At the request of the Employment Security Bureau)

PRIMARY OASIS BENEFIT

AN ACT to amend and reenact section 52-09-03 of the North Dakota Century Code, relating to the administration of the old-age and survivors insurance system and to amend and reenact subsection D of section 52-09-20 of the North Dakota Century Code, relating to the determination of the primary insurance benefit under the 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 52-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-09-03. ADMINISTRATION.) ~~The North--Dakota-unemployment compensation-division-of-the-employment-security-bureau,-hereinafter called---the---"bureau",~~ agency charged with administering the provisions of the North Dakota Unemployment Compensation Law shall be vested with authority to administer the old-age and survivors insurance system. Expenses for the administration of the old-age and survivor insurance system shall be within the limits of legislative appropriation and funds shall be expended by warrant-checks prepared by the department of accounts and purchases after approval by the state auditing board.

SECTION 2. AMENDMENT.) Subsection D of section 52-09-20 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- D. The term "primary insurance benefit" means an amount equal to the sum of the following:
- (1) (a) Fifty percentum of the amount of an individual's average monthly wage if such average monthly wage does not exceed seventy-five dollars, or (b) if such average monthly wage exceeds seventy-five dollars, fifty percentum of seventy-five dollars, plus fifteen percentum of the amount by which such average monthly

- wage exceeds seventy-five dollars and does not exceed two hundred fifty dollars, and
- (2) An amount equal to one percentum of the amount computed under subdivision (1) multiplied by the number of years in which two hundred dollars or more of wages were paid to such individual.
 - (3) ~~From--and--after--July-17-1977~~ Effective July 1, 1979 the term "primary insurance benefit" shall be the total of the sums determined in subdivisions (1) and (2) of this subsection plus one hundred ten dollars. Where the primary insurance benefit thus computed is less than one hundred ten dollars, such benefit shall be one hundred ten dollars. Effective July 1, 1980 the term "primary insurance benefit" shall be the total of the sums determined in subdivisions (1) and (2) of this subsection plus one hundred twenty dollars. Where the primary insurance benefit thus computed is less than one hundred twenty dollars, such benefit shall be one hundred twenty dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 13, 1979

SPORTS AND AMUSEMENTS

CHAPTER 531

HOUSE BILL NO. 1215
(Representatives Gerl, Conmy, Kretschmar)
(Senators Tallackson, Wright)

GAMES OF CHANCE

AN ACT to allow nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and public-spirited organizations to conduct bingo, raffles, pull tabs, jars, punchboards, and sports pools; and to provide for definitions, licensure by the attorney general, city and county approval in certain instances, restrictions on the conduct of games, bookkeeping requirements, expense requirements, a tax based on adjusted gross proceeds, examination of books and records, licensure of distributors, form and display of licensure, and rules and regulations; to provide a criminal penalty for the violation of this Act; and to provide an expiration date.

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

SECTION 1. DEFINITIONS.)

1. "Adjusted gross proceeds" means gross proceeds less cash prizes or the price of merchandise prizes.
2. "Bona fide guest" means a person who is not a member of an eligible organization, but who is allowed to use the facilities of the organization when invited by a member or the organization in accordance with the eligible organization's bylaws, articles of incorporation, charter, rules, or other written statement.
3. "Charitable organization" means any nonprofit organization operated for the relief of poverty, distress, or other condition of public concern within this state, which has been so engaged within this state for two years.
4. "Civic and service club" means any branch, lodge, or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within this state, which shall have

- existed in this state for two years. "Civic and service club" also means a similar local nonprofit organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the governing body of the city in which the organization conducts its principal activities, or by the governing body of a county if such organization conducts its principal activities outside the limits of a city but within a county. Such club shall have existed in this state for two years.
5. "Distributor" means a person, firm, corporation, association, or organization which sells, markets, or otherwise distributes raffle tickets, bingo equipment, or any other implements of gambling usable in the lawful conduct of games of chance under this Act, to an organization licensed or authorized to conduct such games of chance under this Act. "Distributor" does not include a resident printer who prints raffle tickets at the request of a licensed or authorized organization, and who sells or otherwise distributes such raffle tickets to such organization.
 6. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are uses benefiting a number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint; fraternal uses specified by an organization's constitution, charter, or bylaws, not of direct benefit to the eligible organization or any member thereof; uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof; the erection or maintenance of public buildings or works; or uses otherwise lessening the burden of government. Such uses do not include the erection, acquisition, improvement, maintenance, or repair of real, personal, or mixed property unless it is used exclusively for one or more of the stated uses. Uses shall not include any activities consisting of attempts to influence legislation or participation in any political campaign on behalf of any elected official or person who is or has been a candidate for public office. "Charitable uses" include uses benefiting a definite number of persons who are the victims of loss of home or household possessions through explosion, fire, flood, or storm and the loss is uncompensated by insurance, and uses benefiting a definite number of persons suffering from a seriously disabling disease or injury, causing severe loss of income or incurring extraordinary medical expense which is uncompensated by insurance.

7. "Educational organization" means any nonprofit public or private elementary or secondary school in this state which has been in existence for two years.
8. "Eligible organization" means bona fide nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and other public-spirited organizations as defined by this Act, which may be licensed by the attorney general or authorized by the governing body of a city or county to conduct games of chance under this Act.
9. "Entire net proceeds" or "net proceeds" means the adjusted gross proceeds less such expenses, charges, fees, and deductions as are specifically authorized under this Act.
10. "Fraternal organization" means a nonprofit organization within this state, except college and high school fraternities, which is a branch, lodge or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. Such organization shall have existed within this state for two years.
11. "Gross proceeds" means all moneys collected or received from games of chance and admissions thereto.
12. "Licensee" means an eligible organization licensed under the provisions of this Act.
13. "Licensing authority" means the attorney general.
14. "Member" means a person who has qualified for and been admitted to membership in an eligible organization pursuant to its bylaws, articles of incorporation, charter, rules, or other written statement, and who pays regular monthly, annual, or other periodic dues or is a fully paid life member of the eligible organization. "Member" includes auxiliary members, but excludes social and honorary members.
15. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of a city or county by resolution as public-spirited and eligible to conduct games of chance under this Act.
16. "Religious organization" means any nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances which has been so gathered or united in this state for two years.
17. "Veterans organization" means any congressionally chartered organization within this state, or any branch or

lodge or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States. Such organizations shall have been in existence in this state for two years.

SECTION 2. ORGANIZATIONS ELIGIBLE UNDER ACT - USE OF NET PROCEEDS.) Nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and public-spirited organizations, as those terms are defined by this Act, are eligible to conduct games of chance under the conditions of this Act. The entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this Act. Notwithstanding any other provision of this Act, an eligible organization, which has not been licensed by the attorney general, may use the net proceeds of such games of chance to directly benefit the eligible organization; however, none of the proceeds may be used for capital improvements or the purchase of furnishings. For purposes of this section, a capital improvement is defined as the construction, renovation, remodeling or repair of a building which tends to enhance its value, beauty or utility or to adapt it for further purposes. For purposes of this section, a furnishing is defined as furniture, draperies, or equipment.

SECTION 3. LICENSURE - FEES - APPLICATION - SUSPENSION - REVOCATION.) An eligible organization desiring to conduct games of chance, which maintains a building for the use of its members and guests, and which offers meals or liquor or both as part of its operation, shall annually apply for a license to conduct games of chance from the attorney general before the first day of April in each year. Application shall be made upon forms prescribed by the attorney general along with submission of a fifty dollar license fee.

The application shall be signed and sworn to by the applicant and shall contain the following:

1. The name and post-office address of the applicant.
2. The location at which the organization will conduct the games of chance, whether the organization owns or leases the premises, and a copy of the rental agreement if it leases the premises.
3. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
4. A statement of the educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the net proceeds of a game of chance will be devoted.

5. Such other necessary and reasonable information as the attorney general may require.

The attorney general shall license such organizations which conform to the requirements of this Act to conduct games of chance. In addition, the attorney general shall have the power, on his own motion based on reasonable grounds or on written complaint, to suspend or revoke a license in accordance with chapter 28-32 for violation, by the licensee or any officer, director, agent, member, or employee of such licensee, of this Act or any rule or regulation promulgated hereunder.

SECTION 4. CITY AND COUNTY APPROVAL FOR OTHER THAN LICENSED GAMES OF CHANCE.) Any other eligible organization, not regulated under section 3, shall apply in writing to the governing body of the city in which it conducts its principal activities for permission to conduct games of chance in such city at least thirty days prior to commencement of the gaming activity stating the particular games of chance, time, place, and educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the net proceeds will be devoted. The governing body may at its own discretion and upon application by an eligible organization grant permission for such games for specifically designated times, places, and uses. Such licenses may, at the discretion of the governing body, be effective for the conduct of games of chance during a one-year period. Where games of chance are proposed to be conducted within a county but outside the limits of a city, such eligible organization shall apply in writing to the board of county commissioners in the same manner as above. The governing body may by ordinance or resolution establish authorization fees not to exceed ten dollars for an authorization for one occasion and not to exceed twenty-five dollars for an authorization covering more than one occasion. If the governing body, at its own discretion, chooses to authorize games of chance, the governing body shall authorize the organization which conforms to the requirements of this Act to conduct such games. A copy of each resolution or permit granted by a city or county under this Act shall be sent to the attorney general not later than thirty days after issuance.

The governing body shall have the power, on its own motion based on reasonable grounds or on written complaint, to suspend or revoke an authorization after a hearing for violation, by the authorized organization or any officer, director, agent, member, or employee of such organization, of this Act or any rule promulgated hereunder.

SECTION 5. COLLEGE FRATERNITIES AND SORORITIES ALLOWED TO CONDUCT RAFFLES - USE OF PROCEEDS.) A college fraternity or sorority recognized by the administration of a North Dakota college or university shall be eligible to conduct raffles and bingo under the provisions of this Act. The entire net proceeds of such raffles shall be devoted to educational, charitable, patriotic, or other public-spirited uses as defined by this Act.

SECTION 6. CITY APPROVAL FOR RAFFLES.) A college fraternity or sorority shall apply in writing to the governing body of the city in which it is located for permission to conduct a raffle at least thirty days prior to each occasion stating the time, place, and educational, charitable, patriotic or other public-spirited uses to which the proceeds will be devoted. The applicant fraternity or sorority shall include a signed acknowledgment by the administration of the college or university that the applicant is a recognized fraternity or sorority. The governing body may at its own discretion, and upon application by a fraternity or sorority, grant permission for raffles and bingo to be held at specifically designated times and places for specific uses covering a one-year period. The governing body may by ordinance or resolution establish authorization fees not to exceed ten dollars for an authorization for one occasion and not to exceed twenty-five dollars for an authorization covering more than one occasion. If the governing body, at its own discretion, chooses to authorize raffles or bingo pursuant to this Act, the governing body may do so by resolution.

SECTION 7. PERSONS PERMITTED TO CONDUCT GAMES OF CHANCE - PREMISES - EQUIPMENT - EXPENSES - COMPENSATION.)

1. No person, except a member of an eligible organization, may hold, operate, or conduct any game of chance under this Act.
2. No person, except a member of an eligible organization or a member of an organization auxiliary to an eligible organization, may assist in the holding, operating, or conducting of any game of chance under this Act.
3. No item of expense incurred in connection with the holding, operating, or conducting of any game of chance held, operated, or conducted pursuant to this Act shall be deducted from adjusted gross proceeds, except bona fide expenses in reasonable amounts as provided under section 11. No games of chance shall be conducted with any equipment other than equipment owned by or rented at a reasonable rate from an eligible organization.
4. The governing board of an eligible organization shall be primarily responsible for the proper determination and distribution of the entire net proceeds of any game of chance held in accordance with this Act.
5. The premises where any game of chance is being held, operated, or conducted, or where it is intended that such game will be held, shall be open to inspection by the licensing authority, its agents and employees, by representatives of the governing body authorizing games of chance, and by peace officers of any political subdivision of this state.

6. When any merchandise prize is awarded in a game of chance, its value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash directly or indirectly.
7. Equipment, prizes, and supplies for games of chance shall not be purchased or sold at prices in excess of the usual price thereof.
8. The entire net proceeds derived from the holding of games of chance must be devoted within three months from the date such proceeds were earned to the uses permitted by this Act. Any organization desiring to hold the net proceeds of games of chance for a period longer than three months from the date such proceeds were earned must apply to the licensing authority or governing body, as the case may be, for special permission, and upon good cause shown, the licensing authority or governing body may grant the request.
9. Only the members of an organization licensed by the attorney general under this Act and their spouses and bona fide guests may participate in playing games of chance conducted by such licensed organization.
10. No person, firm, corporation, association, or organization convicted of a felony or a class A misdemeanor, or determined by the attorney general to have participated in organized crime or unlawful gambling, shall be permitted to sell, distribute, conduct, or assist in games of chance under this Act.

SECTION 8. GAMES OF CHANCE ALLOWED.) Eligible organizations shall be permitted to conduct the following games of chance:

1. Eligible organizations licensed by the attorney general shall be permitted to conduct bingo, raffles, pull tabs, jars, punchboards, and sports pools for professional sports only.
2. Eligible organizations authorized by the governing body of a city or county may conduct bingo, raffles, pull tabs, jars, punchboards, and sports pools for professional sports only.
3. College fraternities or sororities may conduct raffles and bingo.

SECTION 9. PUNCHBOARDS AND JARS - SALE OF CHANCES.) No person or organization engaged in the selling of chances from jars or punchboards under this Act shall discard the chances from any jar or punchboard once the contents of such jar or punchboard are offered for sale to eligible participants, unless all of the highest denomination of winners have been sold.

SECTION 10. SPORTS POOLS - CONTROL BY LICENSEE - RULES POSTED.) Any licensee or other eligible organization may allow the playing of sports pools on the premises. Sports pools shall be allowed for professional sports only. If sports pools are allowed, they shall be conducted and controlled by the licensee or other eligible organization. Any rules affecting the conduct of sports pools or requirements of participants shall be clearly posted. The maximum wager on any sports pool shall not exceed five dollars. The amounts paid to sports pool participants in prizes shall not exceed two-thirds of the gross proceeds.

SECTION 11. STATEMENT OF RECEIPTS - EXPENSES.)

1. All moneys collected or received from games of chance and admissions thereto, except cash prizes of less than one hundred dollars paid immediately, shall be deposited in a special account of the eligible organization which shall contain only such money. Cash prizes of one hundred dollars or more, the purchase prices of merchandise prizes, and all expenses for such games of chance shall be withdrawn from such account by consecutively numbered checks duly signed by a specified officer or officers of the eligible organization and payable to a specific person or organization. There shall also be written on the check the nature of the expense or prize for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee.
2. No part of the net proceeds after they have been given over to another organization shall be used by the donee organization to pay any person for services rendered or materials purchased in connection with the conducting of games of chance by the donor organization.
3. No item of expense incurred in connection with holding, operating, or conducting any game of chance pursuant to this Act shall be deducted from adjusted gross proceeds, except bona fide expenses of a reasonable amount actually and necessarily incurred and directly attributable only to the conduct of the games of chance. Bona fide expenses shall not include overhead, capital costs, and general maintenance. Total expenses for games of chance shall not exceed one-third of the total adjusted gross proceeds from each such occasion. The figure used for adjusted gross proceeds shall be as determined in subsection 1 of section 1 of this Act without any reduction for taxes.
4. Expense payments for games of chance deductible from adjusted gross proceeds shall be made only for the following purposes:
 - a. The purchase of necessary goods, wares, and merchandise.

- b. The securing of services reasonably necessary for repair of equipment, and for operating or conducting games of chance.
- c. For rent if the premises or equipment are rented, or for janitorial services if premises are not rented.
- d. For accountant's fees.
- e. For license fees.
- f. For utility expenses.

SECTION 12. TAX BASED ON ADJUSTED GROSS PROCEEDS.) A tax of five percent of the total adjusted gross proceeds received by a licensed eligible organization shall be paid to the licensing authority for deposit in the general fund on a quarterly basis in such manner and upon such forms as shall be prescribed by the licensing authority by rule. The figure used for adjusted gross proceeds shall be as determined in subsection 1 of section 1 of this Act without any reduction for expenses.

SECTION 13. EXAMINATION OF BOOKS AND RECORDS.) The licensing authority and its agents, and representatives of the governing body of a city or county with respect to eligible organizations authorized by that governing body, shall have the power to examine or cause to be examined the books and records of any eligible organization licensed or authorized to conduct games of chance under this Act to the extent that such books and records relate to any transaction connected with holding, operating, or conducting any game of chance.

SECTION 14. DISTRIBUTORS - LICENSURE.) Every distributor shall annually apply for a license upon a form prescribed by the attorney general before the first day of April in each year and shall submit a one thousand dollar license fee. Each applicant shall provide such necessary and reasonable information as the attorney general may require.

Every nonresident manufacturer or distributor of raffle tickets or equipment for games of chance doing business in this state shall appoint a North Dakota agent who shall be licensed as a distributor. No distributor shall sell, market, or otherwise distribute raffle tickets or equipment for games of chance except to eligible organizations.

Every eligible organization shall acquire all raffle tickets or equipment for games of chance from a distributor licensed under this Act, unless the raffle tickets or equipment for games of chance are printed, manufactured, or constructed by the eligible organization or unless the raffle tickets are obtained from a resident printer who has printed the raffle tickets at the request of the organization. At no time shall any eligible organization

print, manufacture or construct any raffle tickets or equipment for games of chance for sale to any other eligible organization.

No licensed or authorized eligible organization shall be a distributor. No distributor may be a wholesaler of liquor or alcoholic beverages.

The attorney general shall have the power, on his own motion based on reasonable grounds or on written complaint, to suspend or revoke a license in accordance with chapter 28-32 for violation, by the licensee or any officer, director, agent, member or employee of the licensee, of this chapter or any rule or regulation promulgated hereunder.

SECTION 15. FORM AND DISPLAY OF LICENSE.) Each license or authorization required under this Act shall contain a statement of the name and address of the licensee or authorized eligible organization and such other information as the licensing or authorizing authority may designate.

Each license or resolution issued for the conduct of any game or games of chance shall be conspicuously displayed at the place where the same is to be conducted at all times during any game of chance and for at least thirty minutes thereafter. The sale of a raffle ticket shall not require the display of the license or authorizing resolution.

SECTION 16. VIOLATION OF ACT - MISDEMEANOR - FORFEITURE OF LICENSE - INELIGIBILITY FOR YEAR.) Any person who knowingly makes a false statement in any application for a license or authorizing resolution or in any statement annexed thereto, or who fails to keep sufficient books and records to substantiate the receipts, expenses, or uses resulting from games of chance conducted under this Act, or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating, and conducting of any game of chance, or who violates any of the provisions of this Act, any rule promulgated hereunder, or of any term of a license shall be guilty of a class A misdemeanor. If convicted, such organization or person shall forfeit any license or authorizing resolution issued to it pursuant to this Act and shall be ineligible to reapply for a license or authorization for two years thereafter.

SECTION 17. RULES.) The licensing authority shall promulgate rules in accordance with chapter 28-32, relating to but not limited to methods of play, conduct, and promotion of games of chance; methods, procedures, and minimum standards for accounting and recordkeeping; requiring reports by licensees and authorized organizations; methods of competition and doing business by distributors; and marking or identification of raffle tickets, bingo equipment, jars, pull tabs, punchboards, or any other implements of gambling used or distributed in this state to implement or effectuate the provisions and purposes of this Act; to ensure that the entire net proceeds of games of chance are devoted to educational, charitable, patriotic, fraternal, religious, or other

public-spirited uses as defined by this Act; to define capital improvements and furnishings; to protect and promote the public interest; to ensure fair and honest games of chance; to ensure that fees and taxes are paid; and to seek to prevent or detect unlawful gambling activity.

SECTION 18. EXPIRATION DATE.) The provisions of this Act shall expire at twelve midnight on June 30, 1981.

Not approved or disapproved by the Governor

Filed April 13, 1979

CHAPTER 532

HOUSE BILL NO. 1536
(Dick, Berger)

SKIING RESPONSIBILITY

AN ACT establishing the responsibilities and liabilities of skiers and ski area operators.

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

SECTION 1. SHORT TITLE.) This Act shall be known and may be cited as the "North Dakota Skiing Responsibility Act".

SECTION 2. LEGISLATIVE PURPOSE.) The legislative assembly finds that the sport of skiing is practiced in this state by a growing number of North Dakota citizens and nonresidents. Since it is recognized that there are inherent risks in the sport of skiing which should be understood by each skier and which are essentially impossible to eliminate by the ski area operator, it is the purpose of this Act to define those areas of responsibility and affirmative acts for which ski area operators shall be liable for loss, damage, or injury and those risks which the skier expressly assumes and for which there can be no recovery.

SECTION 3. DEFINITIONS.) The following words and phrases when used in this Act have, unless the context clearly indicates otherwise, the meaning given to them in this section:

1. "Aerial passenger tramway" means any device operated by a ski area operator used to transport passengers, by single or double reversible tramway; chairlift or gondola lift; t-bar lift, j-bar lift, platter lift, or similar device; or a fiber rope tow.
2. "Passenger" means any person who is lawfully using an aerial passenger tramway, or is waiting to embark or has recently disembarked from an aerial passenger tramway and is in its immediate vicinity.
3. "Ski area" means property owned or leased and under the control of the ski area operator and administered as a single enterprise within the state of North Dakota.

4. "Ski area operator" means any person, partnership, corporation or other commercial entity and their agents, officers, employees or representatives, who has operational responsibility for any ski area or aerial passenger tramway.
5. "Ski slopes and trails" mean those areas designed by the ski area operator to be used by skiers for the purpose of participating in the sport of skiing.
6. "Skier" means any person present at a skiing area under the control of the ski operator for the purpose of engaging in the sport of skiing by utilizing the ski slopes and trails and does not include the use of an aerial passenger tramway.
7. "Skiing area" means all slopes and trails not including any aerial passenger tramway.

SECTION 4. DUTIES OF SKI OPERATORS WITH RESPECT TO SKI AREAS.) Every ski operator shall have the following duties with respect to their operation of a skiing area:

1. To mark all trail maintenance vehicles and to furnish such vehicles with flashing or rotating lights which shall be in operation whenever the vehicles are working or are in movement in the skiing area.
2. To mark with a visible sign or other warning implement the location of any hydrant or similar equipment used in snowmaking operations and located on ski slopes and trails.
3. To mark conspicuously the top or entrance to each slope or trail, or area with the appropriate symbol for its relative degree of difficulty and those slopes, trails, or areas which are closed, or portions of which present an unusual obstacle, shall be marked at the top or entrance with appropriate symbols.
4. To maintain one or more trail boards at prominent locations at each ski area displaying that area's network of ski trails and slopes with each trail and slope rated thereon in accordance with the symbols provided for in subsection 3.
5. To designate by trail board or other means which trails or slopes are open or closed.
6. To place, or cause to be placed, whenever snow grooming or snowmaking operations are being undertaken upon any trail or slope while such trail or slope is open to the public a conspicuous notice to that effect at or near the top of such trail or slope.

7. To post notice, at or near the boarding area for each aerial passenger tramway designed to transport passengers with skis attached to boots, of the requirements of this Act concerning the use of ski retention devices. This obligation shall be the sole requirement imposed upon the ski area operator regarding the requirement for or use of ski retention devices.

SECTION 5. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO AERIAL PASSENGER TRAMWAYS.) Every ski area operator shall have the duty to construct, operate, maintain, and repair any aerial passenger tramway in a safe and responsible manner.

SECTION 6. DUTIES OF PASSENGERS.) Every passenger shall have the duty not to:

1. Board or embark upon or disembark from an aerial passenger tramway except at an area designated for such purpose.
2. Intentionally drop, throw, or expel any object from an aerial passenger tramway.
3. Do any act which shall interfere with the running or operation of an aerial passenger tramway.
4. Use any aerial passenger tramway unless the passenger has the ability to use it safely without any instruction on its use by the ski area operator or requests and receives instructions before entering the boarding area of the aerial passenger tramway.
5. Engage in any harmful conduct, or willfully or negligently engage in any type of conduct which contributes to or causes injury to another person.
6. Embark on an aerial passenger tramway without the authority of the ski area operator.
7. Use any aerial passenger tramway without engaging such safety or restraining devices as may be provided.
8. Wear skis without properly securing ski retention straps.

SECTION 7. DUTIES OF SKIERS.) It is recognized that skiing as a recreational sport is hazardous to skiers, regardless of all feasible safety measures which can be taken. Each skier expressly assumes the risk of and legal responsibility for any injury to person or property which results from participation in the sport of skiing including any injury caused by the following: variations in terrain; surface or subsurface snow or ice conditions; bare spots, rocks, trees, or other forms of forest growth or debris, lift towers and components thereof; pole lines; and snowmaking equipment which are plainly visible or are plainly marked in accordance with the provisions of section 4. Therefore, each skier shall have the sole

individual responsibility for knowing the range of his own ability to negotiate any slope, trail, or aerial passenger tramway, and it shall be the duty of each skier to ski within the limits of the skier's own ability, to make reasonable control of speed and course at all times while skiing, to heed all posted warnings, to ski only on a skiing area designated by the ski area operator, and to refrain from acting in a manner which may cause or contribute to the injury of anyone. The responsibility for collisions by any skier while actually skiing, with any person or object, shall be solely that of the individual or individuals involved in such collision and not that of the ski area operator. No person shall:

1. Unless authorized by the ski area operator, place any object in the skiing area or on the uphill track of any aerial passenger tramway which may cause a passenger or skier to fall.
2. Cross the track of a t-bar lift, j-bar lift, platter lift or similar device, or a fiber rope tow except at a designated location.
3. Fail to wear retention straps or other devices to help prevent runaway skis.

SECTION 8. LIABILITY OF SKI AREA OPERATORS.) Any ski area operator shall be liable for loss or damages caused by its failure to follow the duties set forth in sections 4 and 5 where the violation of duty is causally related to loss or damage suffered. A ski area operator shall not be liable to any passenger or skier acting in violation of his duties as set forth in sections 6 and 7, where the violation of duty by the passenger or skier is causally related to the loss or damage suffered; nor shall a ski area operator be liable for any loss or damage caused by any object dropped, thrown, or expelled by a passenger from an aerial passenger tramway.

SECTION 9. LIABILITY OF PASSENGERS.) Any passenger shall be liable for loss or damages resulting from violation of the duties set forth in section 6, and shall not be able to recover from the ski area operator for any losses or damages where a violation of the duties set forth in section 6 is causally related to the loss or damage suffered by the passenger.

SECTION 10. LIABILITY OF SKIERS.) Any skier shall be liable for loss or damages resulting from violation of the duties set forth in section 7, and shall not be able to recover from the ski area operator for losses or damages where the violation of the skier's duty is causally related to the loss or damage suffered by the skier.

SECTION 11. EFFECT OF COMPARATIVE NEGLIGENCE.) Notwithstanding section 9-10-07, any person shall, consistent with the provisions of this Act, be barred from recovery for loss or damage resulting from a risk inherent in the sport of skiing, and

likewise shall be so barred where it is established that a person has knowingly exposed himself or herself to the real or potential hazards of a situation.

SECTION 12. WARNING TO USERS.) Before any owner or operator may claim any provision of this Act as a defense to any claim or action brought against him, he must establish that he has conspicuously placed on the premises a warning as follows: WARNING TO USERS North Dakota law severely limits your right to compensation for injuries caused by the negligence of the owner or operator.

Approved March 3, 1979

STATE GOVERNMENT

CHAPTER 533

HOUSE BILL NO. 1312
(Kretschmar)

LEGISLATIVE APPORTIONMENT REQUIREMENTS

AN ACT to amend and reenact section 54-03-01.5 of the North Dakota Century Code, relating to legislative apportionment requirements.

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

SECTION 1. AMENDMENT.) Section 54-03-01.5 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-01.5. LEGISLATIVE FINDINGS---AND---DECLARATIONS APPORTIONMENT REQUIREMENTS.) The legislative assembly finds and declares that A legislative apportionment plan based on any census taken after 1979 shall meet the following requirements:

1. The senate should be maintained from shall consist of forty-eight to fifty-two members and the house shall consist of ninety-six to one hundred four members in order to effectively represent the citizens of the state and to adequately review and study proposed legislation. By providing for such a size senate, a certain population variance is assured due to a combination of factors referred to in this section, however, although a legislative apportionment plan could possibly be formulated with a smaller population variance than the plan provided by this section and section 54-03-01-6, such a plan would necessitate a smaller legislative assembly with geographically large legislative districts which would substantially reduce the personal contact citizens have with their elected legislators. Such geographically large legislative districts would result from the fact that the state has a population density of only 8.9 residents per square mile and in some instances, portions of the state comprise relatively uninhabited territory of up to 72 square miles.

2. ~~Traditionally and historically, except for court-fashioned legislative apportionment plans, the state legislative assembly has been comprised of single member senate districts and multimember house districts. Except as provided in subsection 3, one senator and two representatives shall be apportioned to each senatorial district. Representatives may be elected at large or from subdistricts. Subdistricts are authorized only upon two-thirds vote by the elected members of the senate and house when adopting an apportionment plan.~~
3. ~~Multimember senate districts should be avoided in legislative apportionment plans unless a unique combination of factors justifies very limited use of multimember senate districts. This very limited use of multimember senate districts is not intended by the legislative assembly to establish a policy favoring multimember senate districts. One district in the state, district 5, has a unique combination of factors which justifies a very limited use of a multimember senate subdistrict. For legislative apportionment purposes, the population of the Minot air force base has been attached to the city of Minot due to the community of interest between residents of the city of Minot and air base personnel, however, the size of the air base is such that singularly it could be entitled to one senator and two representatives. Due to the military policy of discouragement of political activities by military personnel, the prohibition of political campaigning on military establishments, the transitory nature of military personnel, the fact that a large number of military personnel maintain their voting residences in their home state, and the fact that military personnel participation in state elections is minimal, the air base should not be a separate legislative district but should be combined with an urban subdistrict only to the extent necessary to provide for two senators and four representatives to be elected from that urban subdistrict are authorized only when a proposed single member senatorial district includes a federal facility or federal installation, containing over three-fourths of the population of the proposed single member senatorial district. No subdistricts may be included in any multimember senate district.~~
4. ~~The state has a policy dating from statehood in 1889 of preserving county boundaries in legislative apportionment plans. This policy was firmly established in section 29 of the state Constitution which provided that "no portion of any county shall be attached to any other county, or part thereof, so as to form a district" and, although the section was amended in 1960, the substance of the amendment was to preserve the legislative districting plan then in effect which recognized county lines in every~~

district,--Even-though-the-section,--as-amended,--was--found to--violate--the--U-S--Constitution-by-a-federal-court,--in every-court-fashioned-apportionment-plan-efforts-have-been made--to--hold-violations-of-county-boundaries-to-a-minimum in-deference-to-this-strongly-established-state-policy.

- 5--Voter--identification--with--legislative--districts--is significant-with-regard-to-voter-participation,--and--this identification--with--legislative-districts--extends-to-and includes-identification-with-county-boundaries-
- 6--The--natural-boundary-caused-by-the-Missouri-River-is-very real-in-that-one-third-of--the--state--lies--west--of--the river,--and-of-the-three-hundred-fifty-five-mile-length-of the-river-only-six-crossings--exist,--four--of--which--are located-in-urban-areas.--Any-legislative-district-crossing the-Missouri-River-would-cause--extreme-hardship--to--the residents-of-the-district-and-to-the-electoral-process-
- 7--The--sparse--population--of--rural--areas--of--the--state, combined-with--the--policy--of--maintenance--of--political subdivision--boundaries--and--recognition--of--the--natural boundary--caused-by--the--Missouri--River,--justifies deviations--from--population--equality--in--legislative districts-with-this-unique-combination-of-factors-
- 8--An--overemphasis-on--raw-population-figures-provided-by-the 1970-census-submerges-state-policy-factors-which-are-taken into--account--in--legislative--apportionment--and--ignore factors--that--are-important-to-an-acceptable--apportionment plan-for-effective-representative-government-
- 9--It--is--extremely--difficult--to--formulate--a-legislative apportionment-plan-with-a-small-population-variance--among legislative--districts--and-subdistricts-without-including some-counties-in-portions--of--two--or--three--legislative districts-while-at-the-same-time-realizing-that-population shifts-and-fluctuations-in-military--and--college--student populations--already--make-the-1970-census-obsolete.--This obsolescence-is-emphasized-and-reinforced-by-comparing-the results--of--the--1970--census-with-the-results-of-special census-enumerations-of-Pembina-County-and--the--cities--of Bismarck,--Fargo,--and--Grand-Forks-
- 10--In--the--northeast--portion--of--the--state,--where--the population-of-the-rural-districts-is-low-in-comparison--to the--population--of--other--rural-districts,--the-influx-of people--from--the--extensive-military-activity--in--the--area immediately--after--the--1970--census--has--increased--the population-of-these-districts,--While-not--represented--in the--1970-census-figures,--this-influx-is-recognized-in-the legislative-apportionment-plan-and,--if-current--population figures--were--used,--the--population--deviation--of--these districts-would-be-substantially-lessened-

11. --While--there--has--been--a--general--shift--in--population--from--rural--to--urban--areas--of--the--state,--many--of--these--newly--established--urban--residents--maintain--close--ties--with--their--rural--heritage--and--maintain--voting--residence--in--rural--districts.
12. --Substantial--changes--in--existing--legislative--districts--would--cause--disruption--of--district--party--organizations--and--would--result--in--a--disruption--of--voter--identification--with--and--awareness--to--legislative--district--boundaries--which--were--first--established--in--1972--and--have--been--in--effect--for--one--special--election,--two--primary--elections,--and--two--general--elections.
13. --Adoption---of---a---legislative---reapportionment---plan--substantially--different--from--current--North--Dakota--legislative--apportionment--would--require--that--all--state--senators--again--stand--for--election--in--1976,--and--additional--drastic--changes--in--legislative--district--boundaries--would--increase--voter--disenchantment--with--the--legislative--process--and--reduce--the--personal--relationships--many--persons--have--with--their--elected--representatives.
14. --The--legislative--reapportionment--plan--ordered--into--effect--on--May--22,--1972,--by--the--United--States--district--court--for--the--district--of--North--Dakota--was--intended--to--have--the--least--disruptive--effect--in--changing--legislative--districts. In--addition,--the--court--ordered--plan--recognized--the--established--state--policy--of--preserving--political--subdivision--boundaries--to--the--greatest--extent--practicable--by--violating--only--seven--county--boundaries--in--rural--legislative--districts.
15. --Because--of--the--state--policies--which--encourage--the--minimization--of--disruption--of--electoral--processes--and--the--preservation--of--as--many--county--lines--as--practicable,--the--present--legislative--apportionment--plan--is--the--best--and--most--reasonable--plan--for--the--state--until--a--new--census--is--conducted--which--includes--population--figures--collected--on--a--township--and--city--block--basis--which--would--enhance--the--ability--to--reapportion--on--the--basis--of--equal--representation. Present--census--figures--available--for--the--1970--census--show--that--the--census--districts--do--not--coincide--with--established--township--boundaries--and,--except--for--the--city--of--Fargo,--provide--no--accurate--block--census--figures--for--the--five--largest--cities--of--the--state.
16. --The--methods--and--procedures--employed--by--the--census--bureau--in--taking--the--census--and--the--creation--of--census--districts--do--not--coincide--with--the--boundaries--of--political--subdivisions--of--the--state. In--an--attempt--to--obtain--accurate--population--data--for--political--subdivisions--and--for--block--areas--within--certain--cities,--population--figures--have--been--interpolated--and--calculated--under--methods

~~designed--to--reflect--the--population--of--these---areas-~~
~~Reecognition--is--made--of--the--fact--that--in--fashioning--the~~
~~original--legislative--reapportionment--plan--similar--metheds~~
~~and--procedures---were---used--by--the--courts--involved-~~
Legislative districts and subdistricts shall be compact
and of contiguous territory except where impracticable in
multimember senatorial districts.

5. Legislative districts shall be as nearly equal in
population as is practicable. Population deviation from
district to district shall be kept at a minimum. The
total population variance of all districts, and
subdistricts if created, from the average district
population may not exceed recognized constitutional
limitations.

Approved March 18, 1979

CHAPTER 534

SENATE BILL NO. 2074
(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

DATE LEGISLATIVE ASSEMBLY CONVENES

AN ACT to amend and reenact sections 54-03-02 and 54-03-02.1 of the North Dakota Century Code, relating to the date of convening of the legislative assembly.

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

SECTION 1. AMENDMENT.) Section 54-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-02. WHEN LEGISLATIVE ASSEMBLY MEETS.) The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes and shall thereafter recess until twelve ~~o'clock~~ noon on the first Tuesday after the first Monday in January of the next year; provided, however, that if the first Tuesday after the first Monday falls on January second, the legislative assembly shall reconvene at twelve ~~o'clock~~ noon on the first--Wednesday--after--the--first--Monday--in--January a date to be selected by the legislative council but not earlier than January second nor later than January eleventh.

SECTION 2. AMENDMENT.) Section 54-03-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-02.1. DEFINITIONS.) For the purposes of this chapter and chapter 54-03.1 the following terms shall have the following meanings:

1. "Organizational session" ~~shall-mean~~ means the meeting of the legislative assembly for organizational and orientation purposes held during the month of December in the even-numbered years.
2. "Regular session" ~~shall-mean~~ means the legislative session commencing ~~on-the-first-Tuesday-after-the-first-Monday~~ in January of the odd-numbered years as provided in section 54-03-02.

Approved March 8, 1979

CHAPTER 535

HOUSE BILL NO. 1072
(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

CALLING ORGANIZATIONAL SESSION TO ORDER

AN ACT to amend and reenact section 54-03-04 of the North Dakota Century Code, relating to calling the house and senate to order on the first day of the organizational session of the legislative assembly.

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

SECTION 1. AMENDMENT.) Section 54-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-04. ORGANIZATIONAL SESSIONS CALLED - CALLING 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 from the previous session, if reelected, or in his absence a member of the majority party of the house, ~~or in the absence of either, then some member or other person appointed by the members present with seniority based upon terms of service in the house,~~ shall call the members of their respective houses so enrolled to order. In the absence of the president of the senate, the president pro tempore shall call the members of the senate to order. In the absence of both the president of the senate and the president pro tempore, then some member or other person selected by the members present shall call the members of the senate to order. If the speaker of the house from the previous session is not reelected and if no party has a majority in the house, the member of the house with seniority based upon terms of service in the house shall call the house to order. If two or more members of the house are tied for seniority and seniority is a factor in determining who shall call the house to order, the persons so tied for seniority shall draw lots to determine who shall call the house 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.

Approved March 8, 1979

CHAPTER 536

HOUSE BILL NO. 1468
(Strinden, Backes)

LEGISLATOR EXPENSE AND COMPENSATION

AN ACT to amend and reenact section 54-03-20 and subsection 1 of section 54-35-10 of the North Dakota Century Code, relating to the living allowance received by legislators during the legislative session and the compensation of members of the legislative council and its committees for attending sessions of the legislative council or its committees.

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

SECTION 1. AMENDMENT.) Section 54-03-20 of the 1977 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 ~~sixty~~ seventy 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 the period of 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 one hundred and 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~~ the expense allowances ~~for-the-purposes~~ set ~~forth~~ out in this section and those expense allowances shall be excluded from gross income for income tax purposes. The provisions of this section shall be retroactive to January 1, ~~1977~~ 1979.

SECTION 2. AMENDMENT.) Subsection 1 of section 54-35-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 ~~forty-five~~ fifty-two 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.

Approved March 10, 1979

CHAPTER 537

HOUSE BILL NO. 1432
(Strinden)

**LEGISLATIVE COMPENSATION COMMISSION
REPEALED**

AN ACT to repeal sections 54-03-20.2 and 54-03-20.3 of the North Dakota Century Code, relating to the creation, membership, and powers and duties of the legislative compensation commission.

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

SECTION 1. REPEAL.) Section 54-03-20.2 of the North Dakota Century Code and section 54-03-20.3 of the 1977 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

CHAPTER 538

SENATE BILL NO. 2090
(Melland)

CENTURY CODE DISTRIBUTION TO LEGISLATORS

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to distribution of codes to legislators; and to amend and reenact section 46-04-01 of the North Dakota Century Code, relating to official distribution of state laws.

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

SECTION 1. AMENDMENT.) Section 46-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-01. OFFICIAL DISTRIBUTION OF STATE LAWS - SECRETARY OF STATE TO CONTROL.) Each member of the legislative assembly for himself and each constitutional officer of the state and each judge of the supreme and district courts for the use of their respective offices and departments shall be entitled to receive from the state a copy of any publication of the laws of the state and of any compilation or codification thereof published under authority of the state. The codification of laws of the state received by each member of the legislative assembly is subject to section 2 of this Act. The secretary of state shall designate other offices and agencies of the state that shall be entitled to receive copies of any such publication of the laws for the use of such state offices and agencies and also shall determine the number of copies of any publication to be received by any recipient in a distribution under the provisions of this section, if more than one copy shall be needed by such recipient for official use.

SECTION 2.) A new section to chapter 54-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

CODE DISTRIBUTED TO EACH LEGISLATOR - RETENTION.) Each member of the legislative assembly is entitled to receive a current set of the North Dakota Century Code as provided in section 46-04-01. The legislator is entitled to current supplements and volumes as provided in section 46-04-03 to maintain the code during the legislator's service. The code received by a legislator under this section is not subject to section 46-04-04. After a legislator's service in the legislative assembly is terminated, the secretary of state shall inform the legislator how to obtain a subscription to maintain the legislator's code.

Approved March 12, 1979

CHAPTER 539

SENATE BILL NO. 2413
(Committee on Appropriations)

SALARIES OF STATE OFFICIALS

AN ACT to amend and reenact sections 4-01-21, 15-21-02, 26-01-03, 34-05-01.2, 49-01-05, 54-07-04, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, and 57-01-04 of the North Dakota Century Code as amended by chapter 480 of the 1977 Session Laws of North Dakota, relating to salaries of elected state officials; and providing a contingent effective date.

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

SECTION 1. AMENDMENT.) Section 4-01-21 of the North Dakota Century Code as amended by section 1 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

4-01-21. SALARY OF COMMISSIONER OF AGRICULTURE.) The commissioner of agriculture shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 2. AMENDMENT.) Section 15-21-02 of the North Dakota Century Code as amended by section 2 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

15-21-02. SALARY AND TRAVELING EXPENSES.) The superintendent of public instruction shall receive an annual salary of thirty-four thousand dollars effective January 1, 1981; thirty-five thousand seven hundred dollars effective January 1, 1982; thirty-seven thousand four hundred eighty-five dollars effective January 1, 1983; thirty-nine thousand three hundred sixty dollars effective January 1, 1984; and forty-one thousand three hundred thirty dollars effective January 1, 1985. He shall be allowed in addition thereto his expenses incurred in the discharge of his official duties, such

expenses to be paid monthly on a warrant prepared by the department of accounts and purchases and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

SECTION 3. AMENDMENT.) Section 26-01-03 of the North Dakota Century Code as amended by section 3 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

26-01-03. SALARY OF COMMISSIONER OF INSURANCE.) The annual salary of the commissioner of insurance shall be thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 4. AMENDMENT.) Section 34-05-01.2 of the North Dakota Century Code as amended by section 4 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

34-05-01.2. DEPARTMENT OF LABOR TO BE ADMINISTERED BY COMMISSIONER OF LABOR.) The department of labor shall be administered by a commissioner of labor who shall be elected for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to chapter 16-08. Following his election, the term of the commissioner of labor shall commence on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture and labor and he shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 5. AMENDMENT.) Section 49-01-05 of the North Dakota Century Code as amended by section 5 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

49-01-05. SALARY OF COMMISSIONERS.)

1. The salary of each commissioner shall be thirty-three thousand five hundred dollars per annum as provided in the following schedule, which shall be full compensation for all official services-:

a. For the public service commissioner elected to the term of office commencing on January 1, 1981, thirty-three thousand five hundred dollars per annum

effective on that date; thirty-five thousand one hundred seventy-five dollars per annum effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars per annum effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars per annum effective January 1, 1984; and forty thousand seven hundred twenty dollars per annum effective January 1, 1985.

b. For the public service commissioner elected to the term of office commencing on January 1, 1983, thirty-six thousand nine hundred thirty-three dollars per annum effective on that date; thirty-eight thousand seven hundred eighty dollars per annum effective January 1, 1984; and forty thousand seven hundred twenty dollars per annum effective January 1, 1985.

c. For the public service commissioner elected to the term of office commencing on January 1, 1985, forty thousand seven hundred twenty dollars per annum effective on that date.

2. All fees received or charged by any such commissioner for any act or service rendered in any official capacity, shall be accounted for and paid over by him monthly to the state treasurer and shall be credited to the general fund of the state.

SECTION 6. AMENDMENT.) Section 54-07-04 of the North Dakota Century Code as amended by section 6 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-07-04. SALARY OF GOVERNOR.) The governor shall receive an annual salary ~~of--forty-seven--thousand--dollars~~ for all services performed by him of forty-seven thousand dollars effective January 1, 1981; forty-nine thousand three hundred fifty dollars effective January 1, 1982; fifty-one thousand eight hundred twenty dollars effective January 1, 1983; fifty-four thousand four hundred ten dollars effective January 1, 1984; and fifty-seven thousand one hundred thirty dollars effective January 1, 1985.

SECTION 7. AMENDMENT.) Section 54-08-03 of the North Dakota Century Code as amended by section 7 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-08-03. SALARY OF LIEUTENANT GOVERNOR.) The lieutenant governor shall receive an annual salary ~~of--eight--thousand--dollars~~ for all services performed by him of eight thousand dollars effective January 1, 1981; eight thousand four hundred dollars effective January 1, 1982; eight thousand eight hundred twenty dollars effective January 1, 1983; nine thousand two hundred sixty dollars effective January 1, 1984; and nine thousand seven hundred

thirty dollars effective January 1, 1985. If the duties of the lieutenant governor are expanded prior to January 1, 1981, pursuant to the Constitution, statute, or appropriate executive order, so as to require substantially full-time service from the lieutenant governor to carry out those duties, then the annual salary of the lieutenant governor shall be as follows: effective January 1, 1981, thirty-three thousand five hundred dollars; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 8. AMENDMENT.) Section 54-09-05 of the North Dakota Century Code as amended by section 8 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-09-05. SALARY OF SECRETARY OF STATE.) The secretary of state shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 9. AMENDMENT.) Section 54-10-10 of the North Dakota Century Code as amended by section 9 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-10-10. SALARY OF STATE AUDITOR.) The state auditor shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 10. AMENDMENT.) Section 54-11-13 of the North Dakota Century Code as amended by section 10 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-11-13. SALARY OF STATE TREASURER.) The state treasurer shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 11. AMENDMENT.) Section 54-12-11 of the North Dakota Century Code as amended by section 11 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to reads as follows: -

54-12-11. SALARY OF ATTORNEY GENERAL.) The attorney general shall receive an annual salary of thirty-eight thousand dollars effective January 1, 1981; thirty-nine thousand nine hundred dollars effective January 1, 1982; forty-one thousand nine hundred dollars effective January 1, 1983; forty-four thousand dollars effective January 1, 1984; and forty-six thousand two hundred dollars effective January 1, 1985.

SECTION 12. AMENDMENT.) Section 57-01-04 of the North Dakota Century Code as amended by section 12 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

57-01-04. SALARY.) The annual salary of the state tax commissioner shall be thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 13. CONTINGENT EFFECTIVE DATE.) The provisions of this Act shall become effective ten days after the effective date of the proposed repeal of section 39 of the Constitution of North Dakota as contained in Senate Concurrent Resolution No. 4061 as adopted by the forty-sixth legislative assembly. If the proposed repeal of section 39 of the Constitution is rejected by the electorate at the primary election in 1980, then this Act shall be of no force and effect.

Approved March 27, 1979

CHAPTER 540

HOUSE BILL NO. 1048
(Legislative Council)
(Interim Committee on Criminal Justice System)

STATE DRUG ENFORCEMENT UNIT

AN ACT to create a drug enforcement unit within the office of attorney general and to establish its jurisdiction and duties, and the powers of enforcement personnel; to amend and reenact subsection 1 of section 19-03.1-32 and section 54-12-14 of the North Dakota Century Code, relating to the powers of controlled substances enforcement personnel and the drug control cash fund; and to provide an appropriation.

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

SECTION 1. DRUG ENFORCEMENT UNIT - PERSONNEL - DUTIES.) A law enforcement unit to be designated as the drug enforcement unit is created under the attorney general. The drug enforcement unit shall consist of a director and such other personnel as may be designated by the attorney general. It shall be the duty of the drug enforcement unit to enforce all of the provisions of chapter 19-03.1 and any other provision of law dealing with controlled substances. The state laboratories department and other state and local agencies shall cooperate with the drug enforcement unit in the discharge of its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end the unit is authorized to:

1. Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances.
2. Coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels.
3. Establish a centralized information system which will accept, catalog, file, and collect statistics, including records of drug-dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes on request.

4. Cooperate in locating, eradicating, and destroying wild or illicit growth of plant species from which controlled substances may be extracted.

SECTION 2. POWERS OF ENFORCEMENT PERSONNEL.) For purposes of carrying out the provisions of this Act, any officer of the drug enforcement unit designated by the attorney general shall have all the powers conferred by law upon any peace officer of this state.

SECTION 3. AMENDMENT.) Subsection 1 of section 19-03.1-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any officer ~~ex--employee~~ of the state bureau of criminal ~~identification-and-apprehension~~ investigation or the state drug enforcement unit designated by the attorney general of this state may:
- ~~carry~~ Carry firearms in the performance of his official duties~~;~~.
 - ~~execute~~ Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state~~;~~.
 - ~~make~~ Make arrests without warrant for any offense under this chapter 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 chapter which may constitute a felony~~;~~.
 - ~~make~~ Make seizures of property pursuant to this chapter~~;-ex~~.
 - ~~perform~~ Perform other law enforcement duties as the attorney general designates.

SECTION 4. AMENDMENT.) Section 54-12-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-14. DRUG CONTROL CASH FUND - CREATED - PURPOSE.) There is hereby created from the attorney general's appropriation a cash fund to be known as the attorney general drug control cash fund in a sum not to exceed ~~twenty-five~~ one hundred thousand dollars, which shall be used for the purpose of obtaining evidence for enforcement of any state law relating to the control of drug abuse.

The attorney general shall, with the concurrence of the director of the department of accounts and purchases, establish the necessary accounting procedures for the use of such fund, and shall personally approve, in writing, all requests from the chief of the bureau of criminal investigation or the director of the drug

enforcement unit for the use of said fund and shall be accountable to the legislative council, upon request, for the expenditure thereof.

SECTION 5. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$600,000.00, or so much thereof as may be necessary, to the drug enforcement unit of the office of the attorney general for the purpose of enforcing the controlled substances laws of this state as specified in this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved April 7, 1979

CHAPTER 541

SENATE BILL NO. 2165

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

PAYMENT AND AUDIT OF CLAIMS

AN ACT to amend and reenact subsections 8, 9, and 11 of section 54-44-04; and to repeal section 54-14-03 and subsection 10 of section 54-44-04 of the North Dakota Century Code, relating to the powers and duties of the director of accounts and purchases and the office of the budget.

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

SECTION 1. AMENDMENT.) Subsections 8, 9, and 11 of section 54-44-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

8. Shall keep the general accounts, reflecting for each fund the resources, ~~obligations, reserves and balance, and surpluses,~~ together with current revenues and expenditures, and may provide for an accrual accounting system;
9. Shall, acting as director of the office of the budget, process all claims for submittal to ~~such office the department of accounts and purchases, which office shall~~ may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state;
11. Except as otherwise provided by law, shall prepare warrants ~~on the state treasurer for signature by the state auditor~~ for payment of all claims from the executive branch of government, when approved by the office of the budget, and for payment of all ~~other~~ claims from the judicial and legislative branches ~~of the government~~;

SECTION 2. REPEAL.) Section 54-14-03 of the North Dakota Century Code, and subsection 10 of section 54-44-04 of the 1977 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 12, 1979

CHAPTER 542

HOUSE BILL NO. 1278

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

EFT SYSTEMS FOR DEPARTMENTAL PAYROLLS

AN ACT to create and enact section 54-14-04.2 of the North Dakota Century Code, relating to the use of automatic fund transfer systems by the office of the budget for departmental payrolls.

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

SECTION 1.) Section 54-14-04.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-14-04.2. USE OF AUTOMATIC FUNDS TRANSFER PROGRAMS.) The office of the budget, notwithstanding any statute to the contrary, is hereby authorized to use automatic fund transfer systems for the payment of departmental payrolls. In all such cases where automatic fund transfers are used, the office of the budget shall develop a system to insure compliance with section 54-14-04. Section 54-44-04(11) shall not apply to departmental payrolls.

Approved March 24, 1979

CHAPTER 543

HOUSE BILL NO. 1541
(Fleming)

STATE SEVERANCE PAY RESTRICTED

AN ACT to create and enact a new section to chapter 54-14 of the North Dakota Century Code, defining severance pay and forbidding severance pay to state employees or officers, except under certain circumstances.

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

SECTION 1.) A new section to chapter 54-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

SEVERANCE PAY - DEFINITION - SETTLEMENTS.)

1. For the purposes of this section, "severance pay" means compensation received, upon termination of employment, for reasons primarily beyond the control of the state employee or officer, for the purpose of assuring an employee or officer funds to depend upon while another job is sought. Severance pay does not include payments made to a terminated employee or officer for accrued annual or sick leave, or compensatory leave, where such payments are authorized.
2. No state employee or officer shall be entitled to severance pay upon termination of employment if the employee or officer quit employment voluntarily or resigned of his or her own accord, or was dismissed for gross neglect of duty, gross misconduct while on duty, or for other good cause. A state employee or officer may be entitled to severance pay if the employee or officer was dismissed from employment because of reductions in staff or temporary or permanent layoffs, or for other reasons primarily beyond the control of the employee or officer. This section shall not be construed to affect the rights of employees or officers in salary or wage disputes which are the subject of out-of-court settlements.

Approved March 8, 1979

CHAPTER 544

SENATE BILL NO. 2147

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

**EMERGENCY COMMISSION INTERGOVERNMENTAL
FUND AUTHORITY**

AN ACT to create and enact section 54-16-13 of the North Dakota Century Code, relating to emergency commission action on requests to increase appropriation authority for intergovernmental service fund agencies.

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

* SECTION 1.) Section 54-16-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-16-13. EMERGENCY COMMISSION MAY INCREASE REVENUES AND APPROPRIATION AUTHORITY FOR INTERGOVERNMENTAL SERVICE FUND AGENCIES.) Upon presentation of the verified petition provided for in section 54-16-10, the emergency commission shall meet to determine if additional demand from state agencies requires an increase in appropriation authority and revenue receipts for intergovernmental service agencies. Such agencies are limited to central duplicating, central data processing, state communications, and central microfilm.

Approved March 12, 1979

* NOTE: This section is codified as North Dakota Century Code Section 54-16-11.1.

CHAPTER 545

HOUSE BILL NO. 1110
(Committee on Industry, Business and Labor)
(At the request of the Bank of North Dakota)

STUDENT LOAN BOND INTEREST RATES

AN ACT to amend and reenact section 54-17-25 of the North Dakota Century Code, relating to maximum interest rates on student loan bonds.

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

SECTION 1. AMENDMENT.) Section 54-17-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-25. 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 a net interest cost of eight 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. There shall be no interest rates ceiling on those issues sold at public sale. 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.

Approved March 3, 1979

CHAPTER 546

SENATE BILL NO. 2135
(Committee on State and Federal Government)
(At the request of the Director of Institutions)

ADULT INMATE SERVICE CONTRACTS

AN ACT to amend and reenact section 54-21-25 of the North Dakota Century Code, relating to contracting of services if suitable facilities or services are not available for adult inmates.

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

SECTION 1. AMENDMENT.) Section 54-21-25 of the North Dakota Century Code is hereby amended and reenacted 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 adult inmates under his control he may contract for same with the proper authorities of the United States, Canada, and any of its governmental subdivisions, another state, another agency in this state or a political subdivision of this state, and the Swiftbird Project of South Dakota or its equivalent. 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 section. An inmate who is considered for transfer to another jurisdiction as herein provided, and who does not consent to the transfer, will be given notice of the pending transfer and an administrative hearing to determine the need and justification for a transfer.

Approved March 21, 1979

CHAPTER 547

HOUSE BILL NO. 1151
(Committee on Transportation)
(At the request of the Construction Superintendent)

STANDARDS CODE FOR MOBILE HOMES REPEALED

AN ACT to repeal chapter 54-21.1 of the North Dakota Century Code, relating to the Uniform Standards Code for Mobile Homes.

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

SECTION 1. REPEAL.) Chapter 54-21.1 of the North Dakota Century Code is hereby repealed.

Approved March 7, 1979

CHAPTER 548

SENATE BILL NO. 2076
(Legislative Council)
(Interim Committee on Natural Resources)

STATE BUILDING CODE

AN ACT to provide for a state building code, with enforcement by cities, townships, and counties, and exemptions; and to amend and reenact sections 11-33-01, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the zoning authority of counties, cities, and townships.

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

SECTION 1. PURPOSES OF SECTIONS 1 THROUGH 6 OF THIS ACT.)
The purposes of sections 1 through 6 of this Act are to:

1. Provide the citizens of this state with nationally recognized standards and requirements for construction and construction materials.
2. Eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.
3. Ensure adequate construction of buildings throughout the state and to adequately protect the health, safety, and welfare of the people of this state.

SECTION 2. DEFINITIONS.) As used in sections 1 through 6 of this Act, unless the context requires otherwise:

1. "Agricultural purposes" includes purposes related to agriculture, farming, ranching, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.
2. "Building" means a combination of any materials fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building"

shall be construed as though followed by the words "or part or parts thereof".

3. "City" means any city organized under the laws of this state.
4. "Construction" means the construction, erection, reconstruction, alteration, conversion, or repair of buildings.
5. "Jurisdictional area" means the area within which a city or township has zoning jurisdiction.
6. "State building code" means the state building code provided for in sections 1 through 6 of this Act.
7. "Superintendent" means state construction superintendent.

SECTION 3. STATE CODE - AMENDMENTS.)

1. The state building code shall consist of the 1976 uniform building code with the 1978 accumulative supplement to the uniform building code. This code shall be implemented by and may be amended by rules promulgated by the superintendent pursuant to chapter 28-32.
2. The state building code may be amended by cities, townships, and counties to conform with local needs; provided, however, that the standards established by amendment under this subsection must meet or exceed those of the state building code.

SECTION 4. EXEMPTIONS.)

1. The following statewide codes are exempt from sections 1 through 6 of this Act:
 - a. The standards for electrical wiring and equipment, as contained in North Dakota Administrative Code article 24-02.
 - b. The state plumbing code, as contained in North Dakota Administrative Code article 62-03.
 - c. The state fire code, as contained in the rules of the state fire marshal as provided in section 18-01-04.
2. The following buildings are exempt from sections 1 through 6 of this Act:
 - a. Buildings which are neither heated nor cooled.
 - b. Buildings used whose peak design rate of energy usage is less than one watt per square foot (929.0304 square

centimeters] or three and four-tenths British thermal units an hour per square foot [929.0304 square centimeters] of floor area.

c. Restored or reconstructed buildings deliberately preserved beyond their normal term of use because of historical associations, architectural interests, or public policy, or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.

3. Any building used for agricultural purposes, unless a place of human habitation or for use by the public, is exempt from sections 1 through 6 of this Act.

SECTION 5. ENFORCEMENT OF CODE BY CITY, TOWNSHIP, COUNTY - RELINQUISHMENT.) A city or township may administer and enforce the state building code only within its jurisdictional area. A county may administer and enforce the state building code within those areas of the county in which the state building code is not administered by a city or township. Cities and townships may relinquish their authority to administer and enforce the state building code to the county in which they are located in the manner provided by section 11-33-20. The governing body of a city, township, or county electing to administer and enforce the state building code may designate an enforcement agency. Cities, townships, and counties may provide by agreement for joint administration and enforcement and may contract for private enforcement of the state building code.

SECTION 6. CONTINUING EDUCATION - RESPONSIBILITY.) The superintendent shall provide city, township, and county enforcement agencies with information necessary to effectuate the purposes of sections 1 through 6 of this Act. The superintendent shall seek the aid of state colleges and universities, state officials, trade schools, professional associations, and trade and labor associations in developing continuing education programs and seminars in the field of building codes and practices.

SECTION 7. AMENDMENT.) Section 11-33-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-33-01. COUNTY POWER TO REGULATE PROPERTY.) For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county is hereby empowered to regulate and restrict within the county, subject to the provisions of section 11-33-20 and sections 1 through 6 of this Act, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes.

SECTION 8. AMENDMENT.) Section 40-47-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-01. CITIES MAY ZONE - APPLICATION OF REGULATIONS.) For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing body of any city may, subject to the provisions of sections 1 through 6 of this Act, regulate and restrict the height, number of stories, and the size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. Such regulations may provide that a board of adjustment may determine and vary the application of the regulations in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.

* SECTION 9. AMENDMENT.) Section 58-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-03-11. ESTABLISHMENT OF ZONING DISTRICTS - LIMITATION - SCOPE OF ZONING REGULATIONS AND RESTRICTIONS.) For the purpose of promoting the health, safety, morals, or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within such districts may, subject to the provisions of sections 1 through 6 of this Act, regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. All such regulations and restrictions shall be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts. No regulation or restriction, however, shall ~~apply--to~~ prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming. The provisions of sections 58-03-11 through 58-03-15, shall not be construed to include any power relating to the establishment, repair, and maintenance of highways or roads.

Approved March 25, 1979

* NOTE: Section 58-03-11 was also amended by section 1 of Senate Bill No. 2255, chapter 629.

CHAPTER 549

SENATE BILL NO. 2136

(Committee on State and Federal Government)

(At the request of the Director of Institutions)

REVIEW OF INSTITUTIONS

AN ACT to amend and reenact sections 54-23-12 and 54-23-18 of the North Dakota Century Code, relating to required inspections of the director of institutions within his institutions, and meetings with heads of institutions and the director of institutions.

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

SECTION 1. AMENDMENT.) Section 54-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-12. INSPECTION OF INSTITUTIONS - HOW CONDUCTED.) The director of institutions, at the stated visits to any of the institutions under his control, shall review and inspect every part of each institution, and all the places, buildings, and grounds belonging thereto, or used in connection therewith. The director shall make an examination of the general and special dietary, the stores, and methods of supply. As far as circumstances may permit, the director shall see every inmate of the charitable institutions, especially those admitted since the preceding visit, and shall give such inmates as may require it suitable opportunity to converse with him apart from the officers and attendants. If deemed necessary, the director shall examine under oath the officers and attendants, guards, and other employees, and make such inquiries as will determine their fitness for their respective duties its operation and determine to his satisfaction that the residents are adequately housed, cared for, and provided proper meals and also that the buildings and grounds are properly maintained.

SECTION 2. AMENDMENT.) Section 54-23-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-18. MEETINGS WITH HEADS OF INSTITUTIONS - WHEN HELD - MINUTES.) Consultation and conference of the superintendents, wardens, and general executive officers of each of the institutions under the control and management of the director of institutions shall be held with the director ~~at his office in Bismarck~~ at such

time or times as the director shall deem necessary. ~~Such--meetings shall--not--be--held--more--than--once--in--each--three--months.~~ At the meetings all matters concerning the government and management of the institutions shall be considered and discussed. The director of institutions shall preside at the meetings. ~~Full--minutes--thereof shall--be--preserved--by--the--director--who--shall--be--secretary--of--said meetings.~~ An agenda, minutes, and other records shall be preserved by the director of said meetings.

Approved March 13, 1979

CHAPTER 550

HOUSE BILL NO. 1085
(Legislative Council)
(Interim Committee on State and Federal Government)

STATE LIBRARY

AN ACT to amend and reenact sections 40-38-01, 40-38-04, 40-38-05, 40-38-09, 40-38-10, 40-38-11, 54-24-01, 54-24-02, 54-24-03, 54-24-03.1, 54-24-07, 54-24-08, 54-24-09, and 54-24.1-03 of the North Dakota Century Code, relating to public libraries and the nature and duties of the state library commission; and to repeal section 55-01-09 of the North Dakota Century Code, relating to the heritage study committee.

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

SECTION 1. AMENDMENT.) Section 40-38-01 of the 1977 Supplement to 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~~ city or county upon petition of not less than fifty-one percent of the voters of ~~such municipality~~ the city 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~~ cities 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., sections 351-358, and ~~act(s)~~ acts 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~~ city 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~~ city 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 40-38-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-04. GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS.) The board of directors shall have the following powers and duties:

1. To make and adopt such bylaws, rules, and regulations relating to the duties of the officers of the board as may be expedient and not inconsistent with the provisions of this chapter.
2. To make and adopt such bylaws, rules, and regulations for the management of the library and reading room as are expedient and not inconsistent with the provisions of this chapter.
3. To control, exclusively, the expenditures of all moneys collected for or contributed to the library fund.
4. To have the supervision, care, and custody of the library property, and of the rooms or buildings constructed, leased, or set apart for use of library purposes.
5. To contract to furnish library service and to receive library service from other counties, school districts, and ~~municipalities~~ cities of the state of North Dakota and adjoining states, and the state library ~~commission~~.
6. To employ qualified personnel to administer the public library and dispense library services.

SECTION 3. AMENDMENT.) Section 40-38-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-05. BOARD OF DIRECTORS MAY PURCHASE, BUILD, OR LEASE BUILDING FOR LIBRARY - LIBRARY BUILDING FUND - PUBLIC HEARING REQUIRED.) The board of directors, with the approval of the ~~municipal~~ city or county governing body, may build, lease, lease-purchase, or purchase an appropriate building for a library and purchase a site therefor. Such lease, purchase, or contract shall not be valid without the approval of the governing body of the ~~municipality~~ city or county. Prior to any actions on such proposals, the governing body shall hold a public hearing on the proposals. Notice of the hearing shall be published at least once, not less than six days prior to the hearing, in a newspaper of general circulation within the city or county. The governing body shall seek the advice and comment of the state library ~~commission~~ and the general public at the hearing. After such hearing, the governing body of a ~~municipality~~ city or county may establish by resolution a library building fund for the purpose of construction, enlargement, or alteration of a building or for the purchase of an existing building to be used as a public library. The ~~municipal~~

city auditor or county treasurer shall place in the library building fund all moneys for such purposes as may be appropriated by the governing body or received for such purposes from federal, state, county, ~~municipal~~ city, or private sources. The library building fund shall not revert to the library general fund or the general fund of the ~~municipality~~ city or county without authorization by formal resolution from both the library's board of directors and the governing body of the ~~municipality~~ city or county.

SECTION 4. AMENDMENT.) Section 40-38-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-09. ANNUAL REPORT OF BOARD OF DIRECTORS - CONTENTS - TO WHOM MADE.) The board of directors shall make a report on July first of each year to the ~~board--of--education--or--school--board~~ governing body of the city or board of county commissioners, as the case may be, stating:

1. The condition of the library and property~~†~~.
2. The various sums of money received from all sources~~†~~.
3. How much money has been expended and for what purpose~~†~~.
4. The number of books and periodicals on hand~~†~~.
5. The number of books and periodicals added by purchase or gift during the year and the number thereof lost or loaned out~~†~~.
6. The character and kind of books contained in the library~~†~~ and.
7. Such other statistics, information, and suggestions as the board may deem of general interest or as may be required by the state library ~~commission~~.

Copies of the report shall be filed with the governing body of the political subdivision and with the state library ~~commission~~.

SECTION 5. AMENDMENT.) Section 40-38-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-10. CONTRIBUTIONS BY POLITICAL SUBDIVISION TO ESTABLISHMENT OF LIBRARY WITHOUT ELECTION AUTHORIZED.) To aid and facilitate the organization of library service, the governing body of any city where the population is less than ~~twenty-five~~ two thousand five hundred may appropriate annually from its general fund, or from any other moneys received for library purposes from federal, state, and private sources, a sum not to exceed five dollars per capita for the purchase of books and periodicals to remain the property of the city and to be loaned to any local

library for free public use. The governing body shall appoint a book committee of three which shall select the books and periodicals from standard and recommended lists furnished by the state library ~~commission~~. The selection so made by such committee shall be submitted to the governing body for approval and purchase by such governing body, provided that the amount so expended for such books and periodicals shall be within the amount appropriated therefor. Books and periodicals purchased with this fund shall be properly stamped as belonging to the city. Such appropriation shall be made and books and periodicals purchased without submitting the same to vote as provided in section 40-38-02. As an alternative, the governing body may contract with a library operated by a city, county, school district, or the state library ~~commission~~ for the provision of public library service for the city.

SECTION 6. AMENDMENT.) Section 40-38-11 of the 1977 Supplement to 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~~ city or county thereof, and with the approval of the state library ~~commission~~, public library service maintained by any ~~municipality~~ city or county may be merged or consolidated with any other existing library service maintained by any other ~~municipalities~~ cities or counties. The merger or consolidation shall become effective only if approved by each individual ~~municipality~~ city or county considering the question. Such mergers and consolidations shall include provision for a single library board representing the various ~~municipalities~~ cities 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~~ cities 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.

SECTION 7. AMENDMENT.) Section 54-24-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-01. STATE LIBRARY COMMISSION - STATE LIBRARIAN APPOINTED BY DIRECTOR OF INSTITUTIONS (CONSTITUTES---SECRETARY.) The director of institutions shall constitute--the--state--library commission--The-director-shall appoint an executive officer to be known as the secretary-and-director-of-the-library-commission state librarian, who shall receive such annual salary as shall be provided by the legislative assembly. The secretary state librarian shall have control of the work and shall be director of the state library extension.

SECTION 8. AMENDMENT.) Section 54-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-02. LIBRARY COMMISSION OFFICES.) The state library commission shall be furnished with adequate office room, with such suitable quarters as may be necessary for the proper shelving of the educational reference library, the books of the traveling libraries, and the legislative reference collection.

SECTION 9. AMENDMENT.) Section 54-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-03. POWERS AND DUTIES OF LIBRARY--COMMISSION STATE LIBRARIAN.) The state library-commission librarian shall:

1. Make rules and regulations according to which the business of the state library commission shall be done;.
2. Provide and care for all books and library materials in all collections of the state library commission, general, reference, and special, and make all rules regarding the loaning and returning of library materials;.
3. Employ qualified library personnel to care for all library procedures;.
4. Make library materials available to libraries throughout the state, to individuals connected with departments of state, and to citizens of North Dakota who do not have adequate library facilities, under the rules and regulations of the state library commission;.
5. Promote and assist by counsel and encouragement the formation of libraries and the improvement of those already established, in keeping with state and national standards, and be available to librarians and trustees of libraries in the state for assistance in organization, maintenance, or administration of the libraries;.
6. Coordinate the efforts of librarianship throughout the state, advising and assisting the extension of qualified public libraries into centers of county or regional (multicounty) libraries;.

7. Compile statistics of the free public libraries of North Dakota and their larger counterparts of county and regional libraries, and of the work done at the state library ~~commission~~, and make a full biennial report to the state director of institutions and the governor₇.
8. Collect, maintain, and make available a reference and reading collection of books, slides, films and other graphic materials such as will supplement and support the needs of all libraries in the state, either by direct loan or by consultation, and such as will form a reference source for the officers of the state in the performance of their duties₇.
9. Collect and maintain a collection of the publications of the departments and agencies of state government, including the enacted laws of this state, current session laws and journals ~~appertaining,--distributing--copies--of such--publications--to-depository-libraries-throughout-the state-as-the-director-of-institutions-shall-determine~~₇.
10. Conduct, or arrange to have conducted, research into the conditions of library service in the state, and produce written plans for the development and betterment of such service₇.
11. Compile, or arrange to have compiled, union lists of resources of libraries throughout the state, and make such lists available for consultation₇-and₇.
12. Establish levels of certification for librarians of the state such as will meet the standards recommended by the American library association.

SECTION 10. AMENDMENT.) Section 54-24-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-03.1. ACCEPTANCE OF FEDERAL AID.) The state library ~~commission~~ is hereby authorized to accept and to expend in accordance with the terms thereof any grant of federal funds which may become available to the state for library purposes. For the purpose of qualifying to receive such grants, the state library ~~commission~~ is authorized to make such applications and reports as may be required by the federal government as a condition thereto.

SECTION 11. AMENDMENT.) Section 54-24-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-07. PRINTING OF STATE LIBRARY ~~COMMISSION~~ - HOW PAID.) The printing of the report made by the state library ~~commission~~ to the legislative assembly, and all other printing coming within the purview of the library ~~commission~~, shall be paid out of funds appropriated for that purpose by the legislative assembly.

SECTION 12. AMENDMENT.) Section 54-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-08. LIBRARY ~~COMMISSION~~ CONTRACTS FOR LIBRARY SERVICES.) The state library ~~commission~~ is hereby authorized and empowered to cooperate with, and to contract with, ~~municipalities~~ cities, governmental subdivisions, and agencies of the state of North Dakota and other states of the United States, in the extension of library services.

SECTION 13. AMENDMENT.) Section 54-24-09 of the 1977 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.) The state purchasing and printing agent shall arrange to deposit with the state library ~~commission~~ eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications shall be provided to the state library ~~commission~~ without charge. Should expense and limited supply of state publications, particularly audiovisual items, make strict compliance with the depository requirement impossible, the state library ~~commission~~ shall accept as many copies as an agency can afford to provide. However, no less than two copies shall be provided to the state library ~~commission~~ by each agency. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the state purchasing and printing agent, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter, audio tapes, video tapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library ~~commission~~ shall retain for its own use two copies of every state document received and transmit the remaining copies to the depository libraries. These shall be the libraries of the state historical board, the university of North Dakota, North Dakota state university, the Library of Congress, and two others to be designated by the state library ~~commission~~. All nondepository North Dakota academic, public, and special libraries shall have the opportunity to receive state documents under an optional selection program developed by the state library

~~commissien~~. The state library ~~commissien~~ shall catalog state publications and arrange for their conversion to microfilm and shall make available for distribution the same to the designated depository libraries.

SECTION 14. AMENDMENT.) Section 54-24.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24.1-03. DEFINITION.) As used in the compact, "state library agency", with reference to this state, means the state library ~~commissien~~.

* SECTION 15. REPEAL.) Section 55-01-09 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

* NOTE: Section 55-01-09 was also repealed by section 1 of House Bill No. 1079, chapter 93.

CHAPTER 551

HOUSE BILL NO. 1588
(Unhjem, Berg, Gackle, Wentz, Winkjer)

STATE AID TO PUBLIC LIBRARIES

AN ACT to provide for grants from the state library commission to eligible public libraries to supplement local tax efforts; and to amend and reenact section 57-36-32 of the North Dakota Century Code, providing an increase in the cigarette tax to fund the state library commission's activities under this Act; and to provide an appropriation.

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

SECTION 1. ELIGIBILITY.) Public libraries eligible to receive financial aid under this Act shall be limited to those public libraries that:

1. Apply to the state library commission for such financial aid.
2. Are established and operated in accordance with chapter 40-38.
3. Participate in the North Dakota network for knowledge interlibrary loan and information network.

SECTION 2. GRANT FORMULA.) Grants to eligible public libraries shall be in accordance with the following formula:

1. One dollar, or a percentage thereof, for each person residing in the city or county operating or providing financial support for the public library, as determined by the latest official federal census; and
2. Five dollars per square mile, or a percentage thereof, of land within the geographical boundaries of each county operating or providing financial support for a public library.

SECTION 3. INCENTIVE FOR LOCAL FUNDING.) To provide for increased local funding, public libraries eligible to receive funds

under section 2 of this Act shall have the funds allocated to them modified in accordance with the following formula:

Cities levying

<u>8.00 or more mills</u>	<u>150 percent of allocation</u>
<u>6.00 - 7.99 mills</u>	<u>125 percent of allocation</u>
<u>4.00 - 5.99 mills</u>	<u>100 percent of allocation</u>
<u>3.00 - 3.99 mills</u>	<u>75 percent of allocation</u>
<u>2.00 - 2.99 mills</u>	<u>50 percent of allocation</u>
<u>1.00 - 1.99 mills</u>	<u>33 percent of allocation</u>
<u>0.01 - 0.99 mills</u>	<u>25 percent of allocation</u>
<u>0.00 - mills</u>	<u>0 percent of allocation</u>

Counties levying

<u>4.00 or more mills</u>	<u>150 percent of allocation</u>
<u>3.00 - 3.99 mills</u>	<u>125 percent of allocation</u>
<u>2.00 - 2.99 mills</u>	<u>100 percent of allocation</u>
<u>1.50 - 1.99 mills</u>	<u>75 percent of allocation</u>
<u>1.00 - 1.49 mills</u>	<u>50 percent of allocation</u>
<u>0.50 - 0.99 mills</u>	<u>33 percent of allocation</u>
<u>0.01 - 0.49 mills</u>	<u>25 percent of allocation</u>
<u>0.00 - mills</u>	<u>0 percent of allocation</u>

The computation of mills shall be based upon the levy on the net assessed valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library by the governing body during the preceding fiscal year as certified by the auditor of the city or county operating the library.

SECTION 4. MAINTENANCE OF LOCAL EFFORT.) No public library shall be eligible to receive any funds appropriated under this Act during a fiscal year if the total of the mill levy on the taxable valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library has been diminished from the average of the three preceding fiscal years. Excluded are Comprehensive Employment Training Act funds, Library Services and Construction Act funds, and other grants of a nonrecurring nature.

SECTION 5. LIMITATIONS.) For public libraries operated by cities, funds granted under this Act shall not exceed thirty-three percent of the total budget from local funds as determined by the operating expenditures of the preceding year. For public libraries operated by counties, funds granted under this Act shall not exceed the following percent of the total budget from local funds as determined by the operating expenditures of the preceding year:

<u>less than \$10,000</u>	<u>100 percent</u>
<u>\$10,000 - \$19,000</u>	<u>75 percent</u>
<u>\$20,000 - \$29,000</u>	<u>67 percent</u>
<u>\$30,000 - \$49,000</u>	<u>50 percent</u>
<u>over \$50,000</u>	<u>33 percent</u>

SECTION 6. USE OF FUNDS - REPORTING.) Funds appropriated under this Act may be expended by public libraries for the purchase of library materials, supplies and equipment, salaries of library staff, and services. No funds may be used for land acquisition, construction, or investment.

Each public library receiving funds under the Act shall submit to the state library commission an annual report detailing the expenditures of these funds and all other funds expended by the library within the fiscal year. Such report shall be due within ninety days after the close of the fiscal year.

* SECTION 7. AMENDMENT.) Section 57-36-32 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-32. SEPARATE AND ADDITIONAL TAX ON THE SALE OF CIGARETTES - COLLECTION - ALLOCATION OF REVENUE - TAX AVOIDANCE PROHIBITED.) There is hereby levied and assessed and there shall be collected by the proper officer and paid to the state treasurer ~~for crediting to the general fund~~, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~one-half~~ one mill on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state treasurer. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

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 \$1,000,000.00, or so much thereof as may be necessary, to the state library commission for the purpose of providing grants to public libraries for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 29, 1979

* NOTE: Section 57-36-32 was also amended by section 5 of House Bill No. 1273, chapter 598.

CHAPTER 552

HOUSE BILL NO. 1043
(Legislative Council)
(Interim Committee on Budget "A")

AVAILABILITY OF APPROPRIATIONS

AN ACT to amend and reenact sections 54-27-10 and 54-27-11 of the North Dakota Century Code, relating to the time during which appropriations become available.

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

SECTION 1. AMENDMENT.) Section 54-27-10 of 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~~ line items of salaries and wages, fees and services, and supplies and materials for any state institution, department, board, commission, or bureau in the executive branch of state government 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~~ appropriations shall be available only at the beginning of the fourth quarter of the biennium. No state institution, department, board, commission, or bureau in the executive branch of government for which an appropriation for salaries and wages, fees and services, and supplies and materials is made shall disburse more than seventy-five percent of the such 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 building 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 in the executive branch of state government that the percentage of the

appropriation for fees and services and supplies and materials 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~~ such items, 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.

SECTION 2. AMENDMENT.) Section 54-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-11. APPROPRIATION - RECORD KEPT BY DEPARTMENT OF ACCOUNTS AND PURCHASES AND TREASURER - DUTIES AND LIMITATIONS.) The department of accounts and purchases and state treasurer each shall keep a record in their office showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof.
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof and.
3. The amount disbursed and the balance on hand.

The department of accounts and purchases shall not issue any warrant during the first eighteen months of each biennium in excess of the seventy-five percent of any item appropriated for ~~maintenance-of salaries and wages, fees and services, and supplies and materials~~ for any state official or state agency in the executive branch of government nor shall the state treasurer pay such warrant. The duties and limitations imposed upon the department of accounts and purchases and state treasurer shall apply only to the total amount appropriated for salaries and wages, fees and services, and supplies and materials for the biennium but not to separate ~~items~~ amounts appropriated for ~~maintenance~~ those line items, for all penal and charitable institutions of this state and all institutions under the jurisdiction and supervision of the state board of higher education. The administrative department, office, or board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for ~~maintenance~~ salaries and wages, fees and services, and supplies and materials for all such institutions under its control and shall be responsible for the enforcement of the restrictions upon the disbursement of all moneys appropriated to such institutions for ~~maintenance~~ such purposes.

Approved March 3, 1979

CHAPTER 553

SENATE BILL NO. 2460
(Melland, Goodman)

FEDERAL AID COORDINATOR

AN ACT to establish the office of federal aid coordinator and to provide for the powers and duties of that office and the assumption of the responsibilities of the division of economic opportunity, the state planning division, the office of energy management, and the special projects coordinator; to amend and reenact subsection 3 of section 20.1-02-17.1, and sections 20.1-02-18.1, 23-11-30, 23-18.2-27, 54-01-05.4, 54-01.1-08, 54-40.1-01, subsection 2 of section 54-40.1-02, and subsection 6 of section 54-40.1-04 of the North Dakota Century Code, relating to various responsibilities of the federal aid coordinator office; and to repeal sections 54-07-06, 54-34.1-01, 54-34.1-02, 54-34.1-03, 54-34.1-04, 54-34.1-05, 54-34.1-08, 54-34.1-09, and 54-34.1-15 of the North Dakota Century Code, relating to the division of economic opportunity and the state planning division; to require the legislative council to review the effect of consolidation of offices into the office of federal aid coordinator; and to provide an appropriation for the federal aid coordinator office and the natural resources council.

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

* SECTION 1. FEDERAL AID COORDINATOR OFFICE - APPOINTMENT - LOCATION OF OFFICE.) There is created in the office of the lieutenant governor a federal aid coordinator office. The lieutenant governor shall be the coordinator. If the lieutenant governor cannot serve as coordinator prior to June 30, 1981, the coordinator shall be appointed by and shall serve at the pleasure of the governor until June 30, 1981. The lieutenant governor, while serving as coordinator, shall receive the total salary and unvouchered expense allowance in the amount provided for the state tax commissioner during the period beginning July 1, 1979, and ending June 30, 1981. If the coordinator is appointed by the governor, the salary of the coordinator shall be set by the governor within the limits of legislative appropriation. The coordinator may employ such other persons as may be necessary and may fix their compensation within the appropriation made for that

* NOTE: Section 1 was vetoed by the Governor. See chapter 685.

purpose. If possible, the entire federal aid coordinator office shall be housed at one location on the state capitol grounds, subject to sufficient space being made available by the director of institutions. If sufficient space is not available to house the entire office in one location on the state capitol grounds, the entire office may be housed at one location in the city of Bismarck.

SECTION 2. RESPONSIBILITY FOR PARTICIPATION IN THE ECONOMIC OPPORTUNITY ACT OF 1964.) The governor, through the federal aid coordinator office, is authorized to accept federal funds available for the operation of the program under the Economic Opportunity Act of 1964 [Pub. L. 88-452; 78 Stat. 508; 42 U.S.C. 2701 et seq.] as may be available to departments, institutions, and agencies of the state. The governor, through the federal aid coordinator office, shall aid and assist political subdivisions of this state in matters pertaining to their participation in projects and programs under that law. All departments, institutions, and agencies, within the limits of personnel and legislative appropriations available, shall provide such assistance to the governor through the federal aid coordinator office as may be requested by the coordinator to ensure the maximum use of all resources available in carrying out projects and programs under the provisions of that federal law, as amended.

SECTION 3. COORDINATION OF PLANNING ACTIVITIES OF THE STATE - DEFINITION OF PLANNING AGENCIES.) The federal aid coordinator office shall advise, consult, coordinate, assist, and contract with or on behalf of the various planning agencies in developing and harmonizing the planning activities of this state. Nothing in sections 3 through 7 of this Act operates in derogation of planning powers conferred upon departments, agencies, or the instrumentalities of, the state, counties, townships, or cities, by any existing state or local law.

SECTION 4. STATE PLANNING FUND - MAINTENANCE AND ADMINISTRATION.) A special fund, separate and apart from all public moneys or funds of this state, and known as the state planning fund, shall be maintained in the state treasury and shall be administered by the federal aid coordinator exclusively for the purposes of sections 3 through 7 of this Act. All moneys which are deposited or paid into this fund shall be made available to the federal aid coordinator. The fund shall consist of all moneys appropriated by this state, and all moneys received from the federal government, or any agency thereof, or from any county, city, township, or other political subdivision of this state, or from any other source, for such purpose. All moneys in this fund shall be administered and disbursed in the manner and under the conditions and requirements provided by law. Any balances in this fund, except general fund moneys appropriated by the legislative assembly, shall not lapse at any time, but shall be available continuously to the federal aid coordinator for expenditure consistent with sections 3 through 7 of this Act.

SECTION 5. PLANNING RESPONSIBILITIES.) The federal aid coordinator shall:

1. Prepare plans for the physical development of this state.
2. Inform, advise, assist, cooperate with, and contract with or on behalf of the various planning agencies.
3. Accept and receive funds, grants, and services from the various planning agencies.
4. Act as fiscal agent for or on behalf of any of the planning agencies.
5. Advise, study, recommend, and report to the governor and legislative assembly on all phases of state and local planning.
6. Coordinate the planning activities of the various agencies.
7. Exercise all powers necessary and proper for the administration of sections 3 through 7 of this Act.

SECTION 6. ASSISTANCE TO PLANNING AGENCIES - APPLICATION OF FEDERAL FUNDS IN AID OF LOCAL PLANNING ACTIVITIES.) The federal aid coordinator may render financial or other planning assistance to any government planning agency. This assistance may be conditioned on contributions by the planning agency which requests the assistance, but in any case in which funds or services are requested and received by the federal aid coordinator from any federal agency for planning assistance to such agencies, the condition imposed by federal law or regulation shall be fulfilled.

SECTION 7. AID TO PLANNING AGENCIES.) Any planning agency may request and accept grants of funds or services from the federal government or any other planning agency.

SECTION 8. COORDINATION OF ENERGY POLICY AND FEDERAL FUNDING FOR THE STATE.) The federal aid coordinator shall assist, advise, cooperate, and coordinate energy, and energy policy, federal funding, related activities between all levels of the public and private sectors regarding the prudent and efficient use of energy resources. The coordinator shall respond to, plan for, develop, and implement appropriate energy conservation programs and encourage the adoption of alternative energy technologies by the citizens of the state.

SECTION 9. SPECIAL PROJECTS COORDINATION.) The federal aid coordinator shall coordinate all federal, state, and community efforts to find suitable reuse for abandoned military installations. The coordinator shall coordinate the activities of state agencies, regional planning councils, and the president's office of economic adjustment with any local committees to reduce the negative economic impact on communities impacted by the closure of military installations. The coordinator shall work closely with other state agencies to identify potential users of abandoned military

installations and in the process promote industrial or other economic development of the state.

SECTION 10. AMENDMENT.) Subsection 3 of section 20.1-02-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A detailed impact analysis from the state game and fish department shall be included with the acquisition proposal for board of county commissioner consideration in making recommendations. The analysis by the game and fish department shall include, but shall not be limited to, the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which shall include the fiscal, social, and agricultural impacts of the proposed acquisition. The state game and fish department shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses shall also be forwarded to the state ~~planning division~~ federal aid coordinator office which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analyses and return their comments to the state ~~planning division~~ federal aid coordinator office. Upon expiration of the thirty-day period, all comments received by the state ~~planning division~~ federal aid coordinator office shall be forwarded to the state game and fish department. The state game and fish department may, after consideration of such comments, file a final impact analysis with the state ~~planning division~~ federal aid coordinator office and the board of county commissioners.

SECTION 11. AMENDMENT.) Section 20.1-02-18.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-18.1. FEDERAL WILDLIFE AREA ACQUISITIONS - SUBMISSION TO COUNTY COMMISSIONERS, OPPORTUNITY FOR PUBLIC COMMENT, AND IMPACT ANALYSIS REQUIRED.) The governor, the game and fish commissioner, or their designees, responsible under federal law for final approval of land, wetland, and water acquisitions by the United States department of the interior, its bureaus or agencies, for waterfowl production areas, wildlife refuges or other wildlife or waterfowl purposes, shall submit the proposed acquisitions to the board of county commissioners of the county or counties in which the land, wetland, and water areas are located for the board's recommendations. An affirmative recommendation by the board must be obtained prior to final approval of all such proposed acquisitions, whether by transfer of title, lease, easement, or servitude.

The board of county commissioners of the county affected, or a designee or designees of the board, shall, within twenty-one days of receipt of an acquisition proposal, physically inspect the proposed acquisition areas. The board shall give public notice of the date, hour, and place where the public may comment on the proposed acquisitions. The notice shall be published once each week for two successive weeks in the official newspaper of the county or counties in which the land and water areas are located. The notice shall set forth the substance of the proposed action, and shall include a legal description of the proposed acquisitions. The board of county commissioners shall make its recommendations within sixty days after receipt of an acquisition proposal.

A detailed impact analysis from the federal agency involved shall be included with the acquisition proposal for board of county commissioner consideration in making recommendations. Such analysis shall include, but shall not be limited to, the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which shall include the fiscal, social, and agricultural impacts of the proposed acquisitions. The department of the interior shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses shall also be forwarded to the state ~~planning-divisioen~~ federal aid coordinator office which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analyses and return their comments to the state ~~planning divisioen~~ federal aid coordinator office. Upon expiration of the thirty-day period, all comments received by the state ~~planning divisioen~~ federal aid coordination office shall be forwarded to the federal agency involved and to the state official or agency responsible for final acquisition approval. The federal agency may, after consideration of such comments, file a final impact analysis with the governor, the board of county commissioners, and any other state official or agency responsible for final acquisition approval.

SECTION 12. 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-divisioen~~ federal aid coordinator office, 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.

SECTION 13. AMENDMENT.) Section 23-18.2-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18.2-27. 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~~ federal aid coordinator office, 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.

SECTION 14. AMENDMENT.) Section 54-01-05.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01-05.4. IMPACT ANALYSIS - GOVERNOR TO REQUIRE.) Prior to action by the governor as may be required by federal law, in approving or disapproving the acquisition of any land in North Dakota by a federal agency, whether such acquisition shall be by transfer of title, lease, or easement, the governor shall, if he deems that the scope of the project warrants such, require the filing of a detailed impact analysis from the federal agency involved. Such analysis shall include, but shall not be limited to, the fiscal, social, agricultural, recreational, and wildlife impact. The analysis shall be forwarded to the state ~~planning-agency~~ federal aid coordinator office which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analysis and return their comments to the state ~~planning-agency~~ federal aid coordinator office. Upon expiration of the thirty-day period, all comments received by the state ~~planning--agency~~ federal aid coordinator office shall be forwarded to the federal agency involved and to the governor. The federal agency may after consideration of such comments, file a final impact analysis with the governor, and the governor shall thereafter approve or disapprove the acquisition of land by the federal agency.

SECTION 15. AMENDMENT.) Section 54-01.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-08. PROMULGATION OF RULES AND REGULATIONS.) The head of each state agency shall consult, and other agencies may consult, with the state ~~planning-division~~ federal aid coordinator office on the establishment of regulations and procedures for implementation of the provisions of this chapter. The head of each state agency, after consultation with the state ~~planning--division~~ federal aid coordinator office, and the head or governing body of any other agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure:

1. That the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;
2. That a displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

3. That any person aggrieved by a determination as to eligibility for a payment, or as to the amount of a payment, may have his application reviewed by the head or governing body of the agency.

The head of an agency may prescribe other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter. All regulations and procedures established by state agencies shall be set forth in rules promulgated in the manner provided in chapter 28-32.

SECTION 16. AMENDMENT.) Section 54-40.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40.1-01. LEGISLATIVE FINDINGS AND PURPOSE.) The legislative assembly finds that the citizens of the state have a fundamental interest in the orderly development of the state and its resources. This finding recognizes the fact that the mobility of the population within and without the state presents problems which cannot always be met by individual counties or cities and that local government planning can be strengthened when aided by studies and planning of both a statewide and regional character.

The legislative assembly further finds that the state has a positive interest in the establishment, preparation, and maintenance of a long-term, continuing, comprehensive planning process for the physical, social, and economic development of the state and each of its regions to serve as a guide for activities of state and local governmental units.

It is the purpose of this chapter to establish a consistent, comprehensive statewide policy for planning, program operations, coordination, and related cooperative activities of state and local governmental units and to enhance the ability of and opportunity for local governmental units to resolve issues and problems transcending their individual boundaries. In furtherance of this purpose, the legislative assembly finds that the governor, through the state ~~planning division~~ federal aid coordinator office, is required to assure orderly and harmonious coordination of state and local plans and programs with federal, state, and regional planning and programming.

SECTION 17. AMENDMENT.) Subsection 2 of section 54-40.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. ~~"Division"~~ "Coordinator" means the state ~~planning division~~ federal aid coordinator.

SECTION 18. AMENDMENT.) Subsection 6 of section 54-40.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Prepare a regional comprehensive plan and upon the preparation of such a plan or any phase, amendment, revision, extension, addition, functional part, or part thereof, file such plan, phase, functional part, amendment, revision, extension, addition, or part thereof with the division coordinator, all local planning agencies within the region, and other planning agencies in adjoining areas.

SECTION 19. REPORT TO BUDGET SECTION OF LEGISLATIVE COUNCIL.)
The federal aid coordinator shall periodically report to the budget section of the legislative council on areas where the consolidation of the receipt of federal funds by state agencies would result in improved efficiency in the expenditure of federal funds.

SECTION 20. REPEAL.) Sections 54-07-06, 54-34.1-01, 54-34.1-02, 54-34.1-03, 54-34.1-04, 54-34.1-05, 54-34.1-08, 54-34.1-09, and 54-34.1-15 of the North Dakota Century Code are hereby repealed.

SECTION 21. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, the sums as hereinafter provided, or so much thereof as may be necessary, to the federal aid coordinator office for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 1,185,136
Fees and services	1,010,487
Data processing	74,022
Supplies and materials	235,606
Equipment	15,313
Grants, benefits, and claims-energy management and conservation	11,616,559
Grants, benefits, and claims-economic opportunity	4,576,502
Grants, benefits, and claims-state planning	<u>1,257,670</u>
Total all funds	\$19,971,295
Less estimated income	<u>19,555,878</u>
Total general fund appropriation	\$ 415,417

SECTION 22. APPROPRIATION - NATURAL RESOURCES COUNCIL.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, the sums as hereinafter provided, or so much thereof as may be necessary, to the natural resources council of the state of North Dakota for the purposes of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 192,911
Fees and services	69,924

Supplies and materials	7,780
Equipment	1,100
Grants, benefits, and claims	<u>134,301</u>
Total all funds	\$ 406,016
Less estimated income	<u>321,433</u>
Total general fund appropriation	\$ 84,583

SECTION 23. COMMUNITY DEVELOPMENT BLOCK GRANTS.) If federal funds are made available to the federal aid coordinator related to the community development block grants program, and if such federal funds do not require additional state matching funds, the federal aid coordinator is authorized to accept and expend such funds upon approval by the emergency commission during the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 24. LEGISLATIVE COUNCIL TO REVIEW THE OPERATIONS OF THE FEDERAL AID COORDINATOR OFFICE.) The legislative council committee conducting the study of reorganizing the executive branch of state government pursuant to 1979 Senate Concurrent Resolution No. 4001 shall review the operations of the federal aid coordinator office. The federal aid coordinator shall report to that legislative council committee on the effect of the consolidation of agencies into the federal aid coordinator office as provided by this Act. That committee shall report the results of the review of the federal aid coordinator office to the forty-seventh legislative assembly along with its report and recommendations resulting from its study pursuant to Senate Concurrent Resolution No. 4001.

Approved April 12, 1979

CHAPTER 554

HOUSE BILL NO. 1112
(Committee on Industry, Business and Labor)
(At the request of the Bank of North Dakota)

REAL ESTATE BOND INTEREST RATE AND SALE

AN ACT to amend and reenact sections 54-30-06 and 54-30-09 of the North Dakota Century Code, relating to the maximum interest rates, coupons, and sale at less than par of real estate bonds.

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

SECTION 1. AMENDMENT.) Section 54-30-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-06. INTEREST RATE OF BONDS.) The bonds shall bear interest at a ~~rate net interest cost~~ not exceeding ~~six~~ eight percent per annum from their date until maturity, payable semiannually ~~on the first day of January and July in each year~~. There shall be no interest rate ceiling on those issues sold at public sale. Coupons ~~shall~~ may be attached to each bond evidencing the amount of interest payable ~~on each first day of January and July~~ until maturity, unless and until the holder or purchaser shall have exercised the privilege granted by sections 54-11-08 and 54-11-09. No bond or coupon shall bear interest after maturity unless payment thereof shall not be made upon due presentation for payment.

SECTION 2. AMENDMENT.) Section 54-30-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-09. SALE AND DELIVERY OF BONDS BY INDUSTRIAL COMMISSION.) The industrial commission, in connection with and in addition to its other powers and duties, shall act as the agent of the state for the negotiation, sale, and delivery of the bonds issued under the provisions of this chapter. It shall sell them at not less than ninety-eight percent of par value for cash in such manner and at such times as in its sound discretion it shall deem most advantageous to the interests of the state. The commission may receive all moneys paid by buyers of the bonds, upon the sale thereof, and upon receipt of the purchase price may deliver to each purchaser the bonds by him purchased according to law. The moneys so derived and received from the sale of the bonds shall be placed by the industrial commission in the funds of the Bank of North Dakota. Where any bonds issued under the provisions of this chapter are sold at a premium, such moneys to the extent of the amount of such premium shall be delivered to the reimbursement of the Bank of North Dakota for the expenses of conducting the work in the department.

Approved March 3, 1979

CHAPTER 555

HOUSE BILL NO. 1116
(Committee on State and Federal Government)
(At the request of the Indian Affairs Commission)

INDIAN DEVELOPMENT FUND USE

AN ACT to amend and reenact sections 54-34.2-02, 54-34.2-03, 54-34.2-04, and 54-34.2-05 of the North Dakota Century Code, relating to the administration and purpose of the Indian development fund.

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

SECTION 1. AMENDMENT.) Section 54-34.2-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-02. 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 economic expansion programs, and thus provide additional opportunities~~ for the Indian people of North Dakota to take full advantage of ~~such programs~~ the opportunities available to them.

SECTION 2. AMENDMENT.) Section 54-34.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-03. DEFINITIONS.)

1. "Indian people" shall mean any people of American Indian ancestry living 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 federal, tribal, or private agencies.
4. "Development project" shall mean any business or industry to be owned ~~or~~ and operated by Indian people to provide permanent employment for Indian people and located in North Dakota.

SECTION 3. AMENDMENT.) Section 54-34.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-04. DEVELOPMENT PROJECT ELIGIBILITY.) Moneys from the Indian development fund ~~may~~ shall be used only for state or local matching funds as may be required by a federal, tribal, or private agency for participation in Indian development projects. Reservation development projects must be approved 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.~~ Off-reservation development projects must be approved by the North Dakota Indian affairs commission.

SECTION 4. AMENDMENT.) Section 54-34.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-05. APPLICATION FOR FUNDS.) A tribal council or ~~corporation organized by Indian people~~ a development project approved by a tribal council or an off-reservation development project may make application for funds to the executive director of the North Dakota Indian affairs commission. 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, tribal, or private agencies which are to provide the major portions of the funds for the project. The Indian affairs commission shall consider each project on its merits and feasibility, and either approve or deny the application. The executive director of the Indian affairs commission may confer with appropriate federal, state, and local officials and the tribal council as ~~he~~ the director deems necessary to properly analyze the feasibility of such a project or projects.

Approved March 3, 1979

CHAPTER 556

SENATE BILL NO. 2075
(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

SCREENING OF COUNCIL STUDY RESOLUTIONS

AN ACT to amend and reenact section 54-35-02 of the North Dakota Century Code, relating to the powers and duties of the legislative council and to provide authority to screen and prioritize study resolutions; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 54-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-35-02. POWER POWERS AND DUTIES.) In addition to the other applicable provisions of this chapter, the council shall have the ~~power-and-right-to~~ following powers and duties:

1. To study, consider, accumulate, compile, and assemble information on any subject upon which the legislature legislative assembly may legislate, and upon such subjects as the legislature legislative assembly may by concurrent or joint resolution authorize or direct, or any subject requested by a member of the legislature,--te legislative assembly, provided that the council may screen and prioritize studies assigned by concurrent or joint resolution to maintain its workload within the limitations of time and legislative appropriations.
2. To collect information concerning the government and general welfare of the state and of its political subdivisions,--te.
3. To study and consider important issues of public policy and questions of general interest,--te.
4. To study and promote uniformity of legislation in the United States upon subjects upon which uniformity is desirable and to confer with the commissioners or similar groups appointed for the same purpose by any other state in drafting uniform laws to be submitted for the approval

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BISMARCK, NORTH DAKOTA 58505

and adoption by the several states and through such member or members or council staff persons as the council may appoint to meet annually with the conference of commissioners on uniform state laws for the promotion of uniformity of legislation in the United States and join with it in such measures as may be deemed most expedient to advance the objects of such conference.

5. ~~It shall~~ To prepare proposed bills and resolutions for consideration of the succeeding ~~legislature. The council~~ may-as-it-deems-advisable legislative assembly.
6. To call to its assistance other members of the ~~legislature~~ legislative assembly, and it may create committees consisting of its own members, or one or more of its own members and one or more other members of the ~~legislature~~ legislative assembly and delegate by written resolution to such committees such of its powers and rights as it may deem advisable. Committees of the council may also include nonlegislator members. Any member of the ~~legislature~~ legislative assembly shall have the right to attend any meeting of the council, and may present his views on any subject which the council may at any particular time be considering. ~~The council, and any of its committees if specifically authorized by the council,~~ shall have the power to
7. To issue subpoenas or subpoenas duces tecum in the manner provided in sections 54-03.2-08 and 54-03.2-09. Committees of the council may issue subpoenas and subpoenas duces tecum in the same manner if specifically authorized by the council. Failure to obey a subpoena issued by the council, or one of its committees, shall be a civil contempt.

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, 1979

CHAPTER 557

SENATE BILL NO. 2151
(Melland)LEGISLATIVE COMMITTEE ON ADMINISTRATIVE
RULES

AN ACT to establish a legislative committee on administrative rules with authority to review proposed and existing administrative rules.

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

SECTION 1. COMMITTEE ON ADMINISTRATIVE RULES.) The legislative council shall, during each biennium, appoint a committee on administrative rules in the same manner as the council appoints other interim committees. The membership of the committee may appoint one or more citizen members representing the segment of the state's population affected by the rules to be reviewed. The legislative council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees.

SECTION 2. RULES REFERRED TO INTERIM COMMITTEE - COMMITTEE RESPONSIBILITY.) The chairman of the legislative council may assign proposed and existing rules and regulations of administrative agencies, as defined by section 28-32-01, and written complaints received concerning such rules to the committee. The committee shall study and review assigned rules to determine whether:

1. Administrative agencies are properly implementing legislative purpose and intent.
2. There are court or agency expressions of dissatisfaction with state statutes or with rules of administrative agencies promulgated pursuant thereto.
3. The court opinions or rules indicate unclear or ambiguous statutes.

The committee may make rule change recommendations to the adopting agency and may make recommendations to the legislative council for the amendment or repeal of enabling legislation serving as authority

for rules. The committee's failure to review proposed rules prior to publication in the North Dakota Administrative Code shall not prevent rules from taking effect, nor shall the recommendations or opinions of the committee affect the legality of any rule as determined by the attorney general.

Filed April 3, 1979

NOTE: This bill was vetoed by the Governor and subsequently approved by a two-thirds majority of the members of the Senate and the House of Representatives.

CHAPTER 558

SENATE BILL NO. 2483
(Committee on Delayed Bills)
(At the request of Senator Melland)

JOINT CITY-COUNTY BUILDING

AN ACT to create and enact section 54-40-02.1 of the North Dakota Century Code, relating to the joint construction and use of a public building by a city and a county; and to amend and reenact section 54-40-03 of the North Dakota Century Code, relating to the disbursement of funds under an agreement for the joint exercise of governmental powers.

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

SECTION 1.) Section 54-40-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-40-02.1. BUILDING MANAGEMENT COMMISSION FOR COUNTY AND CITY BUILDING - LEASE AUTHORITY.) Any agreement entered into between a county and a city under this chapter for the acquisition, construction, and maintenance of a building for their joint use by bonds issued pursuant to section 54-40-03 shall provide for a building management commission composed of elected officials of the county, elected officials of the city, and representatives of the public, with the exact number of each to be specified in the agreement. The agreement shall specify the powers to be exercised by the building management commission with respect to the acquisition, construction, and maintenance of the building, and with respect to any lease entered into by the commission and any noncounty and noncity governmental entity for use of a portion of the building. Notwithstanding section 48-08-07, a lease of a portion of any building used jointly by a county and a city pursuant to this section may be for a term longer than one year.

SECTION 2. AMENDMENT.) Section 54-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-03. DISBURSEMENT OF FUNDS - ISSUANCE OF BONDS.) The parties to such agreement may provide for disbursements from public funds, including funds already raised to buy real estate for public buildings, proceeds of bonds issued pursuant to chapter 21-03, and other proper funds or properties already on hand, to carry out the

purposes of the agreement. The total amount of bonds issued by a county and a city under this section shall be in proportion to the joint usage of the building by the county and the city and shall also consider the tax base of the county and the tax base of the city. When a county and a city wholly within the county boundaries propose to issue bonds for the purpose of a building for their joint use, the governing body of the county may submit to its qualified voters the proposition of issuing bonds in the total amount required to be borrowed for the building, under an initial resolution and ballot stating the maximum total principal amount of the bonds and the maximum principal amount thereof for which the city shall be obligated. In this event the governing body of the city shall adopt an ordinance or resolution stating the maximum amount of the obligation proposed to be incurred by the city and the other matters of information required for an initial resolution for bonds under the provisions of section 21-03-09, which ordinance or resolution shall be subject to referral to the electors of the city by petition of the percentage of the electors referred to in chapter 40-12 and upon the conditions and in the manner therein set forth. If the issuance of the bonds is approved by the required majority of the qualified voters of the county voting thereon, and if the city ordinance or resolution is not referred or is approved by a majority of the qualified electors of the city voting thereon, the bonds may be issued by the county and the obligation incurred by the city. The principal amount of the obligation incurred by the city to the county, as provided in the agreement, shall be a general obligation and indebtedness of the city as referred to and limited by section 21-03-04 and by section 183 of the Constitution, and shall be deducted from the principal amount of the bonds in determining the net indebtedness incurred by the county in the issuance thereof. The city shall levy a direct, annual, irrevocable tax for the payment of its obligation and the interest thereon as required for the payment of general obligation bonds under the provisions of section 21-03-15, which tax shall be retained by the county auditor in the sinking and interest fund for the county bonds as provided in section 21-03-41. Each payment of principal, interest and premium, if any, due with respect to the county bonds shall be the obligation of the city in the proportion that the original principal amount of the city's obligation bears to the original principal amount of the bonds, for the purpose of ascertaining the amount of net indebtedness of the city and the county outstanding at any time, of determining the amounts of taxes required to be assessed and collected annually by the city and the county for the bond sinking and interest fund, and of determining the amounts of income from the investment of the sinking and interest fund which are to be credited against the obligations of the city and county, respectively, and for all other purposes whatsoever. Nothing herein requires the city-county agreement to be executed before the authorization of the bonds and the city's obligation thereon. The agreement when executed shall fix the relative contributions of the city and county to the capital cost of the building in a manner consistent with the maximum net indebtedness authorized to be incurred by each of them, respectively. If so provided in the agreement, the city may evidence its obligation by the issuance of general obligation bonds

of the city and appropriate the proceeds of its bonds for expenditure in accordance with the terms of the agreement, and the amount of the county bonds may be reduced by the amount issued by the city. Funds other than taxes for debt service may be paid to and disbursed by such agency as may be agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement. Strict accountability of all funds and report of all receipts and disbursements shall be provided for.

Not approved or disapproved by the Governor

Filed March 29, 1979

CHAPTER 559

HOUSE BILL NO. 1059
(Legislative Council)
(Interim Committee on Health Services)

HUMAN SERVICE CENTERS

AN ACT to provide for the appointment of a human service center board of directors; to create and enact sections 54-40-10 and 54-40-11 of the North Dakota Century Code, relating to certification of human service centers and to a fiscal incentive for the collocation of county social services with human service centers; and to amend and reenact section 54-40-09 of the North Dakota Century Code, relating to human service centers, their boards of directors, powers, duties, and certification.

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

SECTION 1. APPOINTMENT OF BOARDS OF DIRECTORS - STATUS OF PRESENT BOARD.) The chairman of the board of county commissioners of the county with the largest population within a multicounty area which has a human service center shall within sixty days after the effective date of this Act call a joint meeting of the county commissions within the multicounty area to appoint a new board of directors for the human service center. Persons serving as directors of a human service center on the effective date of this Act shall continue to serve until a new board of directors is appointed.

SECTION 2. AMENDMENT.) Section 54-40-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-09. HUMAN SERVICE CENTERS - POWERS - DUTIES.) Human service centers organized under this chapter are those centers established to provide human services otherwise authorized by law by the state or any of its political subdivisions. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, vocational rehabilitation, aging, food and nutrition, and housing service. Human service centers shall function as single collocated administrative units established, within the multicounty areas,

designated by the governor's executive order 49, dated September 18, 1969, to provide for the planning and delivery of human services. Human service centers shall provide human services to all eligible individuals and families to help them achieve or maintain social, emotional and economic self-sufficiency; prevent, reduce, or eliminate dependency; prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests; aid in the preservation, rehabilitation, and reuniting of families; prevent or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care; and secure referral or admission for institutional care. Human service center boards shall plan and develop health and social resources to assure the effective and efficient delivery of high quality human services fully accessible to all citizens. Human service center boards shall maximize the coordination and integration of services and functions to the fullest extent practicable to avoid unnecessary duplication and overlapping of functions and services. A human service center shall be established by the appointment of a board of directors of not less than eleven members by the authorized representatives of the agencies and political subdivisions for whom the services will be rendered by such center and by the passage of a motion by the governing bodies of such units setting forth its purposes and programs, and the approval of rules or bylaws under which operations shall be conducted, and the approval of the agreement stating the relationships between the center and parent agencies upon a majority vote of those commissioners within a multicounty area present at a joint meeting of the boards of county commissioners called by the chairman of the board of county commissioners of the county with the largest population. Following that majority vote, the state department of health, the state social service board, the mental health and retardation service units shall, and other state departments and governmental units performing human service functions within the multicounty area may, pursuant to written agreement entered into by their respective boards or agencies with the center board, identify and delegate the planning and delivery of specified human services within their jurisdiction to the human service center. Human service centers shall deliver such human services in the manner prescribed by the state departments and governmental units accountable for such services. The governing body of a human service center shall be a board of directors of not more than thirteen members appointed by the boards of county commissioners of the respective counties within the multicounty area meeting jointly. The terms of office shall be three years or less and arranged so that the term of one-third, calculated as nearly as practicable, shall expire in one year, the term of one-half, calculated as nearly as practicable, of the remaining members in the next year, and the term of the remaining members the third year. New appointments to the board shall be made in accordance with the procedure adopted by a majority of the commissioners attending a joint meeting of the boards of county commissioners of the multicounty area. Members of the board shall be compensated at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The members shall also be paid for expenses

incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers. Human service centers and their parent boards or agencies center boards shall have such powers and duties as authorized in this chapter for political subdivisions of the state, unless otherwise provided in this section. Such powers shall include the power to employ staff to discharge the center's responsibilities. Persons employed will be state employees and all employment practices shall be subject to the state central personnel system. Human service centers shall expend funds in accordance with law and within the limits of legislative appropriations, and shall have access to the services of the state's combined automatic telecommunications system, and the department of accounts and purchases computer, duplicating, accounting, purchasing, and other services rendered by such department to state agencies and institutions. The state social service board, the state health department, and such other agencies of the state as may have responsibilities in the field of service as provided by human service centers shall provide such centers assistance to the extent that the requests for such services are reasonable and related to the programs of such departments.

SECTION 3.) Section 54-40-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-40-10. CERTIFICATION - STANDARDS.) The human services provided by a human service center for the state department of health and the state social service board shall be subject to joint certification by the state department of health and the state social service board for quality assurance on or after July 1, 1981, or on such earlier date as may be requested by a human service center.

SECTION 4.) Section 54-40-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-40-11. COUNTY SOCIAL SERVICE BOARD COLLOCATION WITH HUMAN SERVICE CENTERS - FISCAL INCENTIVES.) Any county social service board collocating its offices within a human service center shall, within the limits of legislative appropriation, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.

Approved March 3, 1979

CHAPTER 560

HOUSE BILL NO. 1176

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

ACCOUNTS AND PURCHASES BIENNIAL REPORT

AN ACT to amend and reenact subsection 15 of section 54-44-04 of the North Dakota Century Code, relating to the contents of the biennial report of the director of the department of accounts and purchases.

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

SECTION 1. AMENDMENT.) Subsection 15 of section 54-44-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. Shall submit a biennial report as prescribed by section 54-06-04 to the governor and the department of accounts and purchases covering the activities of all the divisions of the department. In addition to any requirements established pursuant to section 54-06-04, the report shall include a statement of the funds of the state, the revenues of the state, and public expenditures during the two preceding fiscal years.

Approved March 8, 1979

CHAPTER 561

HOUSE BILL NO. 1217

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

ACCOUNTS AND PURCHASES OPERATING FUNDS

AN ACT to amend and reenact section 54-44-11 of the 1977 Supplement to the North Dakota Century Code, relating to the purchasing department operating fund.

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

SECTION 1. AMENDMENT.) Section 54-44-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44-11. ~~PURCHASING--DEPARTMENT--OPERATING--FUND--CREATION~~
~~DEPARTMENT'S OPERATING FUNDS CREATION.)~~

1. The department of accounts and purchases shall establish a state purchasing department operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies ~~and--to--provide--data--processing services--to~~ for the state departments and agencies. ~~The sum-of-thirty-five-thousand-dollars-is-hereby--transferred from--the--state--general--fund--to--the--state-purchasing department-operating-fund-to-provide-the--initial--working capital--and--is--hereby--appropriated--for--supplies--and equipment-as-a-standing--appropriation.~~ Any surplus in this fund in excess of one hundred ~~and-fifty~~ thousand dollars on June thirtieth of each year shall be transferred to the state general fund.
2. The department of accounts and purchases shall establish a state printing operating fund to be used for the procurement and maintenance of an inventory of printing equipment and supplies for the state departments and agencies. Any surplus in this fund in excess of fifty thousand dollars on June thirtieth of each year shall be tranferred to the state general fund.
3. The department of accounts and purchases shall establish a state central data processing operating fund to be used

for the procurement and maintenance of data processing equipment and supplies and for providing data processing services to state departments and agencies. Any surplus in this fund in excess of two hundred twenty-five thousand dollars on June thirtieth of each year shall be transferred to the state general fund.

- 2- 4. Each office, agency, or institution provided with purchasing, printing, or data processing service services, unless exempted by law, shall pay to the department of accounts and purchases a proportionate share of the cost of such service as determined by the director of the department of accounts and purchases, based on actual costs and actual usage. The amounts paid to the department of accounts and purchases by the various offices, agencies, and institutions shall be deposited in the ~~purchasing-department~~ appropriate operating fund and shall be expended in accordance with legislative appropriations.

Approved March 27, 1979

CHAPTER 562

SENATE BILL NO. 2208
 (Committee on State and Federal Government)
 (At the request of the Department of Accounts and Purchases)

BUDGET DATA PREPARATION

AN ACT to amend and reenact subsection 1 of section 54-44.1-06 of the North Dakota Century Code, relating to the preparation of budget data.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 54-44.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Summary statements of the financial condition of the state, accompanied by such detailed schedules of assets and liabilities as the director of the budget deems desirable, which shall include, but not be limited to, the following:

~~a. A comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium;~~

- ~~b. a.~~ Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and

- ~~e. b.~~ Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include, but not be limited to, a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

Approved March 10, 1979

CHAPTER 563

SENATE BILL NO. 2148

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

APPROPRIATIONS CONTINUATION

AN ACT to amend and reenact section 54-44.1-11 of the North Dakota Century Code, relating to the time during which appropriations remain available.

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

SECTION 1. AMENDMENT.) Section 54-44.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.1-11. DEPARTMENT OF ACCOUNTS AND PURCHASES TO CANCEL UNEXPENDED APPROPRIATIONS - WHEN THEY MAY CONTINUE.) The department of accounts and purchases, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force ~~for--new--construction--projects and--for--major--repair--or--improvement--projects~~ for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase where the total purchase price is within the authorized appropriation.

Approved March 12, 1979

CHAPTER 564

SENATE BILL NO. 2163

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

CENTRAL DATA PROCESSING EQUIPMENT

AN ACT to amend and reenact subsection 3 of section 54-44.2-02 of the North Dakota Century Code, relating to the powers and duties of the office of central data processing.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 54-44.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Have the authority to purchase or lease such additional equipment or replace, including by trade or resale, present equipment as may be necessary to carry out the provisions of this chapter. The director of the office of central data processing shall require each department, agency, or institution, except the North Dakota employment security bureau, and the office of adjutant general, which may desire to maintain or procure data processing services or equipment not available from the office of central data processing, to submit a written request for these services or equipment, accompanied by full justification for their need, to the director of the office of central data processing, who must approve such request in writing before such department, institution, or agency shall be authorized to procure, maintain, or contract for these services or equipment from sources other than the office of central data processing. The director of the office of central data processing shall not approve any such requests for authority to rent, purchase, or to otherwise acquire or contract for additional or new data processing services or equipment unless, after full study of the justification submitted and such further study or independent evaluation and testing as he shall deem necessary, he shall find that such services cannot be reasonably provided by the office of central data processing and that such equipment would be fully and economically usable and compatible with the central data

processing system. If an equipment purchase or rental is authorized, the equipment, except that which may be purchased for institutions under the control of the board of higher education, shall become the property of the office of central data processing and shall be delivered to such office by the vendor of such equipment and shall be operated by personnel of the office of central data processing.

Approved March 10, 1979

CHAPTER 565

HOUSE BILL NO. 1173

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

CENTRAL DATA PROCESSING REPORT REPEALED

AN ACT to repeal section 54-44.2-05 of the North Dakota Century Code, relating to the biennial report required of the director of central data processing to the governor and the legislature.

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

SECTION 1. REPEAL.) Section 54-44.2-05 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

CHAPTER 566

HOUSE BILL NO. 1042
(Legislative Council)
(Interim Committee on Budget "A")

CENTRAL PERSONNEL PROCEDURES

AN ACT to create and enact two new sections to chapter 54-44.3 of the North Dakota Century Code, relating to revisions to the classification and compensation plan established by the central personnel division, and setting forth intent that employee complaints be resolved by basic agency grievance procedures and a statewide appeal mechanism.

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

SECTION 1.) A new section to chapter 54-44.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

REVISIONS TO CLASSIFICATION AND COMPENSATION PLANS.) Revisions to classification and compensation plans shall only be made on July first, following the close of a regular legislative session. Such revisions shall only be made to the extent the legislative assembly appropriates funds to implement such plans.

SECTION 2.) A new section to chapter 54-44.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

EMPLOYEE COMPLAINTS - COOPERATION IN DEVELOPMENT AND IMPLEMENTATION OF BASIC AGENCY GRIEVANCE PROCEDURES AND A STATEWIDE APPEAL MECHANISM.) It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees. To ensure this the state desires to resolve bona fide employee complaints as quickly as possible. The central personnel division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism.

Approved March 27, 1979

CHAPTER 567

HOUSE BILL NO. 1639
(Wessman, Gorder, Kelly, Kingsbury)

MINIMUM RAISES FOR STATE EMPLOYEES

AN ACT to provide minimum raises for all state employees; and providing an effective date.

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

SECTION 1. MINIMUM SALARY INCREASE FOR ALL STATE EMPLOYEES - EFFECTIVE DATE.) Effective July 1, 1979, and again on July 1, 1980, each full-time employee of any state agency, institution, or entity, notwithstanding the central personnel division classification and compensation plan, who is receiving \$9,200 base pay annually or less shall receive a permanent increase of fifty dollars per month. The increases provided in this Act shall be paid from appropriations made by the legislative assembly to state agencies, institutions, and entities for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved April 7, 1979

CHAPTER 568

SENATE BILL NO. 2048
(Legislative Council)
(Interim Committee on Budget "B")

STATE PURCHASING PRACTICES

AN ACT to authorize the department of accounts and purchases to make purchases for state agencies and institutions, to provide for the promulgation of purchasing rules and regulations by the department of accounts and purchases, to provide for competitive bidding procedures; to create and enact a new subsection to section 15-10-17 of the North Dakota Century Code, relating to the powers and duties of the board of higher education; to amend and reenact sections 54-21-19 and 54-42-06 and subsection 21 of section 54-44-04 of the North Dakota Century Code, relating to the director of institutions furnishing supplies for the capitol, state offices, and the executive mansion; merit system coverage for purchasing division personnel; and the operation of a central purchasing service; and to repeal sections 25-01.1-23, 25-01.1-25, 25-01.1-27, 54-23-31, 54-23-34, 54-23-35, and 54-23-37 of the North Dakota Century Code, relating to purchases by the department of accounts and purchases for the state hospital and the institutions under the control of the director of institutions.

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

SECTION 1. DECLARATION OF POLICY.) It is hereby declared to be state policy to provide comprehensive purchasing services based upon sound procurement practices and principles wherein, through full competition with fair and equal opportunity to all qualified persons and firms to sell to the state, each state agency and institution shall obtain its necessary supplies and equipment at competitive cost, consistent with quality, time, and performance requirements.

SECTION 2. DEPARTMENT OF ACCOUNTS AND PURCHASES PURCHASING SERVICES.) The department of accounts and purchases shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, and other commodities, except the following:

1. Land, buildings, space, or the rental thereof.
2. Telephone and telegraph service, and electrical light and power services.
3. Public books, maps, periodicals, and technical pamphlets.
4. State highway department materials, equipment, and supplies in accordance with the provisions of chapters 24-02 and 24-03.
5. Professional services pursuant to written contract.
6. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment where the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or where such a contract would otherwise be advantageous to the state.
7. Emergency purchases the department of accounts and purchases cannot make within the required time and which involve public health or public safety, or where immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.
8. Such specific items as determined and indicated by written directive by the director of the department of accounts and purchases.

The department of accounts and purchases shall purchase items as requested by agencies and institutions under the jurisdiction of the state board of higher education and the legislative and judicial branches of state government. The agencies and institutions under the jurisdiction of the state board of higher education shall, together with the department of accounts and purchases, make such joint purchases of like items of high common usage as determined jointly by the agencies and institutions under the jurisdiction of the state board of higher education and the department of accounts and purchases as will result in less cost to the state.

SECTION 3. DIRECTOR OF THE DEPARTMENT OF ACCOUNTS AND PURCHASES MAY DELEGATE PURCHASING AUTHORITY.) The director of the department of accounts and purchases may delegate to state agencies and institutions the authority to make purchases of items not otherwise exempted by law when the purchases are necessary due to an agency being able to obtain a lower price with equal quality, the perishability of items, or the location of the items. Any delegation of purchasing authority shall be in writing and shall indicate what is to be purchased and the duration of the delegation.

SECTION 4. DEPARTMENT OF ACCOUNTS AND PURCHASES - RULES AND REGULATIONS.) The department of accounts and purchases shall

promulgate, pursuant to chapter 28-32, rules and regulations necessary to administer this Act. Additionally, such rules and regulations, and any changes thereto, shall be submitted to the legislative council for its review and approval or disapproval prior to promulgation.

SECTION 5. COMPETITIVE BIDDING ON PURCHASES.) Except as otherwise provided in section 44-08-01, purchasing contracts shall be awarded to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability. The department of accounts and purchases may reject any or all bids or negotiate for a lower price with a successful bidder. The department of accounts and purchases shall publish at least once per year in each official county newspaper in the state the procedures to be followed to sell goods and materials to state agencies, departments, and institutions. Each bid received, with the name of the bidder, shall be recorded.

SECTION 6. ALL PURCHASES TO BE MADE IN ACCORDANCE WITH SPECIFICATIONS.) For purposes of this Act, specification means a description of all required physical, design, performance, functional, and other characteristics of an item the purchaser requires and, consequently, what a bidder must offer. All purchases made by the department of accounts and purchases, institutions of higher education, or any state agency or institution to which authority to purchase has been delegated, shall be made in accordance with written policies of the department of accounts and purchases and the agencies and institutions under the jurisdiction of the state board of higher education. The department of accounts and purchases and institutions of higher education shall develop similar specifications for purchases of items of high common usage. State agencies and institutions shall provide such assistance as may be requested by the department of accounts and purchases and the institutions of higher education in the development of specifications. The department of accounts and purchases and the institutions of higher education shall implement such procedures as are necessary for the inspection, testing, and acceptance of supplies and equipment to determine that goods received are in conformity with contract specifications.

SECTION 7.) A new subsection to section 15-10-17 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To determine policy for purchasing by the institutions of higher education in coordination with the department of accounts and purchases as provided by law.

SECTION 8. AMENDMENT.) Section 54-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-19. DIRECTOR TO FURNISH SUPPLIES AND MAINTAIN CAPITOL, STATE OFFICES, AND EXECUTIVE MANSION AND SHALL HAVE AUTHORITY TO CHARGE FOR SERVICES.) The director shall, ~~through the department of~~

~~accounts--and--purchases,~~ provide all necessary fuel, ~~light~~ electricity, insurance, janitorial, telephone, and other services necessary to maintain the state offices on the capitol grounds as well as all necessary furniture, fuel, ~~lights~~ electricity, express, freight, drayage, and all other necessary supplies for the executive mansion and the ~~public-grounds-and-parks-connected-there-with~~ capitol grounds, and shall make all necessary repairs ~~upon--the--capitol building-and-executive-mansion,-and-the.~~ Such purchases shall be in accordance with the provisions of this Act. The director shall charge an amount equal to the fair value of the office space and other services rendered to all departments which receive and expend moneys from other than the general fund, except that for good cause the amounts charged may be waived by the director for a one-year period of time with such waiver being subject to further annual renewals after proper application has been filed with the director.

SECTION 9. AMENDMENT.) Section 54-42-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-42-06. AGENCIES SUBJECT TO MERIT SYSTEM.) All personnel employed by the social service board of North Dakota, the area and county offices of such board, the North Dakota employment security bureau, the North Dakota merit system council and, the North Dakota state department of health, and other agencies or political subdivisions as may by federal laws or regulations be required to be subject to the merit system in order to obtain federal grants-in-aid, shall be covered by the complete merit system provided in this chapter. The merit system council shall provide merit system coverage to mental health and retardation service units, human service centers, and other units resulting from combinations of mental health and retardation service units, area social service centers, and other functions or services of state agencies or political subdivisions upon the request of such centers or units. Merit system coverage shall also be provided to personnel employed as purchasing agents or buyers in the purchasing division of the department of accounts and purchases. Such other agencies, departments or divisions, or positions, shall be placed under the complete or limited merit system in the manner and to the extent the legislative assembly shall by law direct.

SECTION 10. AMENDMENT.) Subsection 21 of section 54-44-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

~~within--the--required--time,--highly--specialized--equipment
which--can--be--better--purchased--by--the--department,
institution--or--office--which--is--to--utilize--such--equipment,
and--such--specific--items--and--minor--purchases--as--the
director--may--exempt,~~

SECTION 11. REPEAL.) Sections 25-01.1-23, 25-01.1-25, 25-01.1-27, 54-23-31, 54-23-34, 54-23-35, and 54-23-37 of the North Dakota Century Code are hereby repealed.

Approved March 21, 1979

CHAPTER 569

SENATE BILL NO. 2173
(Committee on State and Federal Government)
(At the request of the Civil Air Patrol)

CIVIL AIR PATROL DUTIES AND EXPENDITURES

AN ACT to amend and reenact sections 54-45-02 and 54-45-03 of the North Dakota Century Code, relating to the duties of the department of civil air patrol and to the expenditure of funds by the civil air patrol for secretarial or administrative personnel.

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

SECTION 1. AMENDMENT.) Section 54-45-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-45-02. COOPERATION WITH STATE AND FEDERAL GOVERNMENTS.) The department of civil air patrol may fully cooperate with any department or agency of the state of North Dakota, or with the United States government or any department or agency thereof, for the purpose of providing communications, ~~rescue--work,--mercy missions,--aerial-observation,~~ cadet training, disaster relief, and search and rescue missions or assistance, or other related functions within the scope of the activity of the civil air patrol with the exception of law enforcement.

SECTION 2. AMENDMENT.) Section 54-45-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-45-03. EXPENDITURE OF FUNDS - LIMITATION.) The commanding officer, North Dakota wing, civil air patrol, may issue vouchers covering all expenditures of funds of the department, and the state auditor shall issue his warrant therefor in the same manner as other state funds are expended. There shall be expended from the moneys appropriated to the department only such sums as shall be needed to purchase adequate communications systems, the upkeep of said communications systems, maintenance of aircraft and vehicles owned by civil air patrol and provided that only such sums shall be expended for procurement of equipment or replacement not otherwise obtainable by grant or gift from any other source. No funds shall be expended for uniforms or personal equipment of any member of the

civil air patrol or for the purchase of aircraft or motor vehicles, nor shall any money be paid out of appropriated funds for any salaries, except that the for secretarial or administrative support personnel. The commanding officer is authorized to apply for and accept federal funds for use in funding secretarial or administrative support personnel.

Approved March 13, 1979

CHAPTER 570

SENATE BILL NO. 2313
(Miller Heinrich)

RETIREMENT SYSTEM MEMBERSHIP AND ASSESSMENTS

AN ACT to amend and reenact subsection 8 of section 54-52-01 and section 54-52-05 of the North Dakota Century Code, relating to definition of terms and membership and assessments for the public employees retirement system.

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

SECTION 1. AMENDMENT.) Subsection 8 of section 54-52-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Permanent employee" means a governmental unit employee ~~who has been employed by~~ whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit ~~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 54-52-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-05. MEMBERSHIP AND ASSESSMENTS.) Every eligible permanent state, county, city, or noncertified school district employee concurring in the plan shall so state in writing and all future eligible employees shall be participating members. An eligible employee shall be a permanent employee whose services are not limited in duration and who is filling an approved and regularly funded position, who ~~has been~~ is employed by the state, county, city, or school district ~~for five consecutive months~~, has reached age eighteen, and is employed for more than twenty hours per week for more than five months each year. Each member shall be assessed and required to pay monthly four percent of the monthly salary or wage paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment.

Approved March 27, 1979

CHAPTER 571

SENATE BILL NO. 2077
(Legislative Council)
(Interim Committee on Retirement)

WITHDRAWAL FROM RETIREMENT SYSTEM

AN ACT to amend and reenact section 54-52-02.1 of the North Dakota Century Code, relating to membership of county, city, and noncertified school district employees in the public employees retirement system; and to repeal subsection 10 of section 54-52-17 of the North Dakota Century Code, relating to the opportunity for certain members of the public employees retirement system to withdraw from that system.

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

SECTION 1. AMENDMENT.) Section 54-52-02.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02.1. COUNTY, CITY, AND NONCERTIFIED SCHOOL DISTRICT EMPLOYEES AUTHORIZED TO JOIN PUBLIC EMPLOYEES RETIREMENT SYSTEM.) The boards of county commissioners of the several counties and the governing bodies of any city or school district are hereby authorized on behalf of their permanent employees, and permanent noncertified employees only in the case of school districts, to enter into agreements with the state retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to such employees. Such an agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the state retirement board and the board of county commissioners or governing body of a city or a school district shall agree upon, but such agreement shall provide that:

1. The county, city, or school district will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06.

2. A portion of the moneys, paid by the counties, cities, or school districts may be used to pay administrative expenses of the retirement board.

Notwithstanding any other provision of this chapter, no political subdivision of this state not participating in the retirement system on June 30, 1977, shall thereafter become a participant in the system until an actuarial study is performed under the direction of the board to calculate the cost of that portion of benefits to be paid by the retirement system to the employees of such political subdivision based on any prior service or on any service after June 30, 1977, and before the date of initial participation in the retirement system, or both; and the political subdivision has adopted a method, approved by the board, to pay the costs determined in this subsection over a period not to exceed twenty-five years from June 30, 1977. No political subdivision may discontinue participation in the fund without first making such payment to the fund as may be necessary for the fund to pay the future benefits of the eligible employees of such political subdivision as determined on the basis of rules and regulations promulgated by the board. ~~Within thirty days after July 17, 1977, except as otherwise provided in this section, any political subdivision may withdraw the total sums in its employee and employer accounts with the fund, make appropriate refunds, and terminate its participation in the public employees retirement system.~~

* SECTION 2. REPEAL.) Subsection 10 of section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

Approved January 29, 1979

- * NOTE: Subsection 10 of section 54-52-17 was deleted by section 1 of Senate Bill No. 2137, chapter 573, and by section 1 of Senate Bill No. 2273, chapter 574.

CHAPTER 572

HOUSE BILL NO. 1272
(Committee on State and Federal Government)
(At the request of the Public Employees Retirement System)

PUBLIC OFFICIALS IN RETIREMENT SYSTEM

AN ACT to create and enact section 54-52-02.4 of the North Dakota Century Code, relating to newly appointed officials entitled to participate in the public employees retirement system; and to amend and reenact subsection 2 of section 54-52-01 of the North Dakota Century Code, relating to the definition of eligible employees.

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

* SECTION 1.) Section 54-52-02.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-52-02.4. NEWLY APPOINTED OFFICIALS.) After July 1, 1979, any person appointed to an office for the first time shall, from and after the date he qualifies and takes office, be a participating member of the public employees retirement system. As used in this section, the phrase "for the first time" shall mean a person appointed, who, after the effective date of this section, does not hold office as an appointed official at the time of his appointment.

SECTION 2. AMENDMENT.) Subsection 2 of section 54-52-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and shall include appointive and elective officials at their sole election, provided that judges of the supreme and district courts eligible under section 54-52-02.3 and appointed officials eligible under section 54-52-02.4 shall be eligible employees and shall participate in the public employees retirement system.

Approved March 8, 1979

* NOTE: This section is codified as North Dakota Century Code Section 54-52-02.5.

CHAPTER 573

SENATE BILL NO. 2137
(Miller Heinrich)

RETIREMENT SYSTEM SERVICE CREDIT

AN ACT to amend and reenact section 54-52-17 of the North Dakota Century Code, relating to prior service credit and withdrawal from the public employees retirement system; and to provide for retroactivity.

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

* SECTION 1. AMENDMENT.) Section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-17. FORMULATION OF PLAN.) Participating members shall receive benefits according to this section and according to the rules and regulations promulgated by the retirement board, not inconsistent with this chapter. No person shall receive a prior service benefit if ~~such~~ the person was not continuously employed by a governmental unit in North Dakota ~~from July 1, 1966, to June 30, 1977~~ for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, as defined in this section. No participating member shall receive credit for more than thirty years of full-time employment unless such member has contributed to the plan or its predecessor established on July 1, 1966, in excess of thirty years; members who have contributed to these plans in excess of thirty years shall receive credit for the years of full-time employment after July 1, 1966. Part-time employment will be recognized as full-time employment on such a prorated basis as the board may prescribe.
2. Retirement benefits shall be calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any sixty consecutive months employed during the last one

* NOTE: Section 54-52-17 was also amended by section 1 of Senate Bill No. 2273, chapter 574; subsection 3 was also amended by section 1 of House Bill No. 1119, chapter 575; and subsection 10 was repealed by section 2 of Senate Bill No. 2077, chapter 571.

hundred twenty months of employment. Months not employed or months where employment was not full-time shall be excluded in arriving at the sixty months to be used for the purpose of computing an average. If the participating member has worked for less than sixty months at the normal retirement date, the final average salary shall be the average salary for the total months of employment.

3. Retirement dates shall be defined as follows:
 - a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years.
 - b. Postponed retirement date is the first day of the month next following the month in which the member actually severs his employment after attaining the age of sixty-five years.
 - c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ten years of eligible employment.
 - d. Disability retirement date is the first day of the sixth month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the retirement board, and has completed at least ten years of eligible employment. No member shall be eligible for benefits resulting from a disability unless he shall also be determined eligible for benefits under the Social Security Act as amended.
4. Retirement benefits shall be calculated by the retirement board as follows:
 - a. Normal retirement benefits for all retirees reaching normal retirement date shall be an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which shall be determined as follows:
 - (1) Service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of prior service employment.
 - b. Postponed retirement benefits shall be calculated as for normal retirement benefits, except years of

employment only to the normal retirement date and salary to the actual retirement date shall be used.

- c. Early retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment, but shall be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree shall be eligible for early retirement benefits only after having completed ten years of eligible employment.
- d. Disability retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment due to permanent and total disability.
5. Upon termination of employment after completing ten years of eligible employment but prior to normal retirement date, a member who does not elect to receive early retirement benefits shall be eligible to receive deferred vested retirement benefits payable commencing on his normal retirement date equal to one hundred percent of his accrued normal retirement benefits.
6. If a member dies after completing ten years of eligible employment, but prior to retiring, the surviving spouse of the member shall receive monthly retirement benefits equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies or remarries, whichever first occurs. If the spouse dies or remarries, he shall come under the provisions of subsection 8.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, he or his designated beneficiary shall be entitled to the balances of his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977, with five percent annual interest thereon to date of termination. In addition, the member or his designated beneficiary shall be entitled to his contribution made after June 30, 1977, with five percent annual interest thereon to the date of termination. If the termination results from death or permanent and total disability, the member shall be deemed one hundred percent vested in the vesting fund on June 30, 1977.
8. If a member who is receiving retirement benefits or his surviving spouse who is receiving retirement benefits dies or if the surviving spouse remarries before the total amount of benefits paid to either or both equals the amount of the member's contribution with five percent interest, plus the vested amount on June 30, 1977, with five percent interest, the difference shall be paid to

such spouse, his surviving beneficiary, if any, or his estate.

9. The retirement board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:
 - a. Joint and survivor, with fifty percent or one hundred percent options.
 - b. Level social security option, which shall be available only to early retirees.
 - c. Life with five- or ten-year certain options.

Unless a member requests that he receive benefits according to one of these options at the time of applying for retirement, all retirement benefits shall be in the form of a lifetime monthly pension.

~~10. Employees who were continuously employed by a governmental unit in North Dakota during the entire period from July 1, 1966, to June 30, 1977, shall have the opportunity within one month after July 1, 1977, to choose whether or not they wish to continue as members of the North Dakota public employees retirement system. Such an employee who chooses to withdraw from the fund shall receive his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977.~~

SECTION 2. RETROACTIVITY.) The provisions of this Act are retroactive to and are effective as of July 1, 1977.

Approved March 26, 1979

CHAPTER 574

SENATE BILL NO. 2273
(Miller Heinrich)

**PUBLIC EMPLOYEE POSTPONED RETIREMENT
BENEFITS**

AN ACT to amend and reenact section 54-52-17 of the North Dakota Century Code, relating to normal and postponed retirement under the public employees retirement system.

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

* SECTION 1. AMENDMENT.) Section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-17. FORMULATION OF PLAN.) Participating members shall receive benefits according to this section and according to the rules and regulations promulgated by the retirement board, not inconsistent with this chapter. No person shall receive a prior service benefit if such person was not continuously employed by a governmental unit in North Dakota from July 1, 1966, to June 30, 1977.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date or postponed retirement date, as defined in this section. No participating member shall receive credit for more than thirty years of full-time employment unless such member has contributed to the plan or its predecessor established on July 1, 1966, in excess of thirty years; members who have contributed to these plans in excess of thirty years shall receive credit for the years of full-time employment after July 1, 1966. Part-time employment will be recognized as full-time employment on such a prorated basis as the board may prescribe.
2. Retirement benefits shall be calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any sixty consecutive months employed during the last one hundred twenty months of employment. Months not employed

* NOTE: Section 54-52-17 was also amended by section 1 of Senate Bill No. 2137, chapter 573; subsection 3 was also amended by section 1 of House Bill No. 1119, chapter 575; and subsection 10 was repealed by section 2 of Senate Bill No. 2077, chapter 571.

or months where employment was not full time shall be excluded in arriving at the sixty months to be used for the purpose of computing an average. If the participating member has worked for less than sixty months at the normal retirement date, the final average salary shall be the average salary for the total months of employment.

3. Retirement dates shall be defined as follows:
 - a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years.
 - b. Postponed retirement date is the first day of the month next following the month in which the member actually severs his employment after attaining the age of sixty-five years.
 - c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ten years of eligible employment.
 - d. Disability retirement date is the first day of the sixth month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the retirement board, and has completed at least ten years of eligible employment. No member shall be eligible for benefits resulting from a disability unless he shall also be determined eligible for benefits under the Social Security Act as amended.
4. Retirement benefits shall be calculated by the retirement board as follows:
 - a. Normal retirement benefits for all retirees reaching normal retirement date shall be an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which shall be determined as follows:
 - (1) Service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of prior service employment.
 - b. Postponed retirement benefits shall be calculated as for normal retirement benefits, ~~except~~ ~~years~~ ~~of~~

~~employment--only--to--the--normal--retirement--date--and
salary--to--the--actual--retirement--date--shall--be--used.~~

- c. Early retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment, but shall be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree shall be eligible for early retirement benefits only after having completed ten years of eligible employment.
- d. Disability retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment due to permanent and total disability.
5. Upon termination of employment after completing ten years of eligible employment but prior to normal retirement date, a member who does not elect to receive early retirement benefits shall be eligible to receive deferred vested retirement benefits payable commencing on his normal retirement date equal to one hundred percent of his accrued normal retirement benefits.
6. If a member dies after completing ten years of eligible employment, but prior to retiring, the surviving spouse of the member shall receive monthly retirement benefits equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies or remarries, whichever first occurs. If the spouse dies or remarries, he shall come under the provisions of subsection 8.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, he or his designated beneficiary shall be entitled to the balances of his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977, with five percent annual interest thereon to date of termination. In addition, the member or his designated beneficiary shall be entitled to his contribution made after June 30, 1977, with five percent annual interest thereon to the date of termination. If the termination results from death or permanent and total disability, the member shall be deemed one hundred percent vested in the vesting fund on June 30, 1977.
8. If a member who is receiving retirement benefits or his surviving spouse who is receiving retirement benefits dies or if the surviving spouse remarries before the total amount of benefits paid to either or both equals the amount of the member's contribution with five percent interest, plus the vested amount on June 30, 1977, with five percent interest, the difference shall be paid to

such spouse, his surviving beneficiary, if any, or his estate.

9. The retirement board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:
 - a. Joint and survivor, with fifty percent or one hundred percent options.
 - b. Level social security option, which shall be available only to early retirees.
 - c. Life with five- or ten-year certain options.

Unless a member requests that he receive benefits according to one of these options at the time of applying for retirement, all retirement benefits shall be in the form of a lifetime monthly pension.

~~10. Employees who were continuously employed by a governmental unit in North Dakota during the entire period from July 1, 1966, to June 30, 1977, shall have the opportunity within one month after July 1, 1977, to choose whether or not they wish to continue as members of the North Dakota public employees retirement system. Such an employee who chooses to withdraw from the fund shall receive his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977.~~

Approved March 19, 1979

CHAPTER 575

HOUSE BILL NO. 1119
(Mertens)

PUBLIC EMPLOYEE DISABILITY RETIREMENT DATE

AN ACT to amend and reenact subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to retirement dates under the public employees retirement system.

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

* SECTION 1. AMENDMENT.) Subsection 3 of section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Retirement dates shall be defined as follows:

- a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years.
- b. Postponed retirement date is the first day of the month next following the month in which the member actually severs his employment after attaining the age of sixty-five years.
- c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ten years of eligible employment.
- d. Disability retirement date is the first day of the ~~sixth~~ month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the retirement board, and has completed at least ten years of eligible employment. No member shall be eligible for benefits resulting from a disability unless he shall also be determined eligible for benefits under the Social Security Act as amended.

Approved March 3, 1979

* NOTE: Section 54-52-17 was also amended by section 1 of Senate Bill No. 2137, chapter 573, and by section 1 of Senate Bill No. 2273, chapter 574.

CHAPTER 576

HOUSE BILL NO. 1301
(Martinson, Kingsbury, Stenehjem, Swiontek, Unhjem)

UNIFORM GROUP INSURANCE PROGRAM CONTRIBUTION

AN ACT to amend and reenact sections 54-52.1-06 and 54-52.1-07 of the North Dakota Century Code, relating to the state contribution to the uniform group insurance program and optional coverage for employee's family.

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

SECTION 1. AMENDMENT.) Section 54-52.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-06. STATE CONTRIBUTION.) 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 amount of the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. 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 a separate fund of the uniform group insurance program to be used by the board to reimburse the administrative expense and benefit fund of the state employees retirement program for the costs of administration of the uniform group insurance program. Any amount credited to the separate fund in excess of the costs of administration of the program shall be held in the separate fund to be used by the board to reduce the amount of premium amounts paid monthly by enrolled eligible employees, to reduce any increase in premium amounts paid monthly by enrolled eligible employees or to provide increased insurance coverage, as the board may determine. 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 2. AMENDMENT.) Section 54-52.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-07. 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 state to be assessed pay the entire cost of such coverage as provided in section 54-52.1-06. ~~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--54-52-1-06.~~

Approved March 21, 1979

CHAPTER 577

HOUSE BILL NO. 1084
(Legislative Council)
(Interim Committee on State and Federal Government)

COUNCIL ON THE ARTS

AN ACT to amend and reenact subsection 1 of section 54-07-01.2 and section 54-54-02 of the North Dakota Century Code, relating to the North Dakota council on the arts and humanities.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Notwithstanding the provisions of sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09.1-02, 12-55-01, 12-59-01, 15-21-17, 15-38-17, 15-39.1-05, 15-65-02, ~~20-1-02-23~~, ~~20-1-02-23~~, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-02, 50-06-03.1, 50-26-01, 51-10-13, 54-03-20.2, 54-34-03, 54-42-01, 54-54-02, 55-01-01, 55-06-01, 61-02-04, 61-28-03, and 65-02-01, all members of the following boards and commissions shall, subject to the limitations of this section, 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:
 - a. The aeronautics commission.
 - b. The milk stabilization board.
 - c. The dairy products promotion commission.
 - d. The state banking board.
 - e. The state credit union board.
 - f. The advisory board of directors ~~of~~ to the Bank of North Dakota.
 - g. The board of pardons.

- h. The state parole board.
- i. The state board of public school education.
- j. The teachers' professional practices commission.
- k. The board of trustees for the teachers' fund for retirement.
- l. The educational broadcasting council.
- m. The state game and fish advisory board.
- n. The health council.
- o. The air pollution control advisory council.
- p. The livestock sanitary board.
- q. The administrative committee on veterans' affairs.
- r. The social service board of North Dakota.
- s. The governor's council on human resources.
- t. The North Dakota trade commission.
- u. The legislative compensation commission.
- v. The business and industrial development commission.
- w. The merit system council.
- x. The North Dakota council on the arts ~~and-humanities~~.
- y. The state historical board.
- z. The Yellowstone-Missouri-Fort Union commission.
- aa. The state water conservation commission.
- bb. The state water pollution control board.
- cc. The workmen's compensation bureau.

SECTION 2. AMENDMENT.) Section 54-54-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-54-02. COUNCIL - MEMBERS - APPOINTMENT.) There is hereby created and established a state council, to be known as the "North Dakota council on the arts ~~and-humanities~~", which shall consist of fifteen members, broadly representative of all fields of the performing and fine arts, who are to be appointed by the governor by and with the consent of the senate as provided in this chapter, from

among the citizens of North Dakota who are widely known for their competence and experience in connection with the performing and fine arts. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational, and professional associations and groups, concerned with or engaged in the production or presentation of the performing and fine arts generally.

Approved March 3, 1979

CHAPTER 578

HOUSE BILL NO. 1437
(Representative Kloubec)
(Senator Strinden)

CULTURAL ENDOWMENT FUND

AN ACT to establish the North Dakota cultural endowment fund under the jurisdiction of the council on the arts; and declaring an emergency.

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

SECTION 1. ENDOWMENT FUND - PURPOSES.) The North Dakota cultural endowment fund is hereby established to improve the intrinsic quality of the lives of the state's citizens now and in the future through programs approved by the council on the arts. Such programs shall:

1. Increase cultural awareness by the state's citizens through programs in arts, crafts, theater, ethnic and folk arts, literature, journalism, public media, historic preservation and interpretation, visual arts, and architecture.
2. Make the items named in subsection 1 more available to the state's citizens.
3. Encourage the development of talent in the areas named in subsection 1 within the state.
4. Preserve and increase understanding of North Dakota's heritage and future.

SECTION 2. CULTURAL ENDOWMENTS - LIMITATIONS.) The cultural endowment fund shall be maintained by the Bank of North Dakota which shall also be responsible for the investment of the principal moneys deposited in such fund. Funds will be expended from the cultural endowment fund only to the limits of accrued interest on state general fund appropriations and other public and private funds received. The expenditure of endowment funds shall occur at the direction of the North Dakota council on the arts. The council may seek the counsel and assistance of a group or groups of private citizens of the council's choosing to aid it in arriving at

expenditure decisions where private funds are involved. Section 54-54-06 applies to private donations to the cultural endowment fund, provided that gifts, donations, and bequests can be dedicated as principal of the fund in perpetuity or for a term of years, in which case only the income earned as a result of investment of those funds can be expended pursuant to this Act.

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

Approved March 10, 1979

STATE HISTORICAL SOCIETY AND STATE PARKS

CHAPTER 579

SENATE BILL NO. 2243
(Committee on State and Federal Government)
(At the request of the State Historical Society)

SITE DATA RELEASE RESTRICTED

AN ACT to create and enact a new section to chapter 55-02 of the North Dakota Century Code, to provide protection of archeological, historical or paleontological sites by limiting access to and release of information from files held by the state historical society of North Dakota.

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

SECTION 1.) A new section to chapter 55-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

PROTECTION OF PREHISTORIC OR HISTORIC SITE LOCATIONAL DATA.)
The superintendent of the state historical board may limit access to and release of information from files of the state historical society of North Dakota which contain data that specifically identifies the location of archeological, historical, or paleontological sites in North Dakota. No access to, or release of information from files which contain such site specific locational data shall be made until the superintendent shall be satisfied that the applicant has a reasonable need for the information contained in those files, and professionally acceptable qualifications to assure that release of the information will not result in unnecessary destruction of the resource.

Approved March 13, 1979

CHAPTER 580

HOUSE BILL NO. 1222

(Committee on Natural Resources)

(At the request of the Parks and Recreation Department)

PARK LAND ACQUISITION

AN ACT to amend and reenact subsection 7 of section 55-08-03 of the North Dakota Century Code, relating to the powers, duties, and limitations of the director of the North Dakota parks and recreation department.

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

SECTION 1. AMENDMENT.) Subsection 7 of section 55-08-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. The director of state parks may use ~~for any project herein authorized~~ any land of the state under his jurisdiction or control so far as is not inconsistent with the laws governing the same, may acquire:
 - a. Acquire by purchase, gift, or condemnation any additional lands or interests in lands required ~~for such projects~~, including lands or interests in adjacent states if authorized by the laws thereof, ~~may, subject.~~ Only land within or immediately adjacent to already existing state park land under the control of the director of state parks shall be subject to condemnation. Condemnation proceedings shall be instituted only upon express approval by the emergency commission. Condemnation may only be used to protect the integrity of state lands that are appropriate for park and recreation purposes.
 - b. Subject to prior approval of the attorney general, lease or exchange such lands under ~~his~~ the director's jurisdiction or control ~~as he shall deem~~ deemed necessary for the improved management of state parks, state campgrounds, state recreation areas or reserves, ~~and may also, subject.~~

- c. Subject to prior approval of the attorney general, impose such conditions or reservations to such leases or exchanges as the director may deem necessary, ~~may accept.~~
- d. Accept gifts or grants of money or property from the United States or any other source ~~for such projects,~~ may use.
- e. Use and apply any money or property so received in accordance with the terms of the gift or grant so far as is not inconsistent with the provisions of this chapter or other lands, ~~may act.~~
- f. Act in behalf of the state as sponsor for any such project undertaken or authorized by the United States, may make.
- g. Make any sponsor's contribution required for any such projects out of moneys appropriated or otherwise made available therefor, ~~and may cooperate.~~
- h. Cooperate with the United States or any adjacent state or any authorized agency of either in planning, acquiring, constructing, maintaining, and operating any such project upon such terms and conditions as he the director may deem proper, not inconsistent with the laws of this state.

Approved March 27, 1979

CHAPTER 581

HOUSE BILL NO. 1381
(Olson, Lee, Stenehjem)

ALCOHOL CONSUMPTION IN STATE PARKS

AN ACT to provide that alcoholic beverage consumption in state parks and campgrounds may be restricted; and providing a penalty.

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

SECTION 1. STATE PARKS - ALCOHOLIC BEVERAGE CONSUMPTION RESTRICTED - PENALTY.) The director of North Dakota parks and recreation department may designate state parks or state campgrounds or an area therein where the use of alcoholic beverages is prohibited. Any person violating that designation shall be guilty of an infraction.

Approved March 10, 1979

CHAPTER 582

HOUSE BILL NO. 1081
(Legislative Council)
(Interim Committee on State and Federal Government)

HERITAGE COMMISSION REPEALED

AN ACT to repeal chapter 55-09 of the North Dakota Century Code, relating to the North Dakota heritage commission; and providing an effective date.

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

SECTION 1. REPEAL.) Chapter 55-09 of the North Dakota Century Code is hereby repealed.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall not become effective until July 1, 1981.

Approved March 3, 1979

CHAPTER 583

HOUSE BILL NO. 1259
(Lipsiea)

HISTORIC SITE ACQUISITION

AN ACT to amend and reenact section 55-10-11 of the North Dakota Century Code, relating to the acquisition of historic sites by the state historical society.

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

SECTION 1. AMENDMENT.) Section 55-10-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

55-10-11. ACCEPTANCE OF FEDERAL HISTORICAL PRESERVATION LAW.) The state of North Dakota hereby assents to the provisions of Public Law 89-665, [16 U.S.C. 470 et seq.] 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, and individuals 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.

Approved March 3, 1979

TAXATION

CHAPTER 584

SENATE BILL NO. 2256
(Committee on Finance and Taxation)
(At the request of the Tax Department)

SALES AND USE TAX COLLECTION AGREEMENTS

AN ACT to amend and reenact section 57-01-02.1 of the North Dakota Century Code, relating to sales and use tax collection agreements with home rule cities.

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

SECTION 1. AMENDMENT.) Section 57-01-02.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-02.1. SALES AND USE TAX COLLECTION AGREEMENTS WITH HOME RULE CITIES.)

1. The governing body of any incorporated city that has adopted the home rule provisions of chapter 40-05.1 and the tax commissioner are hereby authorized and empowered to enter into contractual agreements whereby the tax commissioner shall have authority to collect any sales and use taxes assessed by such incorporated city ~~and--remit--the--same--to--such incorporated-city.~~
2. It shall be the duty of the tax commissioner to deposit with the state treasurer all money collected by him under this section and to accompany each remittance with a certificate showing the city for which it was collected. The state treasurer, quarterly, shall pay to the city treasurers of the several cities the money to which they are entitled under this section.
3. ~~Such agreement~~ The agreements entered into under this section may also provide for an agreed amount to be allowed the tax commissioner for services rendered in connection with such collections. Any sums collected for services rendered shall be paid to the state treasurer for deposit in the general fund.

Approved March 15, 1979

CHAPTER 585

SENATE BILL NO. 2262
(Committee on Finance and Taxation)
(At the request of the Tax Department)

APPLICATION OF TAX REFUNDS AND CREDITS

AN ACT to create and enact a new section to chapter 57-01 of the North Dakota Century Code, relating to the application of refunds and credits; and providing an effective date.

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

SECTION 1.) A new section to chapter 57-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

APPLICATION OF REFUNDS AND CREDITS.) All refunds and credits for overpayment to any taxpayer may be applied to the payment of any taxpayer's delinquent or unpaid taxes, including penalties and interest, or delayed until the taxpayer's delinquent returns have been filed and all taxes due thereon, including penalties and interest, have been paid. This provision shall be applicable as to all taxes that are administered and collected by the tax commissioner and shall be effective for all refunds and credits determined payable or due a taxpayer after December 31, 1978.

Approved March 8, 1979

CHAPTER 586

HOUSE BILL NO. 1302
(Representatives Weber, Nicholas)
(Senator Shablow)

DEFINITION OF TRUE AND FULL VALUE

AN ACT to amend and reenact subsection 4 of section 57-02-01 of the North Dakota Century Code, relating to the definition of "true and full value".

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

SECTION 1. AMENDMENT.) Subsection 4 of section 57-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "True and full value" means the ~~usual-selling-price-at-the place-where-the-property-to-which-the-term-is-applied shall-be-at-the-time-of-the-assessment, that-being-the price-at-which-it-could-be-obtained-at-private-sale, and net-at-a-foreed-public-auction-sale. In-arriving-at-the true-and-full-value,~~ consideration may be given to value determined by considering the earning or productive capacity, if any, the market value, if any, and all other matters that affect the actual value of the property to be assessed. This shall include, for purposes of arriving at the true and full value of property used for agricultural purposes, farm rentals, soil capability, soil productivity, and soils analysis.

Approved April 7, 1979

CHAPTER 587

HOUSE BILL NO. 1442
(Representatives Tweten, A. Hausauer, Wessman)
(Senators Nelson, Tallackson, Thane)

DEFINITION OF REAL PROPERTY FOR TAX PURPOSES

AN ACT to amend and reenact section 57-02-04 of the North Dakota Century Code, relating to the definition of real property; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 57-02-04 of 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~~ oil or gas extracted from the earth, but not including such equipment or appurtenances located on leased oil and gas production sites, ~~or~~

b. ~~Sugar~~-beets.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for the listing and assessment of property after January 1, 1980, and the levy of taxes thereon for the year 1980 and thereafter.

Approved March 13, 1979

CHAPTER 588

SENATE BILL NO. 2299
(Senators Erdman, Nelson, Redlin)
(Representatives Peterson, Olson, Peltier)

WATER ENTITY PROPERTY TAX EXEMPTION

AN ACT to create and enact a new subsection to section 57-02-08 of the North Dakota Century Code, providing a property tax exemption for certain associations and corporations furnishing potable water.

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

SECTION 1.) A new subsection to section 57-02-08 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

All fixtures, buildings, and improvements owned by any cooperative or nonprofit corporation organized under the laws of this state and used by it to furnish potable water to its members and customers for uses other than the irrigation of agricultural land.

Approved March 15, 1979

CHAPTER 589

SENATE BILL NO. 2258
(Committee on Finance and Taxation)
(At the request of the Tax Department)

MISCELLANEOUS TAX PROVISIONS

AN ACT to create and enact a new section to chapter 57-58 of the North Dakota Century Code, relating to personal property replacement money; to amend and reenact subsection 2 of section 57-02-08.1, sections 57-05-01, 57-13-03, 57-34-02, and 57-34-03 of the North Dakota Century Code, relating to a minimum amount of refund for senior citizens, the assessment date of railroad property, the annual meeting place of the state board of equalization, reports of telephone companies, and the computation of telephone company tax by the tax commissioner.

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

SECTION 1. AMENDMENT.) A new section to chapter 57-58 of the North Dakota Century Code is hereby created and enacted to read as follows:

Notwithstanding any other provisions of this chapter, if a political subdivision has ceased to exist at the time of certification by the tax commissioner, it shall receive no money under the provisions of this chapter.

* SECTION 2. AMENDMENT.) Subsection 2 of section 57-02-08.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any person sixty-five years of age or older, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of eight thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, and who rents living quarters shall be eligible for refund for that part of his annual rent which is deemed by this subsection to constitute the payment of property tax and which is further deemed to represent a

* NOTE: Subsection 2 of section 57-02-08.1 was also amended by section 2 of House Bill No. 1385, chapter 595.

burdensome share of his income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, shall be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in excess of four percent of his annual income, but such refund shall not be in excess of one hundred seventy-five dollars. If the calculation for said refund is less than five dollars, a minimum of five dollars shall be sent to the qualifying applicant.

In no case shall a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection shall be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case shall this subsection apply to rents or fees paid by a person to a nursing home licensed pursuant to section 23-16-01 if that nursing home has been declared exempt from property taxation.

* SECTION 3. AMENDMENT.) Section 57-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-05-01. RAILROAD PROPERTY TO BE ASSESSED BY STATE BOARD OF EQUALIZATION.) The state board of equalization, at its annual meeting in August in each year, shall assess at its actual value on the first day of January of that year, the operating property, including franchises, except that if any railroad allows any portion of its railway to be used for any purpose other than the operation of a railroad thereon, such portion of its railway while so used shall be assessed in a manner provided for the assessment of other real property, of each railroad operated in this state, including any electric or other street or interurban railway. To enable said board to make a correct valuation of such property, it shall have access to all reports, estimates, and surveys of a line of railroad on file in the office of the public service commission and shall have power to summon and compel the attendance of witnesses, and to examine such witnesses under oath in any matter relating to the value of such property. In fixing the value of any such railroad, and of the branches and sidetracks thereof, the board shall be governed by the rules prescribed for county and township assessors in valuing other property in this state. The board shall make a record of the value placed by it upon the property of the railroad, including the valuation per mile of main line and of branch lines and sidetracks.

* NOTE: Section 57-05-01 was also amended by section 10 of House Bill No. 1169, chapter 501.

SECTION 4. AMENDMENT.) Section 57-13-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-13-03. ANNUAL MEETING TO EQUALIZE TAXABLE PROPERTY.) The state board of equalization shall meet annually on the second Tuesday in August at the office of the state tax commissioner or, if deemed advisable by the board because of inadequate space, at such other place on the grounds of the state capitol as may be adequate, and then shall examine and compare the returns of the assessment of taxable property as returned by the several counties in the state, and shall proceed to equalize the same so that all assessments of similar taxable property shall be uniform and equal throughout the state at the full and true value thereof in money or at such percentage of the full and true value as may be required by law.

SECTION 5. AMENDMENT.) Section 57-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-02. REPORTS OF TELEPHONE COMPANIES.) Each telephone company required to be assessed under the provisions of this chapter, annually, ~~under oath of~~ and subject to the provisions of section 12.1-11-02, the president, secretary, or other official of such company, shall make and file with the tax commissioner, on or before May first, on such form as the tax commissioner may prescribe, a report containing a statement of its telephone operating receipts in this state during the preceding calendar year, the number of stations in service on December thirty-first preceding, the number of miles of telephone line operated in providing telephone service, and such other information as the tax commissioner may require except that any telephone company having thirty telephone stations or less in service on December thirty-first preceding shall not be required to furnish a statement of its telephone operating receipts. Each report shall contain a statement of the number of stations located in each county served and each school district within such counties and the number of stations maintained per mile of telephone line in this state. Each telephone company subject to the provisions of this chapter, at the time of submitting its report to the tax commissioner, shall forward a copy of such report to the county auditor of each county in which it maintains a station or stations.

SECTION 6. AMENDMENT.) Section 57-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-34-03. COMPUTATION OF TAXES BY TAX COMMISSIONER.) On or before August first of each year, the tax commissioner shall compute the total tax to be assessed against each telephone company in this state in the following manner:

1. Telephone companies maintaining an average of one and twenty-five hundredths telephone stations or less per mile of telephone line operated in this state shall be taxed at

- the rate of one-half of one percent of their telephone operating receipts;
2. Telephone companies maintaining an average of not less than one and twenty-six hundredths and not more than one and seventy-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of one percent of their operating receipts;
 3. Telephone companies maintaining an average of not less than one and seventy-six hundredths and not more than two and twenty-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of one and one-half of one percent of their operating receipts;
 4. Telephone companies maintaining an average of more than two and twenty-five hundredths telephone stations per mile of telephone line operated in this state shall be taxed at the rate of two percent of their operating receipts.

Notwithstanding the provisions of subsections 1 through 4 of this section, if the tax due from any telephone company taxed under the provisions of this chapter shall be less than fifty cents per station maintained in this state, such company shall be subject to a tax of fifty cents per station, and, further, notwithstanding the provisions of subsections 1 through 4 of this section, any telephone company having ~~thirty~~ twenty telephone stations or less on December thirty-first preceding the year for which the tax computed under this section is assessed shall be ~~subject to a tax of fifty cents per station~~ exempt from the provisions of this chapter.

Approved March 8, 1979

CHAPTER 590

SENATE BILL NO. 2237
(Melland)

ONE-WAY SIGNALING SYSTEM EXEMPTION

AN ACT to amend and reenact section 57-06-01 of the North Dakota Century Code, relating to the exemption of one-way paging and communication systems from property taxation under chapter 57-06.

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

SECTION 1. AMENDMENT.) Section 57-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-06-01. PUBLIC UTILITIES SUBJECT TO PROVISIONS OF CHAPTER.) The provisions of this chapter shall govern the assessment of the property of any public utility company defined in section 57-06-02, and of any other company used directly or indirectly in carrying or conveying persons, property, or messages, unless the said operative property is subject to a lieu tax in place of a general property tax. This chapter shall not apply to the property of any railway or street railway company, nor to the personal property of a company, the only business of which is providing signaling, paging, or other similar message service in which only one-way communication is possible, and except as otherwise provided in chapter 57-32, shall not apply to the property of any car line, express or air transportation company.

Approved March 26, 1979

CHAPTER 591

SENATE BILL NO. 2297
(Lips, Solberg)

FORESTRY ACTIVITY MILL LEVY OR SERVICE CHARGE

AN ACT to provide for a mill levy or service charge by cities or park districts for the operation and maintenance of forestry activities.

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

SECTION 1. TAX LEVY FOR FORESTRY PURPOSES.) The governing body of a city or park district, upon approval by a fifty-five percent vote of the electors at any citywide or districtwide election, may annually levy a tax not in excess of five mills on the net taxable assessed valuation of property within the city or park district, for the purpose of providing funds for the establishment, operation and maintenance of forestry activities within the city or park district. Any such tax shall be in addition to and not restricted by any mill levy limit prescribed by law. The proceeds of any such levy may be used for forestry activities, including, but not limited to, the following: prevention or control of Dutch elm disease or other diseases which may affect trees, shrubs, and other vegetation; purchasing, planting, or removal of trees, shrubs, and other vegetation; pruning and maintenance of trees, shrubs, and other vegetation; purchasing of necessary equipment; hiring of personnel; contracting for services; public information and technical assistance; and other items related to forestry activities which may be necessary to provide for proper care, maintenance, propagation, and improvement of forestry resources within the city or park district.

SECTION 2. SERVICE CHARGE FOR FORESTRY PURPOSES.) In lieu of a mill levy as specified in section 1, a city or park district may propose a service charge as an alternative form of financing. Such alternative form of financing shall be approved by a fifty-five percent vote of the electors at any general or special citywide or districtwide election. The proceeds of any service charge may be used for forestry activities, as specified in section 1.

Approved April 7, 1979

CHAPTER 592

SENATE BILL NO. 2461
(Senators Thane, Sandness)
(Representative Dietz)

SCHOOL DISTRICT LEVY FOR UNEMPLOYMENT COMPENSATION

AN ACT to authorize a school district mill levy for unemployment compensation benefits.

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

SECTION 1. SCHOOL DISTRICT LEVY FOR UNEMPLOYMENT COMPENSATION BENEFITS.) The school board of any school district, upon the passage of a proper resolution, may levy a tax of not to exceed two mills on the net taxable assessed valuation of the school district for the purpose of covering the cost of unemployment compensation benefits. The mill levy authorized by this section shall be in addition to any mill levy limitations provided by law.

Approved April 3, 1979

CHAPTER 593

SENATE BILL NO. 2449
(Nelson)

TOWNSHIP LEVY FOR AIRPORT PURPOSES

AN ACT to create and enact a new section to chapter 57-15 and a new subsection to section 58-03-07 of the North Dakota Century Code, relating to a township tax levy for airport purpose and to the powers of townships concerning airports; and declaring an emergency.

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

SECTION 1.) A new section to chapter 57-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

TOWNSHIP LEVY FOR AIRPORT PURPOSES.) The electors of each township may vote at the annual meeting to levy a tax for the purpose of supporting an airport or an airport authority in an amount not exceeding four mills on the net assessed taxable valuation of the township, which levy shall be in addition to any mill levy limitations provided by law. The mill levy provided in this section shall not apply to any city, park district, or other taxing district that already has an airport levy.

SECTION 2.) A new subsection to section 58-03-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

To support an airport or to support or create an airport authority and to levy a tax for airport purposes within the limitations of section 1 of this Act.

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

Approved March 19, 1979

CHAPTER 594

HOUSE BILL NO. 1096
(Erickson)

DISTRICT-OWNED SCHOOL BUS LEVY

AN ACT to amend and reenact section 57-15-52.1 of the North Dakota Century Code, relating to the school district levy for district-owned school bus costs.

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

SECTION 1. AMENDMENT.) Section 57-15-52.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-15-52.1. SCHOOL DISTRICT LEVY FOR DISTRICT-OWNED SCHOOL BUS COSTS.) Upon resolution of the school board and approval of sixty percent of the voters in the school district at the next election, a school district may levy an amount not to exceed five mills for the purpose of paying for the cost of purchasing, operating, and maintaining district-owned school buses. Such levy may be discontinued by resolution of the school board, or if a petition signed by not less than twenty-five electors or five percent of the electors of the school district as indicated by the number of persons voting at the last school district election, whichever is greater, is presented to the school board and voted upon in the same manner as it was established. The levy provided in this section shall be over and above any mill levy limitations provided by law.

Approved March 19, 1979

CHAPTER 595

HOUSE BILL NO. 1385
(Representative Tweten)
(Senator Strand)

STATE AID FOR SENIOR CITIZEN PROGRAMS AND PROPERTY TAX CREDITS

AN ACT to provide a state matching program for county and city senior citizen programs and activities; to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to property tax credits for persons sixty-five years of age or older with limited income; providing an appropriation; and providing an effective date.

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

SECTION 1. STATE MATCHING PROGRAM FOR SENIOR CITIZEN PROGRAMS AND ACTIVITIES.) The social service board shall match funds levied by counties and cities for senior citizen programs and activities operated pursuant to the provisions of section 57-15-56. The grants shall be made on or before March first of each year and shall be equal to the amount levied for the previous taxable year by each county or city within the limitations of legislative appropriations.

* SECTION 2. AMENDMENT.) Section 57-02-08.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-02-08.1. PROPERTY TAX CREDITS FOR PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER WITH LIMITED INCOME.)

1. Any person sixty-five years of age or older in the year in which the tax was levied, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of ~~eight~~ nine thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, shall receive a reduction in the assessment on the assessed valuation on his homestead as defined in section 47-18-01, except that this exemption shall apply to any person who otherwise qualifies under the provisions of this subsection regardless of whether or not such person

* NOTE: Subsection 2 of section 57-02-08.1 was also amended by section 2 of Senate Bill No. 2258, chapter 589.

is the head of a family. The exemption to which any person may be entitled shall be determined according to the following schedule:

- a. If the person's income is not in excess of ~~three~~ four thousand five hundred dollars, a reduction of one hundred percent of the assessed valuation of the person's homestead up to a maximum reduction of four thousand dollars of assessed valuation.
- b. If the person's income is in excess of ~~three~~ four thousand five hundred dollars and not in excess of ~~four~~ five thousand five hundred dollars, a reduction of eighty percent of the assessed valuation of the person's homestead up to a maximum reduction of three thousand two hundred dollars of assessed valuation.
- c. If the person's income is in excess of ~~four~~ five thousand five hundred dollars and not in excess of ~~five~~ six thousand five hundred dollars, a reduction of sixty percent of the assessed valuation of the person's homestead up to a maximum reduction of two thousand four hundred dollars of assessed valuation.
- d. If the person's income is in excess of ~~five~~ six thousand five hundred dollars and not in excess of ~~six~~ seven thousand five hundred dollars, a reduction of forty percent of the assessed valuation of the person's homestead up to a maximum reduction of one thousand six hundred dollars of assessed valuation.
- e. If the person's income is in excess of ~~six~~ seven thousand five hundred dollars and not in excess of ~~eight~~ nine thousand dollars, a reduction of twenty percent of the assessed valuation of the person's homestead up to a maximum reduction of eight hundred dollars of assessed valuation.

In no case shall a husband and wife who are living together both be entitled to the credit as provided for in this subsection upon their homestead. The provisions of this subsection shall not reduce the liability of any person for special assessments levied upon his property. Any person eligible for the exemption herein provided shall sign a statement that he is sixty-five years of age or older or is permanently and totally disabled and that such income, including that of any dependent, as determined in this chapter does not exceed ~~eight~~ nine thousand dollars per annum. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. The assessor shall attach such statement to the assessment sheet and shall show the reduction on the assessment sheet.

2. Any person sixty-five years of age or older, or any person who is permanently and totally disabled as certified by a physician selected by the local governing body, with an income of ~~eight~~ nine thousand dollars or less per annum from all sources, including the income of any person dependent upon him, including any county, state, or federal public assistance benefits, social security, or other retirement benefits, and who rents living quarters shall be eligible for refund for that part of his annual rent which is deemed by this subsection to constitute the payment of property tax and which is further deemed to represent a burdensome share of his income. For the purpose of this subsection, twenty percent of the annual rent, exclusive of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, shall be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, said applicant shall receive a refund from the state general fund for that amount in excess of four percent of his annual income, but such refund shall not be in excess of one hundred seventy-five dollars. In no case shall a husband and wife who are living together both be entitled to the refund as provided for in this subsection. Each application for refund under this subsection shall be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner shall certify to the state treasurer the amount of the refund due, if any, and the state treasurer shall issue the refund from the state general fund to the applicant. In no case shall this subsection apply to rents or fees paid by a person to a nursing home licensed pursuant to section 23-16-01 if that nursing home has been declared exempt from property taxation.
3. All forms necessary to effectuate this section shall be prescribed and designed by the tax commissioner who shall annually distribute an adequate supply of same to each county director of tax equalization. The county directors of tax equalization shall make these forms available upon request.
4. In determining a person's income for eligibility under this section, the amount of medical expenses actually incurred by that person or any person dependent upon him and not compensated for by insurance or otherwise shall be deducted. For purposes of this section, the term "medical expenses" shall have the same meaning as it has for state income tax purposes.

SECTION 3. 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, to the social service board for the purpose of making matching grants to counties and cities for senior citizen programs and activities as provided in section 1 of this Act for the biennium beginning July 1, 1979, and ending June 30, 1981. If the moneys appropriated in this Act are not sufficient to make grants as provided in section 1, the available funds shall be prorated in the same proportion as such funds would have been had the appropriation been sufficient.

SECTION 4. EFFECTIVE DATE.) The provisions of section 2 of this Act shall be effective for assessments of property made on or after January 1, 1980, and for payments of rent for periods beginning on or after January 1, 1980.

Approved April 7, 1979

CHAPTER 596

SENATE BILL NO. 2455
(Senator Tennefos)
(Representative Kloubec)

TAXATION OF MIDA BOND INTEREST INCOME

AN ACT to amend and reenact sections 57-35-04, 57-35.1-01, and 57-35.2-02 of the North Dakota Century Code, relating to taxation of banks, trust companies, and savings and loan associations, and exempting from the basis of taxation interest or income on bonds issued under the Municipal Industrial Development Act; and to provide an effective date.

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

SECTION 1. AMENDMENT.) Section 57-35-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35-04. BASIS OF TAX.) The liability for the tax imposed by this chapter shall arise upon the first day of each calendar year, and shall be based upon and measured by the net income of each bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities, except for income from bonds for a project as provided for in subsection 4 of section 40-57-03, for such year as returned to the tax commissioner and county auditor, and the tax thereon shall be computed at the rate of five percent, but the minimum tax assessable to any one taxpayer shall be fifty dollars.

SECTION 2. AMENDMENT.) Section 57-35.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.1-01. DEFINITIONS.) As used in this chapter, unless the context or subject matter otherwise requires:

1. "Building and loan association" or "association" means any building and loan association or savings and loan association organized under the laws of the United States or the state of North Dakota, located in and having its principal place of business in this state.

2. "Net income" means gross income less the following deductions:
- a. Ordinary and necessary expenses paid or incurred in carrying on association business~~7~~.
 - b. Interest or dividends paid~~7~~.
 - c. Taxes, other than taxes imposed under this chapter, paid or accrued within the taxable year~~7~~ and~~7~~.
 - d. Losses incurred during the taxable year not compensated for by insurance or other reimbursement.
 - e. Interest or income received on bonds for a project as provided for in subsection 4 of section 40-57-03.

SECTION 3. AMENDMENT.) Section 57-35.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-35.2-02. IMPOSITION AND BASIS OF TAX.) An annual tax is hereby imposed upon each bank, trust company, and 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, 1970. The tax shall be based upon and measured by the net income of each bank, trust company, and building and loan association for the preceding calendar year, including the amount of income received from tax-exempt securities, but excluding the amount of income received from bonds for a project as provided for in subsection 4 of section 40-57-03. The amount of the tax shall be computed at a rate of two percent of such net income. 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 4. EFFECTIVE DATE.) This Act is effective for all taxable years beginning on or after January 1, 1979.

Approved April 7, 1979

CHAPTER 597

SENATE BILL NO. 2259
(Committee on Finance and Taxation)
(At the request of the Tax Department)

CONFIDENTIALITY OF TAX INFORMATION

AN ACT to create and enact a new subsection to section 25-09-05, a new section to chapter 57-35, a new section to chapter 57-35.1, and a new section to chapter 57-35.2 of the North Dakota Century Code, relating to confidentiality of tax information; and to amend and reenact subsection 4 of section 50-09-08, subsection 2 of section 57-37.1-22, and subsection 3 of section 57-38-57 of the North Dakota Century Code, relating to confidentiality of tax information.

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

SECTION 1.) A new subsection to section 25-09-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

When any official or employee of the state hospital or the state school who, pursuant to subsection 1 or subsection 2 of this section, obtains income tax information or other tax information from the state tax commissioner the confidentiality of which is protected by law, such official or employee shall not divulge such information except to the extent necessary for the administration of this chapter or when otherwise directed by judicial order or when otherwise provided by law.

SECTION 2.) A new section to chapter 57-35 of the North Dakota Century Code is hereby created and enacted to read as follows:

SECURITY AS TO TAXPAYERS' REPORTS AND RETURNS.) The secrecy of reports and returns shall be guarded except as follows:

1. Except when otherwise directed by judicial order, or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge or make known, in any manner, the amount of income, or any particulars set forth or disclosed in any report or return required under this chapter, including the copy of any portion thereof or information reflected in the taxpayer's federal income tax return that the tax commissioner may require to be attached to, furnished with, or included in the taxpayer's report or return required by this chapter. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.

2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing a tax similar to that imposed by this chapter, or the authorized representative of any such officer of the authorized agent of the multistate tax commission, to inspect the reports or returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the report or return of income of any taxpayer, or supply him with information concerning any item contained in any report or return, or disclosed by the report of any investigation of the income, or report or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United

States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

SECTION 3.) A new section to chapter 57-35.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

SECURITY AS TO TAXPAYERS' REPORTS AND RETURNS.) The secrecy of reports and returns shall be guarded except as follows:

1. Except when otherwise directed by judicial order, or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge or make known, in any manner, the amount of income, or any particulars set forth or disclosed in any report or return required under this chapter, including the copy or any portion thereof or information reflected in the taxpayer's federal income tax return that the tax commissioner may require to be attached to, furnished with, or included in the taxpayer's report or return required by this chapter. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.
2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing a tax similar to that imposed by this chapter, or the authorized representative of any such officer or the authorized agent of the multistate tax commission, to inspect the reports or returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the report or return of income of any taxpayer, or supply him with information concerning any item contained in any report or return, or disclosed by the report of any investigation of the income, or report or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United

States or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

SECTION 4.) A new section to chapter 57-35.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

SECURITY AS TO TAXPAYERS' REPORTS AND RETURNS.) The secrecy of reports and returns shall be guarded except as follows:

1. Except when otherwise directed by judicial order, or as is otherwise provided by law, the tax commissioner, his deputies, agents, clerks, and other officers and employees, shall not divulge or make known, in any manner, the amount of income, or any particulars set forth or disclosed in any report or return required under this chapter, including the copy or any portion thereof or information reflected in the taxpayer's federal income tax return that the tax commissioner may require to be attached to, furnished with, or included in the taxpayer's report or return required by this chapter. This provision shall not be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer who shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or any penalty imposed by this chapter. Reports and returns shall be preserved for three years and thereafter until the tax commissioner orders them to be destroyed.
2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing a tax similar to that imposed by this chapter, or the authorized representative of any such officer or the authorized agent

of the multistate tax commission, to inspect the reports or returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the report or return of income of any taxpayer, or supply him with information concerning any item contained in any report or return, or disclosed by the report of any investigation of the income, or report or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

SECTION 5. AMENDMENT.) Subsection 4 of section 50-09-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Request from state, county, and local agencies information deemed necessary to carry out the child support enforcement program. All officers and employees of state, county, and local agencies shall cooperate with the state and county agency in locating absent parents of children to whom an obligation of support is owed or on whose behalf assistance is being provided and, on request, shall supply the state or county agency with available information relative to the location, income, social security number, and property holdings of the absent parent, notwithstanding any provision of law making that information confidential. Any person acting under the authority of the social service board who pursuant to this subsection obtains information from the office of the state tax commissioner the confidentiality of which is protected by law shall not divulge such information except to the extent necessary for the administration of the child support enforcement program or when otherwise directed by judicial order or when otherwise provided by law.

SECTION 6. AMENDMENT.) Subsection 2 of section 57-37.1-22 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States imposing a tax similar to that imposed by this chapter, or the authorized representative of either any such officer, to inspect the estate tax return for any estate, or may furnish to such officer or his authorized representative an abstract of the return for any estate, or supply him with information concerning any item contained in any return, or disclosed by the report of any investigation of the estate, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States, or of such other state or of the District of Columbia or of any territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for the administration of tax laws administered by such person; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of any other state or of the United States or of the District of Columbia or of a territory of the United States shall be used by the tax commissioner only for the administration of tax laws administered by such commissioner.

SECTION 7. AMENDMENT.) Subsection 3 of section 57-38-57 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The tax commissioner, however, may permit the commissioner of internal revenue of the United States, or the proper officer of any state or of the District of Columbia or of any territory of the United States, imposing an income tax similar to that imposed by this chapter, or the authorized representative of ~~either~~ any such officer or the authorized agent of the multistate tax commission, to inspect the income tax returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract or copy of the return of income of any taxpayer, or supply him with information concerning any item contained in any return, or disclosed by the report

of any investigation of the income, or return of income, of any taxpayer, but such permission shall be granted, or such information furnished, to such officers or representatives only if the statutes of the United States, or of such other state or of the District of Columbia or of a territory of the United States, as the case may be, grant substantially similar privileges to the proper officer of this state charged with the administration of this chapter; provided that any information furnished or made available by the tax commissioner to any other person pursuant to this subsection shall be used by such person only for tax administration purposes; provided, further, that similar information furnished or made available to the tax commissioner by a representative or officer of the United States or of any other state or of the District of Columbia or a territory of the United States shall be used by the tax commissioner only for tax administration purposes.

Approved March 8, 1979

CHAPTER 598

HOUSE BILL NO. 1273
(Committee on Finance and Taxation)
(At the request of the Tax Department)

MISCELLANEOUS TAX CHANGES

AN ACT to create and enact a new section to chapter 57-39.2 of the North Dakota Century Code, relating to the retail sale of carpet and drapes; and to amend and reenact sections 43-07-04, 57-36-08, 57-36-12, 57-36-32, subsection 2 of section 57-39.2-04, subsection 5 of section 57-39.2-14, subsection 4 of section 57-52-03, and subsection 3 of section 57-53-01 of the North Dakota Century Code, relating to the requirement that an applicant for a contractor's license must have a sales tax permit, to provisions of the cigarette tax law for refunds, sale of tax stamps, and collection of the separate and additional tax, to provisions of the sales tax law relating to the exemption for freight transportation service, and the fee charged for reinstatement of a sales tax permit, and relating to the definition of special fuel.

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

SECTION 1.) A new section to chapter 57-39.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Notwithstanding any other provisions of this chapter, when a contractor or subcontractor who is a retailer and who furnishes and installs into or attaches to real property in this state drapes, hardware for hanging drapes, or carpet for floor covering, the contractor or subcontractor shall be deemed to have made a retail sale of such item.

SECTION 2. AMENDMENT.) Section 43-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-07-04. LICENSE - HOW OBTAINED.) To obtain a license under this chapter, an applicant shall submit, on such forms as the registrar shall prescribe, an application under oath containing a statement of the applicant's experience and qualifications as a contractor, and the value and character of the contract work completed by him during the one year preceding the date of such

application, and the names of the persons for whom such work was done. ~~The applicant shall obtain a use tax account number from the office of the state tax commissioner and report such number on the application.~~ A bond, as hereinafter prescribed, shall be filed with the application and the contractor shall submit a statement from the North Dakota workmen's compensation bureau that the contractor has secured workmen's compensation coverage satisfactory to that bureau along with such other information as may be required by the registrar to assist him in determining the applicant's fitness to act in the capacity of a contractor. The application shall contain a statement that the applicant desires the issuance of a license under the terms of this chapter, and shall specify the class of license sought. Any person refused a license by the registrar shall have a right of appeal from such refusal to the district court of Burleigh County, North Dakota, if a nonresident, or to the district court of the county of his residence, if a resident of North Dakota.

SECTION 3. AMENDMENT.) Section 57-36-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-08. STAMPS PREPARED BY COMMISSIONER.) The tax commissioner shall prepare and have suitable stamps for use on each kind of package prescribed in this chapter, and shall keep an accurate record of all stamps delivered, and a further accurate record of all stamps coming into and leaving his hands. The tax commissioner shall sell the stamps herein provided for only to ~~dealers~~ persons holding a "distributor's license", issued as provided in this chapter, but wholesale distributors of cigarettes located outside of this state, may apply for and receive a "distributor's license", as provided in section 57-36-02, and may purchase stamps from the tax commissioner and affix the same on cigarettes to be sold in this state, and shall cancel the same in the manner prescribed by the regulations of the tax commissioner. In such case, the purchaser within this state receiving such stamped cigarettes will not be required to purchase and affix stamps thereon.

SECTION 4. AMENDMENT.) Section 57-36-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-12. DISTRIBUTORS MAY NOT SELL STAMPS.) No distributor or wholesale dealer shall resell to any other distributor or dealer any stamps purchased by him from the tax commissioner, and any distributor who has on hand any unused and canceled stamps at the time of discontinuing the business of selling cigarettes may return such stamps to the tax commissioner and receive ~~ninety-five~~ ninety-seven percent of the face value thereof.

* SECTION 5. AMENDMENT.) Section 57-36-32 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-32. SEPARATE AND ADDITIONAL TAX ON THE SALE OF CIGARETTES - COLLECTION - ALLOCATION OF REVENUE - TAX AVOIDANCE

* NOTE: Section 57-36-32 was also amended by section 7 of House Bill No. 1588, chapter 551.

PROHIBITED.) There is hereby levied and assessed and there shall be collected by the ~~proper officer~~ state tax commissioner and paid to the state treasurer for crediting to the general fund, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of one-half mill on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state ~~treasurer~~ tax commissioner.

SECTION 6. AMENDMENT.) Subsection 2 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Gross receipts from the sales, furnishing, or service of passenger transportation service and gross receipts from the sales, furnishing, or service of freight transportation service when provided by a common carrier and title to the transported tangible personal property has passed from the seller to the purchaser.

SECTION 7. AMENDMENT.) Subsection 5 of section 57-39.2-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. ~~The commissioner shall charge a fee of five dollars for the issuance of a permit to a retailer whose permit has been previously revoked.~~ Whenever the holder of a permit has had such a permit revoked for failure to comply with the provisions of this chapter or any rules and regulations prescribed by the commissioner and adopted under this chapter, the commissioner shall charge a fee of fifty dollars for the issuance or reissuance of such permit. However, if a permit was revoked for filing returns showing no tax due for four consecutive quarters, the commissioner shall charge only a fee of five dollars for the issuance or reissuance of such permit.

SECTION 8. AMENDMENT.) Subsection 4 of section 57-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and shall include all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, except that it does not include motor vehicle fuels as defined in section 57-54-03;

SECTION 9. AMENDMENT.) Subsection 3 of section 57-53-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles and shall include all gases and liquids which meet the specifications as determined by the state laboratories department pursuant to the provisions of section 19-10-10, except that it does not include motor vehicle fuel defined in section 57-54-03;

Approved March 13, 1979

CHAPTER 599

HOUSE BILL NO. 1275
(Committee on Finance and Taxation)
(At the request of the Tax Department)

ESTATE TAX FEDERALIZATION

AN ACT to amend and reenact subsection 8 of section 57-37.1-01 of the North Dakota Century Code, relating to the federalizing of the estate tax; to amend and reenact subsection 1 of section 57-37.1-03 of the North Dakota Century Code, relating to the determination of the taxable estate; and to amend and reenact subsection 1 of section 57-37.1-13 of the North Dakota Century Code, relating to notice of transfer of a decedent's assets.

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

* SECTION 1. AMENDMENT.) Subsection 8 of section 57-37.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "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, ~~1976~~ 1978.

** SECTION 2. AMENDMENT.) Subsection 1 of section 57-37.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If all of the property included in the federal gross estate of a decedent has a situs in North Dakota, the North Dakota taxable estate shall be the federal taxable estate except:
 - a. The exemption to be deducted from the value of the ~~gross taxable~~ estate shall be two hundred thousand dollars.
 - b. The federal estate taxes ~~paid~~ assessed shall be deducted.
 - c. The North Dakota taxable estate shall not include the value of any gift made by the decedent more than three years prior to death.

* NOTE: Subsection 8 of section 57-37.1-01 was also amended by section 2 of House Bill No. 1156, chapter 600.

** NOTE: Section 57-37.1-03 was repealed by section 4 of House Bill No. 1156, chapter 600.

SECTION 3. AMENDMENT.) Subsection 1 of section 57-37.1-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 personal representative, agent, deputy, trustee, legatee, heir, surviving joint owner, or any other successor in interest of such decedent, shall give the tax commissioner notice of the any amount paid that had a value in excess of one thousand dollars, 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.

Approved March 15, 1979

CHAPTER 600

HOUSE BILL NO. 1156
 (Representatives Tweten, Crabtree, Thompson)
 (Senator Goodman)

ESTATE TAX COMPUTATION

AN ACT to state legislative intent concerning estate taxes; to amend and reenact subsection 8 of section 57-37.1-01 and section 57-37.1-04 of the North Dakota Century Code, relating to estate tax definitions and providing that the rate of the estate tax shall equal the maximum federal estate tax credit for state death taxes; to repeal section 57-37.1-03 of the North Dakota Century Code, relating to determination of North Dakota taxable estate; and declaring an emergency.

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

SECTION 1. LEGISLATIVE INTENT CONCERNING ESTATE TAXES.) The legislative intent is to not tax property transferred upon death. It is the intent of the legislative assembly to repeal the state estate tax to the extent possible without jeopardizing that portion of federal estate taxes which is allowed as a credit for state estate taxes. It is recognized that, if the state estate tax were totally repealed, the amount of federal estate taxes due would be increased by the amount of credit at no savings to the people of North Dakota.

* SECTION 2. AMENDMENT.) Subsection 8 of section 57-37.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "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, 1976 1978.

SECTION 3. AMENDMENT.) Section 57-37.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-04. COMPUTATION OF TAX.) The amount of tax imposed upon the transfer of the North Dakota taxable estate shall be ~~computed by applying to the North Dakota taxable estate the rates of~~

- * NOTE: Subsection 8 of section 57-37.1-01 was also amended by section 1 of House Bill No. 1275, chapter 599.

tax-prescribed-in-the-following-table

North-Dakota Taxable-Estate-----Rates-of-Tax

From-----To-----Tax-----Percent-----Of-Excess-Over

\$-----0	-----\$10,000	-----\$-----0	-----4	-----\$-----0
10,000	-----20,000	-----400	-----6	-----10,000
20,000	-----30,000	-----1,000	-----8	-----20,000
30,000	-----40,000	-----1,800	-----10	-----30,000
40,000	-----50,000	-----2,800	-----12	-----40,000
50,000	-----60,000	-----4,000	-----14	-----50,000
60,000	-----80,000	-----5,400	-----16	-----60,000
80,000	-----0,600	-----8,600	-----18	-----80,000

Provided--that--the--amount--of--tax--imposed--by--this--section--on--the--transfer--of--any--estate--shall--not--be--less--than--the--maximum--tax--credit--allowable--for--state--death--taxes--against--the--federal--estate--tax--imposed--with--respect--to--that--part--of--the--decedent's--estate--which--has--a--taxable--situs--in--this--state--equal--to--the--maximum--tax--credit--allowable--for--state--death--taxes--against--the--federal--estate--tax--imposed--with--respect--to--a--decedent's--estate--which--has--a--taxable--situs--in--this--state. If only a portion of a decedent's estate has a taxable situs in this state, such maximum tax credit shall be determined by multiplying the entire amount of the credit allowable against the federal estate tax for state death taxes by the percentage which the value of the portion of the decedent's estate which has a taxable situs in this state bears to the value of the entire estate. For the purposes of this section, "federal estate tax" means the tax imposed on transfers of estates of decedents pursuant to the United States Internal Revenue Code of 1954, as amended, and "North Dakota taxable estate" means all property in a decedent's federal gross estate that has a situs in North Dakota.

* SECTION 4. REPEAL.) Section 57-37.1-03 of the 1977 Supplement to 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 effect from and after its passage and approval.

Approved March 16, 1979

* NOTE: Subsection 2 of section 57-37.1-03 was amended by section 2 of House Bill No. 1275, chapter 599.

CHAPTER 601

HOUSE BILL NO. 1615
(Conmy)

INVENTORY OF SAFE DEPOSIT BOX CONTENTS

AN ACT to amend and reenact section 57-37.1-12 of the North Dakota Century Code, relating to access to the contents of safe deposit boxes after death of owner.

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

SECTION 1. AMENDMENT.) Section 57-37.1-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-37.1-12. DUTIES OF DEPOSITORIES - DENIAL-OF-ACCESS-TO-SAFE DEPOSIT-BOX-WITHOUT-ORDER-OF-COUNTY-COURT INVENTORY OF CONTENTS OF SAFE DEPOSIT BOX REQUIRED.) No safe deposit company, trust company, corporation, bank, or other institution or person engaged in the business of renting safe deposit boxes or other receptacles of similar character shall rent any such box or receptacle without first procuring from each person given access thereto an agreement in writing to the effect that upon the death of any person having the right of access to such box or receptacle, notice of such death will be given to such safe depository, bailee, or lessor before seeking access to such box or receptacle. A safe deposit company, trust company, corporation, bank, or other institution or person having the possession, control, custody, or partial custody of any safe deposit box or similar receptacle shall not permit access to such box or receptacle after the death of any person who at the time of his death had the right or privilege of access thereto, by any other person acting as principal, deputy, agent, personal representative, or cotenant of such deceased person, ~~without first securing from the judge of the county court an order in writing permitting such access to be made in the presence of a representative of the court and a representative of the person or institution having control of the safe deposit box. However, any person holding an interest jointly in a safe deposit box with another person may, upon the death of the other person, open the safe deposit box in the presence of an officer or other agent of the lesser of the box and inspect and inventory the contents without first securing from the judge of the county court an order in~~

writing-permitting-such-access until a complete inventory of the entire contents of the safe deposit box has been prepared by a person entitled to access to the box in the presence of an officer or other agent of the lessor of the box. The inventory so prepared shall be filed with the state tax commissioner by the lessor of the box within thirty days from the date of its preparation. After the lessor of the box has complied with the provisions of this section, it shall not limit access to the safe deposit box or similar receptacle by persons entitled to access thereto, and it shall be released of all liability to those persons and to the state of North Dakota for any assets, documents, or things taken from the safe deposit box or similar receptacle.

Approved March 7, 1979

CHAPTER 602

SENATE BILL NO. 2484
(Committee on Delayed Bills)
(At the request of Senator Goodman)

INCOME TAX FEDERALIZATION AND
DEDUCTIONS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to itemizing of deductions; to amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code, relating to the definition of the United States Internal Revenue Code of 1954, as amended, for North Dakota income tax purposes; providing an effective date; and declaring an emergency.

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

SECTION 1.) A new section to chapter 57-38 of the North Dakota Century Code is hereby created and enacted to read as follows:

Any individual taxpayer filing a North Dakota income tax return pursuant to the provisions of this chapter may itemize deductions in lieu of taking a standard deduction even though a standard deduction was used in determining federal taxable income; provided that married persons filing separately for state income tax purposes must both either itemize or take the standard deduction. This provision of law is effective for taxable years beginning on or after January 1, 1979.

SECTION 2. AMENDMENT.) Subsection 21 of section 57-38-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. "Federal Internal Revenue Code of 1954, as amended", "United States Internal Revenue Code of 1954, as amended", and "Internal Revenue Code of 1954, as amended", mean the United States Internal Revenue Code of 1954, as amended to and including December 31, ~~1976~~ 1978; provided, however, that those terms shall mean the United States Internal Revenue Code of 1954, as amended to and including December 31, 1976, for purposes of determining under this chapter the income tax return filing requirements, deductions for capital gains, allowances of deductions for personal

exemptions, low income allowance, and standard deduction for individuals, estates, and trusts; and provided further that the provisions of section 515 of the Revenue Act of 1978 [Public Law No. 95-600, section 515; 92 Stat. 2884, section 515] postponing the carryover basis rules of sections 1014(d), 1016(a), and 1023 of the United States Internal Revenue Code of 1954, as amended, for property acquired from decedents dying after December 31, 1976, to property acquired from decedents dying after December 31, 1979, are hereby retroactively incorporated for the purposes of this chapter, and any further postponement, modification, or repeal of those provisions by the Congress of the United States shall be applicable for the purposes of this chapter.

SECTION 3. EFFECTIVE DATE.) Except as otherwise provided in this Act for the carryover basis rules for property acquired from decedents dying after December 31, 1976, the provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

SECTION 4. EMERGENCY.) The provisions of this Act relating to the carryover basis rules for property acquired from decedents dying after December 31, 1976, is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved April 7, 1979

CHAPTER 603

HOUSE BILL NO. 1140
(A. Hausauer)

ARMED FORCES PAY ADJUSTMENT

AN ACT to amend and reenact subdivision k of subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to adjustments to individual income for amounts received from the armed services; and providing an effective date.

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

SECTION 1. AMENDMENT.) Subdivision k of subsection 1 of section 57-38-01.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- k. Reduced by any amount, up to a maximum of one thousand dollars, received by any person as payment for services performed while on active duty in the armed forces of the United States or as payment for attending periodic training meetings for drill and instruction as a member of the national guard or of a reserve unit of the armed forces of the United States. However, persons serving in the armed forces of the United States, except field grade and general officers, who are stationed outside of any state of the United States or the District of Columbia for not less than thirty days during the tax year shall be allowed an additional reduction of up to three hundred dollars per month for each month or portion of a month received as payment for services performed while on active duty at such location.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1979.

Approved March 3, 1979

CHAPTER 604

HOUSE BILL NO. 1306
(A. Hausauer, Schindler)

CONTRACT FOR DEED INTEREST ADJUSTMENT

AN ACT to create a new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to a reduction in the taxable income for interest received on certain contracts for deed; and to provide an effective date.

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

SECTION 1.) A new subdivision to subsection 1 of section 57-38-01.2 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Reduced by the amount of interest received during that taxable year on a contract for deed on the sale of eighty or more acres of agricultural land to a beginning farmer. The contract for deed must extend for not less than fifteen years and have an annual interest rate of not more than six percent. In order for an individual, estate, or trust to qualify for this reduction, the taxpayer must obtain a notarized statement from the buyer containing a list of the buyer's assets and debts and giving the buyer's net worth, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In determining the net worth of any person, including his dependents and spouse, if any, for purposes of this subdivision, the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings shall not be included. This statement shall be filed along with the income tax return. For the purposes of

this subdivision, "beginning farmer" means any person who:

- (1) Is a resident of this state.
- (2) Receives more than half his annual income from farming, unless the person initially commences farming during the tax year for which an adjustment will be claimed under this subdivision.
- (3) Intends to use any farmland that he wishes to purchase or rent for agricultural purposes.
- (4) Has had adequate training, by experience or education, in the type of farming operation which he wishes to begin.
- (5) Has, including the net worth of his dependents and spouse, if any, a net worth of less than fifty thousand dollars.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved March 23, 1979

CHAPTER 605

SENATE BILL NO. 2260
(Committee on Finance and Taxation)
(At the request of the Tax Department)

CORPORATE INCOME TAX ADJUSTMENT

AN ACT to amend and reenact subdivision d of subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to the deduction of taxes paid to foreign countries; and providing an effective date.

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

* SECTION 1. AMENDMENT.) Subdivision d of subsection 1 of section 57-38-01.3 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.3. ADJUSTMENTS TO TAXABLE INCOME FOR CORPORATIONS.)

1. The taxable income of a corporation as computed pursuant to the provisions of the Internal Revenue Code of 1954, as amended, shall be:

d. Increased by the amount of any income taxes, including income taxes of foreign countries, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. However, those taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.

SECTION 2. EFFECTIVE DATE.) This Act shall become effective for all taxable years beginning on or after January 1, 1979.

Approved March 12, 1979

* NOTE: Subdivision d of subsection 1 of section 57-38-01.3 was also amended by section 2 of House Bill No. 1130, chapter 612.

CHAPTER 606

HOUSE BILL NO. 1612
(Gackle)

INVESTMENT CREDIT CARRYBACK AND SUBCHAPTER S ELECTION

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to the carry back of investment credits for prior taxable years; to amend and reenact section 57-38-01.4 of the North Dakota Century Code, relating to the subchapter S election by shareholders of a corporation for income tax purposes; and to provide an effective date.

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

SECTION 1.) A new section to chapter 57-38 of the North Dakota Century Code is hereby created and enacted to read as follows:

REPORTING OF INVESTMENT CREDIT CARRY BACK FOR PRIOR TAXABLE YEARS.) A taxpayer who carries back an investment credit to prior taxable years for federal income tax purposes pursuant to section 46 (b) of the United States Internal Revenue Code of 1954, as amended, shall report any resulting adjustments to taxable income for state income tax purposes in the taxable year the federal income tax refunds are actually received or credited, and, notwithstanding the provisions of section 57-38-38, such a taxpayer need not report those adjustments by the filing of amended state income tax returns for the carry back years.

SECTION 2. AMENDMENT.) Section 57-38-01.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.4. RECOGNITION OF SUBCHAPTER S ELECTION.)

1. For the purposes of this chapter, any person as defined in section 57-38-01 and required to file a North Dakota income tax return who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, for federal income tax purposes shall have such status recognized and such person's taxable income shall be

computed as provided in subchapter S of the Internal Revenue Code of 1954, as amended, with the adjustments allowed by this chapter or other provisions of law.

2. Notwithstanding the provisions of subsection 1 of this section, any person therein described who makes an election under subchapter S of the Internal Revenue Code of 1954, as amended, may elect to have such status not recognized for purposes of filing returns pursuant to this chapter. In such case, the taxable income of the corporation shall be reported as is the taxable income of other corporations that are subject to the provisions of this chapter. The taxable income of each shareholder of such corporation shall be reduced by the amount of federal income taxes paid by the shareholder on that part of the income or gain of the corporation received by the shareholder ~~which was not~~ when received as a dividend ~~for which an adjustment was made~~ pursuant to subdivision i of subsection 1 of section 57-38-01.2 or subdivision g of subsection 1 of section 57-38-01.3.
3. Those persons who were required for taxable years beginning prior to January 1, 1969, to file as subchapter S taxpayers under subsection 1 of this section may elect for taxable years beginning on or after January 1, 1969, to have such status not recognized for purposes of filing returns pursuant to this chapter, provided such election is made, on a form prescribed by the tax commissioner, prior to the end of the taxable year that begins in 1969.
4. If an election to have such subchapter S status recognized or not recognized is made under subsection 2 or 3 of this section, a termination or revocation of such status or a subsequent election relating thereto shall be made only in accordance with the conditions and requirements prescribed for terminations, revocations and subsequent elections under subchapter S of the Internal Revenue Code of 1954, as amended.
5. The distributed and undistributed taxable income of an electing small business corporation for federal and state income tax purposes derived from or connected with sources in this state does constitute income derived from sources within this state for a nonresident person who is a shareholder of such a corporation, and a net operating loss of such corporation derived from or connected with sources in this state does constitute a loss or deduction connected with sources in this state for such a nonresident individual.

SECTION 3. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1979.

Approved March 13, 1979

CHAPTER 607

HOUSE BILL NO. 1506
(Representatives Koski, Crabtree)
(Senators Nething, Reiten)

CHARITABLE CONTRIBUTION CREDIT

AN ACT to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to the amount taxpayers may credit against the income tax for contributions to private colleges in the state; and providing an effective date.

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

* SECTION 1. AMENDMENT.) Section 57-38-01.7 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.7. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS - LIMITATION.) At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by such taxpayer during such year to nonprofit private institutions of higher education located within the state of North Dakota or to the North Dakota independent college fund.

1. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ~~twenty~~ forty percent of such taxpayer's total income tax under this chapter for such year, or ~~fifty~~ one hundred dollars, whichever is less.
2. In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent of such corporation's total income tax under this chapter for such year, or ~~five--hundred~~ one thousand dollars, whichever is less.

For the purpose of this section, the term "nonprofit private institution of higher education" shall mean only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum and which

* NOTE: Section 57-38-01.7 was also amended by section 1 of Senate Bill No. 2309, chapter 608.

normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. ~~This section shall apply only with respect to taxable years beginning on or after January 1, 1975.~~

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved March 19, 1979

CHAPTER 608

SENATE BILL NO. 2309
(Tennefos, Farrington)

PRIVATE INSTITUTION CONTRIBUTION CREDIT

AN ACT to amend and reenact section 57-38-01.7 of the North Dakota Century Code, relating to a credit for contributions to nonprofit private institutions of secondary and postsecondary education; and providing an effective date.

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

* SECTION 1. AMENDMENT.) Section 57-38-01.7 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-01.7. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -
LIMITATION.)

1. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by such taxpayer during such year to nonprofit private institutions of higher education located within the state of North Dakota or to the North Dakota independent college fund.

~~1-~~ a. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this ~~section~~ subsection for any taxable year shall not exceed ~~twenty forty~~ percent of such taxpayer's total income tax under this chapter for such year, or ~~fifty one~~ hundred dollars, whichever is less.

~~2-~~ b. In the case of a corporation, the amount allowable as a credit under this ~~section~~ subsection for any taxable year shall not exceed ten percent of such corporation's total income tax under this chapter for such year, or ~~five--~~ hundred one thousand dollars, whichever is less.

* NOTE: Section 57-38-01.7 was also amended by section 1 of House Bill No. 1506, chapter 607.

2. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by this chapter for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by such taxpayer during such year directly to nonprofit private institutions of secondary education, located within the state of North Dakota.
- a. In the case of a taxpayer other than a corporation, the amount allowable as a credit under this subsection for any taxable year shall not exceed twenty percent of such taxpayer's total income tax under this chapter for such year, or fifty dollars, whichever is less.
- b. In the case of a corporation, the amount allowable as a credit under this subsection for any taxable year shall not exceed ten percent of such corporation's total income tax under this chapter for such year, or five hundred dollars, whichever is less.
3. For the purpose of this section, the term "nonprofit private institution of higher education" shall mean only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. ~~This section shall apply only with respect to taxable years beginning on or after January 1, 1975.~~ The term "nonprofit private institutions of secondary education" shall mean only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction and which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades.

SECTION 2. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved April 7, 1979

CHAPTER 609

HOUSE BILL NO. 1562
(Herman, Mushik)

TAXATION OF RESIDENCE SALE PROCEEDS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, relating to the taxation of the gain or loss resulting from the sale of a principal residence by a taxpayer moving out of North Dakota; and providing for an effective date.

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

SECTION 1.) A new section to chapter 57-38 of the North Dakota Century Code is hereby created and enacted to read as follows:

TAXATION OF THE GAIN OR LOSS RESULTING FROM THE SALE OF A PRINCIPAL RESIDENCE.) Any gain or loss resulting from the sale or exchange of a principal residence in this state by a taxpayer who reinvests in another principal residence outside of this state shall be treated in the same way for state income tax purposes as it is treated for federal income tax purposes.

SECTION 2. EFFECTIVE DATE.) This section shall become effective for all taxable years beginning on or after January 1, 1979.

Approved March 7, 1979

CHAPTER 610

HOUSE BILL NO. 1563
(Representatives Maixner, Martin, Nicholas)
(Senators Albers, Barth, Rait)

TAXATION OF FORCED SALE PROCEEDS

AN ACT to create and enact a new section to chapter 57-38 of the North Dakota Century Code, providing for the exemption from taxation of proceeds realized from a forced sale due to eminent domain proceedings.

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

SECTION 1.) A new section to chapter 57-38 of the North Dakota Century Code is hereby created and enacted to read as follows:

NO GAIN RECOGNIZED ON PROPERTY SUBJECT TO EMINENT DOMAIN SALE OR TRANSFER.) If any private property, through the exercise of eminent domain, is involuntarily converted into property of either like or unlike kind, no gain, either ordinary or capital, shall be recognized for income tax purposes.

Approved March 7, 1979

CHAPTER 611

HOUSE BILL NO. 1058
(Legislative Council)
(Interim Committee on Finance and Taxation)

INTEREST ON TAX REFUNDS AND PENALTIES

AN ACT to amend and reenact section 57-38-35.1, subsection 1 of section 57-39.2-18, section 57-39.2-25, and subsection 1 of section 57-40.2-15 of the North Dakota Century Code, relating to interest, penalties, and refunds on income taxes and sales and use taxes; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 57-38-35.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38-35.1. MINIMUM REFUNDS AND COLLECTIONS - APPLICATION.) No income tax refunds shall be made by the tax commissioner to any taxpayer unless the amount to be refunded shall exceed one dollar. No remittance of income tax need be made nor any assessment or collection of tax should be made unless the amount exceeds one dollar, including penalties and interest. All refunds and credits for overpayment to any taxpayer may be applied to payment of taxpayer's delinquent income taxes or delayed until taxpayer's delinquent returns have been filed. ~~The provisions of this section to be effective for all returns filed after December 31, 1964.~~ Interest of seven percent per annum shall be allowed and paid upon any overpayment of tax from sixty days after the due date of the return or after the date such return was filed or after the date the tax due was fully paid, whichever comes later, to the date of the refund. If the amount of tax imposed by chapter 57-38 is reduced by reason of a carryback of a net operating loss or net capital loss, the interest in this section shall not start accruing until after the close of the taxable year in which the net operating loss or net capital loss occurred.

SECTION 2. AMENDMENT.) Subsection 1 of section 57-39.2-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person failing to file a return or corrected return or to pay any tax within the time required by this chapter shall be subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, plus interest of one percent of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, refund all or any part of such penalty and interest. Such penalty and interest shall be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties and interest may be enforced in the same manner as the tax imposed by this chapter.

SECTION 3. AMENDMENT.) Section 57-39.2-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-39.2-25. PAYMENT OF REFUND.) Wherever by any provisions of this chapter a refund is authorized, the commissioner shall certify the amount of the refund, the reason therefor and the name of the payee to the department of accounts and purchases, who shall thereupon draw a warrant on the general fund in the amount specified payable to the named payee. Interest of seven percent per annum shall be allowed and paid upon any overpayment of tax from sixty days after the due date of the return or after the date such return was filed or after the date the tax due was fully paid, whichever comes later, to the date of the refund.

SECTION 4. AMENDMENT.) Subsection 1 of section 57-40.2-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person failing to file a return or corrected return or to pay any tax imposed pursuant to this chapter, within the time required by this chapter, shall be subject to a penalty of five percent of the amount of tax due or of five dollars, whichever is greater, plus interest of one percent of such tax for each month of delay or fraction thereof, excepting the first month after such return was required to be filed or such tax became due. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, refund all or any part of such penalty and interest. Such penalty and interest shall be paid to the commissioner and disposed of in the same manner as the tax with respect to which it is attached. Unpaid penalties and interest may be enforced in the same manner as is the tax.

SECTION 5. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable periods beginning on or after January 1, 1979.

Approved March 7, 1979

CHAPTER 612

HOUSE BILL NO. 1130
(Kingsbury, Bjornson, Melby, Peltier, Thompson)

BUSINESS PRIVILEGE TAX REPEALED

AN ACT to amend and reenact subdivision f of subsection 1 of section 57-38-01.2 and subdivision d of subsection 1 of section 57-38-01.3 of the North Dakota Century Code, relating to adjustments to taxable income for individuals and fiduciaries and to adjustments to taxable income for corporations; to repeal section 57-38-66 of the North Dakota Century Code, providing for a business and corporation privilege tax; and to provide an effective date.

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

SECTION 1. AMENDMENT.) Subdivision f of subsection 1 of section 57-38-01.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- f. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. ~~However, these taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.~~

* SECTION 2. AMENDMENT.) Subdivision d of subsection 1 of section 57-38-01.3 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. Increased by the amount of any income taxes, or franchise or privilege taxes measured by income, to the extent that such taxes were deducted to determine federal taxable income. ~~However, these taxes, paid or accrued as the case may be during the applicable tax year, imposed by section 57-38-66 of this chapter shall be allowable as a deduction when determining taxable income for state income tax purposes.~~

SECTION 3. REPEAL.) Section 57-38-66 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

SECTION 4. EFFECTIVE DATE.) The provisions of this Act shall be effective for all taxable years beginning on or after January 1, 1981.

Approved March 23, 1979

- * NOTE: Subdivision d of subsection 1 of section 57-38-01.3 was also amended by section 1 of Senate Bill No. 2260, chapter 605.

CHAPTER 613

HOUSE BILL NO. 1475
(Representatives Nicholas, Weber)
(Senators Iszler, Barth)

BEGINNING FARMER TAX INCENTIVES

AN ACT to provide for income tax deductions as incentives for landowners to sell or lease land to beginning farmers; and to provide an effective date.

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. "Agricultural purposes" means production of agricultural crops, livestock or livestock products, poultry or poultry products, and fruit or other horticultural crops.
2. "Beginning farmer" means any person who:
 - a. Is a resident of this state.
 - b. Receives more than half his annual income from farming, unless the person initially commences farming during the tax year for which a deduction will be claimed under this Act.
 - c. Intends to use any farmland that he wishes to purchase or rent for agricultural purposes.
 - d. Has had adequate training, by experience or education, in the type of farming operation which he wishes to begin on the purchased or rented land referred to in subdivision c.
 - e. Has, including his dependents and spouse, if any, a net worth of less than fifty thousand dollars, not including the value of their equity in their principal residence, the value of one personal or family motor vehicle, and the value of their household goods, including furniture, appliances, musical instruments, clothing, and other personal belongings.

3. "Landowner" means any person owning land in North Dakota, except that any person who acquires such land for the purpose of obtaining the income tax deduction provided for in this Act shall not be deemed to be a landowner.

SECTION 2. INCOME TAX DEDUCTION FOR SALES TO BEGINNING FARMERS.) Any landowner who sells land consisting of twenty acres or more to a beginning farmer shall be entitled to a reduction in his taxable income for the year in which the sale occurred in an amount equal to fifty percent of any income realized and otherwise subject to state income taxes after consideration of any capital gains treatment, up to a maximum of fifty thousand dollars.

SECTION 3. RENT FROM BEGINNING FARMERS EXEMPT FROM INCOME TAX.) Fifty percent of any income received and otherwise subject to taxation for state income tax purposes resulting from the rental of any land consisting of twenty acres or more by a landowner to a beginning farmer under any agreement providing for a lease for at least three years shall be exempt from income taxes provided that no landowner may exclude more than twenty-five thousand dollars pursuant to this section in any tax year nor may any landlord claim this deduction for agreements with more than one beginning farmer for rentals on the same tract or parcel of land.

SECTION 4. CLAIM FOR INCOME TAX DEDUCTION FOR SALE OR RENTAL TO A BEGINNING FARMER.) In order for a taxpayer to qualify for the deductions provided in this Act, the taxpayer shall file with his state income tax return a notarized statement from the beginning farmer who purchased or rented land from him containing a list of the assets, debts, and net worth of the beginning farmer, together with such other information as the state tax commissioner may require. The value placed on any real property located in North Dakota and owned by the buyer shall be the amount listed as the current market value on the most recent real estate tax statement for that particular piece of property. In order for a taxpayer to qualify for the deduction for rental income provided in section 3 of this Act, the taxpayer shall certify on his tax return that any rental arrangement with any other person was not canceled for the purpose of qualifying for this deduction.

SECTION 5. EFFECTIVE DATE.) The provisions of this Act shall be effective for taxable years beginning on or after January 1, 1979.

Approved March 23, 1979

CHAPTER 614

HOUSE BILL NO. 1269
(Committee on Finance and Taxation)
(At the request of the Tax Department)

ALLOCATION OF PUBLIC UTILITY INCOME

AN ACT to amend and reenact section 57-38.1-02 of the North Dakota Century Code, relating to the taxation of public utilities; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 57-38.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-38.1-02. TAXPAYERS - APPLICABILITY.) Any taxpayer having income from business activity which is taxable both within and without this state, including a public utility, but other than activity as a financial organization ~~or public utility~~ or the rendering of purely personal service by an individual, shall allocate and apportion his net income as provided in this chapter.

SECTION 2. EFFECTIVE DATE.) This section shall become effective for taxable years beginning on or after January 1, 1979.

Approved March 7, 1979

CHAPTER 615

HOUSE BILL NO. 1507
(Koski, Conmy, Timm, Unhjem)

RETAILER INCLUDES PUBLICLY OWNED FACILITY

AN ACT to amend and reenact subsection 5 of section 57-39.2-01 and subsection 4 of section 57-39.2-04 of the North Dakota Century Code, relating to the circumstances under which the receipts from educational, religious, or charitable activities are not exempt from the sales tax.

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

SECTION 1. AMENDMENT.) Subsection 5 of section 57-39.2-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Retailer" includes every person engaged in the business of leasing or renting hotel, motel, or tourist court accommodations, and every person engaged in the business of selling tangible goods, wares, or merchandise at retail, or furnishing of steam, gas, electricity, water and communication services, or tickets or admissions to places of amusement, entertainment and athletic events including the playing of any machine for amusement or entertainment in response to the use of a coin, or magazines, or other periodicals, and any person engaged in operating or managing a publicly owned facility; and shall include any person as herein defined who by contract or otherwise agrees to furnish for a consideration a totally or partially finished product consisting in whole or in part of tangible personal property subject to the sales tax herein provided, and all items of tangible personal property entering into the performance of such contract as a component part of the product agreed to be furnished under said contract shall be subject to the sales tax herein provided and the sales tax thereon shall be collected by the contractor from the person for whom the contract has been performed in addition to the contract price agreed upon, and shall be remitted to the state in the manner provided in this chapter; and shall include the state or any municipality furnishing steam, gas,

electricity, water, or communication service to members of the public in its proprietary capacity. For the purpose of this chapter retailer shall also include every clerk, auctioneer, agent or factor selling tangible personal property owned by any other retailer.

SECTION 2. AMENDMENT.) Subsection 4 of section 57-39.2-04 of the 1977 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, unless the activities are held in a publicly owned facility, where the entire amount of net 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 27, 1979

CHAPTER 616

HOUSE BILL NO. 1397
(Nicholas, Crabtree)

HOSPITAL SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 24 of section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions for all sales to hospitals licensed by the state health department.

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

SECTION 1. AMENDMENT.) Subsection 24 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24. Gross receipts from all sales otherwise taxable under this chapter when made to any hospital, skilled nursing facility, or intermediate care facility licensed by the state health department, and boarding homes for the aged and infirm licensed by the social service board of North Dakota.

Approved March 24, 1979

CHAPTER 617

HOUSE BILL NO. 1290
(Herman, Mushik)

OSTOMY SUPPLIES SALES TAX EXEMPTION

AN ACT to amend and reenact subsection 26 of section 57-39.2-04 of the North Dakota Century Code, relating to the exemption of ostomy supplies from the sales tax.

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

SECTION 1. AMENDMENT.) Subsection 26 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26. Gross receipts from sales of:

- a. Artificial devices individually designed, constructed, or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual.
- b. Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body.
- c. Artificial teeth sold by a dentist.
- d. Eye glasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.
- e. Crutches and wheelchairs for the use of invalids and crippled persons.
- f. Devices and supplies designed or intended for ostomy care and management to include collection devices, colostomy irrigation equipment and supplies, skin barriers or skin protectors, and other supplies especially designed for use of ostomates.

Approved March 3, 1979

CHAPTER 618

SENATE BILL NO. 2196
(Redlin)

HANDICAPPED EQUIPMENT TAX EXEMPTIONS

AN ACT to create and enact three new subdivisions to subsection 26 of section 57-39.2-04 and three new subdivisions to subsection 12 of section 57-40.2-04 of the North Dakota Century Code, relating to exemptions from sales and use tax for sales of equipment used to modify motor vehicles, real property, and motorized implements of husbandry for use by physically disabled individuals; and to create and enact a new subsection to 57-40.3-04 of the North Dakota Century Code, relating to an exemption from the motor vehicle excise tax for certain sales to handicapped individuals.

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

SECTION 1.) Three new subdivisions to subsection 26 of section 57-39.2-04 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.

Equipment, including elevators, dumb waiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.

Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by a permanently physically disabled person.

SECTION 2.) Three new subdivisions to subsection 12 of section 57-40.2-04 of the 1977 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

Equipment, including manual control units, van lifts, van door opening units, and raised roofs, for attaching to or modifying a motor vehicle for use by a permanently physically disabled person.

Equipment, including elevators, dumb waiters, chair lifts, and bedroom or bathroom lifts, whether or not sold for attaching to real property, for use by a permanently physically disabled person in that person's principal dwelling.

Equipment, including manual control units, for attaching to or modifying motorized implements of husbandry for use by permanently physically disabled persons.

SECTION 3.) A new subsection to section 57-40.3-04 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Any motor vehicle which does not exceed ten thousand pounds gross weight and which is acquired by a permanently physically disabled, licensed driver who is restricted to operating only motor vehicles equipped with special controls to compensate for the disability, or by permanently physically disabled individuals who have either surrendered or who have been denied a driver's license because of a permanent physical disability, provided the individuals obtain from the state highway commissioner or his authorized representative a statement that the individual has such a restricted driver's license or has either surrendered or has not been issued a driver's license because of a permanent physical disability; a copy of the statement shall be attached to the application for registration of the title to the motor vehicle for which the exemption from tax under this chapter is claimed. Any motor vehicle acquired subject to this exemption must be disposed of either by transfer to another permanently physically disabled person or by a trade-in on another exempt sale or by a transfer involving a sale subject to sales or use tax before another motor vehicle can be acquired subject to the benefits of this exemption clause.

Approved March 22, 1979

CHAPTER 619

HOUSE BILL NO. 1430
(Richard, Pomeroy)

EXCISE TAX EXEMPTION FOR ASSEMBLED VEHICLE

AN ACT to create and enact a new subsection to section 57-40.3-04 of the North Dakota Century Code, relating to an exemption from the motor vehicle excise tax for assembled motor vehicles.

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

SECTION 1.) A new subsection to section 57-40.3-04 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Any motor vehicle being registered pursuant to chapter 39-04 for the first time by a person who manufactured or assembled the motor vehicle for his own use.

Approved March 19, 1979

CHAPTER 620

HOUSE BILL NO. 1111
(Committee on Political Subdivisions)
(At the request of the Bank of North Dakota)

COUNTY LOAN APPLICATION APPROVAL

AN ACT to amend and reenact section 57-47-04 of the North Dakota Century Code, relating to the approval of loan applications by the Bank of North Dakota instead of the industrial commission.

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

SECTION 1. AMENDMENT.) Section 57-47-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-47-04. LEVY OF TAX TO REPAY LOAN - LIMITATION.) Upon the approval of an application for a loan by the ~~industrial--commission~~ Bank of North Dakota, the board of county commissioners applying for such loan shall be required to levy a general tax from year to year upon all of the general taxable property of the county, not to exceed three mills for any one year, for the purpose of providing funds sufficient to repay the amount of said loan, with interest, at the time of maturity such loan to be evidenced by the issuance of certificates of indebtedness in the same manner and form as now prescribed by law. The levy of said tax shall not be subject to any existing mill levy limitations for general or special county purposes, but shall be in addition thereto. The tax shall be levied and collected at the same time and in the same manner as other general or special taxes for county purposes are levied and collected.

Approved February 8, 1979

CHAPTER 621

SENATE BILL NO. 2338
(Thane, Nelson, Smykowski, Strinden)

FUEL TAX LOWERED FOR GASOHOL

AN ACT to amend and reenact section 57-54-08 of the North Dakota Century Code, to reduce the motor vehicle fuel tax on sales of gasohol; and declaring an emergency.

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

* SECTION 1. AMENDMENT.) Section 57-54-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-54-08. TAX IMPOSED ON MOTOR VEHICLE FUELS.) There is hereby imposed a tax of eight cents per gallon on all motor vehicle fuel sold or used in this state. Provided, however, the tax imposed by this section on unleaded gasoline sold which contains a minimum ten percent blend of an agricultural ethyl alcohol whose purity is at least ninety-nine percent alcohol shall be four cents per gallon. The tax imposed by this section shall be collected by the dealer from the consumer on all sales. Sales of fuel in the original package may be made to a licensed dealer, and he shall have the option of collecting the tax imposed by this chapter, but on sales in the original package to persons other than licensed dealers, the dealer shall be liable for the tax thereon.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 19, 1979

* NOTE: Section 57-54-08 was also amended by section 9 of House Bill No. 1384, chapter 100.

CHAPTER 622

SENATE BILL NO. 2432
(Lee)

DEFINITION OF MOBILE HOME

AN ACT to amend and reenact section 57-55-01 of the North Dakota Century Code, relating to the definition of mobile home for the purpose of taxation.

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

SECTION 1. AMENDMENT.) Section 57-55-01 of 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, having a length of twenty-seven feet or more, ordinarily designed for human living quarters, either on a temporary or permanent basis, and used as ~~the~~ a residence or place of business of the owner or occupant.

Approved April 7, 1979

CHAPTER 623

HOUSE BILL NO. 1414
(Kennelly)

MOBILE HOME TAX PENALTIES AND INTEREST

AN ACT to amend and reenact section 57-55-03 of the North Dakota Century Code, relating to interest due on delinquent mobile home tax; and to amend and reenact section 57-55-11 of the North Dakota Century Code, relating to the collection of the mobile home tax.

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

SECTION 1. AMENDMENT.) Section 57-55-03 of 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. If any tax remains due after the January first following, interest shall be

charged at the monthly rate of one-half percent of the tax due for each month or fraction thereof until the aforesaid tax and penalty has been paid in full.

SECTION 2. AMENDMENT.) Section 57-55-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-55-11. COLLECTION - ENFORCEMENT.)

1. 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~~ may begin civil action against such person. In the ~~event~~ alternative, if the director of tax equalization shall determine that there are mobile homes in his county belonging to transients or nonresidents who have failed to comply with the provisions of this chapter, and in his opinion the taxes will be uncollectible 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, and interest, if any, which are due.
2. Before a mobile home is moved from its existing location, the owner must have a current year's mobile home decal displayed thereon or must display on the mobile home during transport a tax release statement obtained from the county director of tax equalization indicating that all taxes, penalties and interest levied against the mobile home have been paid. A violation of this provision shall constitute an infraction.

Approved March 13, 1979

CHAPTER 624

SENATE BILL NO. 2047
(Legislative Council)
(Interim Budget Section)

PERSONAL PROPERTY TAX REPLACEMENT PAYMENTS

AN ACT to amend and reenact section 57-58-01 of the North Dakota Century Code, relating to due dates of payments for the personal property tax replacement.

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

SECTION 1. AMENDMENT.) Section 57-58-01 of 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~~ June 1, ~~1971~~ 1980, 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 former section 57-15-23*, and the grain tax under the provisions of former chapter 57-03*, together with any adjustments to be made ~~according to~~ in 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~~ June 1, ~~1971~~ 1980, 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~~ 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.

Approved March 21, 1979

CHAPTER 625

HOUSE BILL NO. 1485
(Representatives A. Hausauer, Nicholas, Opedahl)
(Senators Albers, Farrington, Redlin)

COAL CONVERSION FACILITY TAX ON OPERATOR

AN ACT to create and enact a new subsection to section 57-60-01 of the North Dakota Century Code, relating to the tax on coal conversion facilities in this state; to amend and reenact subsection 4 of section 57-33.1-01 of the North Dakota Century Code, relating to the taxation of cooperative electrical generating plants and to amend and reenact section 57-60-02 of the North Dakota Century Code relating to tax on coal conversion facilities in this state.

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

SECTION 1. AMENDMENT.) Subsection 4 of section 57-33.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Electrical energy generating or generation plant" shall mean all buildings, fixtures, machinery, tools, appliances, or all other things, located within a confined site in the state of North Dakota, used, useful, or necessary in the generation of electrical energy and which has at least one single electrical energy generation unit with a capacity of one hundred thousand kilowatts or more; which property and any transmission lines with a carrying capacity of two hundred thirty kilovolts or larger and related substations owned or operated by cooperatives subject to the provisions of this chapter and carrying energy the gross receipts of which are subject to the tax imposed by subsection 1 of section 57-33.1-02, shall be classified as personal property; and

SECTION 2.) A new subsection to section 57-60-01 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"Operator" means any person owning, holding or leasing a coal conversion facility and conducting the conversion of coal into the products of such facilities.

SECTION 3. AMENDMENT.) Section 57-60-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-02. IMPOSITION OF TAXES.) Each There is hereby imposed upon the operator of each coal conversion facility shall--pay an annual tax for the privilege of producing products of such coal conversion facility. The rate of the tax shall be computed as follows:

1. For all coal conversion facilities, other than electrical generating plants and coal gasification plants as provided in subsections 2 and 3 of this section, the tax shall be measured by the gross receipts derived from such facility for the preceding calendar year and shall be in the amount of two and one-half percent of such gross receipts;
2. For electrical generating plants, the tax shall be at a rate of twenty-five one-hundredths of one mill on each kilowatt hour of electricity produced for the purpose of sale; and
3. For coal gasification plants, the tax shall be either the amount provided in subsection 1 or ten cents on each one thousand cubic feet of synthetic natural gas produced for the purpose of sale, whichever is greater.

Approved March 19, 1979

CHAPTER 626

HOUSE BILL NO. 1257
(Representatives Freborg, Gackle, A. Hausauer)
(Senators Melland, Goodman, Jacobson)

COAL SEVERANCE TAX AND DEVELOPMENT IMPACT

AN ACT to provide for a severance tax upon all coal mined; to provide procedures for the imposition, collection, and administration of such tax; to provide for the allocation of moneys collected; to provide for impact loans to be administered by the board of university and school lands; and to provide a penalty.

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

SECTION 1. SEVERANCE TAX UPON COAL - IMPOSITION - COMPUTATION OF INCREASES - IN LIEU OF SALES AND USE TAXES - PAYMENT TO THE TAX COMMISSIONER.) There is hereby imposed upon all coal severed for sale or for industrial purposes by coal mines within the state a tax in an amount to be determined as follows:

1. Eighty-five cents per ton of two thousand pounds; and
2. For every four point increase in the index of wholesale prices for all commodities prepared by the United States department of labor, bureau of labor statistics, the amount of the severance tax provided in subsection 1 shall be increased one cent per ton of two thousand pounds. For the purposes of this computation, a fractional point increase shall be disregarded if less than one-half point and treated as one full point if one-half point or more. The state tax commissioner shall determine such increases based upon increases in the wholesale price index from the level of such index as of June 1979 to the level of such index as of December 1979 and of June and December of each year thereafter, and any increases based upon the level of the index in June shall be effective on and after the following July first and any increases based upon the level of the index in December shall be effective on and after the following January first. At no time shall the amount of the severance tax be reduced. If the wholesale price index declines, the severance tax shall remain at the highest level determined prior to such decline, and

shall remain at such level until further increases are warranted because of further increases in the wholesale price index beyond the point at which the last increase was determined.

Such severance tax shall be in lieu of any sales or use taxes imposed by law. Each coal mine owner or operator shall remit such tax for each calendar quarter, within thirty days after the end of each quarter, to the state tax commissioner upon such reports and forms as the tax commissioner shall deem necessary. If the method of determining increases in the amount of the severance tax provided in subsection 2 is for any reason held to be invalid, such decision shall not affect the validity of the amount of the tax provided in subsection 1.

SECTION 2. WHEN TAX DUE - WHEN DELINQUENT.) The severance tax as provided in this chapter shall be due within thirty days after the end of each quarter, and if not received by the thirtieth day, shall become delinquent and shall be collected as herein provided. The tax commissioner, upon request and a proper showing of the necessity therefor, may grant an extension of time, not to exceed fifteen days, for paying the tax, and when such a request is granted, the tax shall not be delinquent until the extended period has expired. The tax commissioner shall require a report to be filed quarterly by each owner or operator of a coal mine, in such form as the tax commissioner may specify, to list a full description of the mine, the number of tons of coal severed, the amount of tax due and remitted, and any other information deemed necessary by the tax commissioner for the proper administration of this chapter.

SECTION 3. POWERS OF STATE TAX COMMISSIONER.) The state tax commissioner shall have the power to require any person engaged in such production, and the agent or employee of such person, or purchaser of such coal, or the owner of any royalty interest therein, to furnish any additional information by him deemed to be necessary for the purpose of correctly computing the amount of said tax, and to examine the books, records, and files of such person, and shall have power to conduct hearings and compel the attendance of witnesses, the production of books, records, and papers of any person, and full authority to make any investigation or hold any inquest deemed necessary to a full and complete disclosure of the true facts as to the amount of production from any coal mine or of any company or other producer thereof, and as to the rendition thereof for taxing purposes.

SECTION 4. TAX COMMISSIONER TO COMPUTE TAX ON INCORRECT RETURNS.) The state tax commissioner shall have the power and authority to ascertain and determine whether or not any report or remittances filed with him are correct, and if the owner or operator has made an untrue or incorrect report or remittance, the commissioner shall ascertain the correct amount of taxes due, and give immediate notice to the owner or operator filing the incorrect return or remittance. Any coal mine operator or owner receiving notice from the tax commissioner that he has filed an incorrect

return or remittance shall remit the tax assessed by the commissioner within fifteen days of such notice. Any owner or operator aggrieved by a decision of the tax commissioner may make application in writing within fifteen days of notification for a hearing which shall be granted not later than fifteen days after receipt of the application. The tax commissioner may grant or reject, in whole or in part, the contentions of the owner or operator and upon conclusion of the hearing shall proceed to make a final determination of taxes due. Such taxes assessed by the commissioner shall become delinquent five days after the conclusion of the hearing, except in such cases where an owner or operator shall appeal such assessment to the district court of Burleigh County, in which case they shall become delinquent five days following final judicial determination.

SECTION 5. PENALTY ON DELINQUENCY - FAILURE TO FILE REPORTS.) Where the severance tax provided for in this chapter shall become delinquent, it shall, as a penalty for such delinquency, bear interest at the rate of eight percent per annum. If the quarterly report is not filed within thirty days after the end of any quarter and taxes due paid, the tax commissioner shall notify the delinquent owner or operator of such delinquency, and if such report and remittance are not filed within an additional fifteen days, the tax commissioner shall notify the public service commission, which shall forthwith suspend such owner's or operator's license or permit until such time as payment is received, or the issues settled to the satisfaction of the tax commissioner.

SECTION 6. LIEN FOR TAX.) The severance tax herein referred to shall, at all times, be and constitute a first and paramount lien against the producer's property as the case may be, both real and personal. In all cases where such tax is not paid, it may be recovered in a civil action by the state tax commissioner, brought in the name of the state, in any court of competent jurisdiction of the county where any such property, assets, and effects are located.

SECTION 7. APPEAL FROM DECISION OF TAX COMMISSIONER.) Any person aggrieved because of any action or decision of the tax commissioner under the provisions of sections 1 through 8 of this Act may appeal to the district court of Burleigh County.

SECTION 8. RULES AND REGULATIONS - BOND.) The tax commissioner is hereby authorized and empowered to prescribe and promulgate all necessary rules and regulations for the purpose of making and filing of all reports required hereunder and otherwise necessary to the enforcement of sections 1 through 8 of this Act, and may, at his option and discretion, require a sufficient bond from any coal mine operator or owner charged with the making and filing of reports and the payment of the taxes herein imposed, and said bond shall run to the state of North Dakota and shall be conditioned upon the making and filing of reports as required by law or regulation, and for the prompt payment, by the principal therein, of all taxes justly due the state by virtue of the provisions of sections 1 through 8 of this Act.

SECTION 9. PENALTY.) Any person intentionally violating any of the provisions of sections 1 through 8 of this Act is guilty of a class A misdemeanor.

SECTION 10. COAL DEVELOPMENT FUND ESTABLISHED.) Moneys collected by the state tax commissioner pursuant to the provisions of sections 1 through 9 of this Act shall be paid to the state treasurer and shall be credited to a special fund in the state treasury, to be known as the coal development fund. The moneys accumulated in such fund shall be allocated as provided by law and as appropriated by the legislative assembly.

SECTION 11. DEFINITIONS.) As used in sections 11 through 13 of this Act and in any other legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program, unless the context or subject matter otherwise requires:

1. "Coal development" means the mining of coal and industries directly related to the processing of coal, including, but not limited to: the generation of electricity from coal or coal products, coal gasification, coal liquefaction, and the manufacture of fertilizer from coal.
2. "Impacted city" means a city which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
3. "Impacted county" means a county which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
4. "Impacted school district" means a public school district which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
5. "Impacted taxing district" means a taxing district as defined in subsection 6 of this section which demonstrates actual or anticipated extraordinary expenditures caused by coal development and the growth incidental thereto.
6. "Taxing district" means any political subdivision, other than those included in subsections 2 through 4 of this section, empowered by law to levy taxes.

SECTION 12. ALLOCATION OF MONEYS IN COAL DEVELOPMENT FUND.) Moneys deposited in the coal development fund shall be apportioned quarterly by the state treasurer as follows:

1. Thirty-five percent shall be credited to a special fund in the state treasury for distribution through grants by the coal development impact office to impacted cities, counties, school districts, and other taxing districts, subject to appropriation by the legislative assembly.

2. Fifteen percent shall be credited to a special fund in the state treasury to be held in trust to be administered by the board of university and school lands for loans to impacted counties, cities, and school districts as provided in section 13 of this Act. The board of university and school lands shall have full authority to invest such funds as are not loaned as provided in this chapter and may consult with the state investment board as provided by law. The income, including interest payments on loans, from such trust shall be deposited in the state's general fund. Loan principal payments shall be redeposited in the trust fund. Such trust fund shall be perpetual and held in trust as a replacement for depleted natural resources subject to the provisions of this chapter.
3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period. Such allocations shall be apportioned as follows:
 - a. Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census;
 - b. Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes; and
 - c. Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
4. Thirty percent shall be deposited in the state's general fund.

SECTION 13. LOANS - TERMS AND CONDITIONS - REPAYMENT.) The board of university and school lands is authorized to make loans to impacted counties, cities, and school districts from moneys deposited in the trust fund established by subsection 2 of section 12 of this Act. Loans may be made for any purpose for which a grant may be made pursuant to this chapter, but before making any loan the board of university and school lands shall receive the recommendation of the coal development impact office. The board of university and school lands shall prescribe the terms and conditions of such loans within the provisions of this chapter and shall require a warrant executed by the governing body of the county,

city, or school district as evidence of such loan. The warrants shall bear interest at a rate not to exceed six percent. The warrants shall be payable only from the allocations of moneys from the coal development fund to the borrowing county, city, or school district and shall not constitute a general obligation of the county, city, or school district nor shall such loans be considered as indebtedness of the county, city, or school district. The terms of the loan shall provide that not less than ten percent of each allocation made to the borrowing county, city, or school district pursuant to this chapter shall be withheld by the state treasurer to repay the principal of the warrants and the interest thereon. The amount withheld by the state treasurer as payment of interest shall be deposited in the general fund and the amount withheld by the state treasurer as payment of principal shall be remitted to the board of university and school lands and deposited by the board in the trust fund provided for in subsection 2 of section 12 of this Act. The warrants executed by the county, city, or school district 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 political subdivision thereof.

The board of university and school lands is authorized to sell such warrants to other parties and the proceeds of such sale which constitute principal shall be deposited in the trust fund and that which constitutes interest in the general fund. If the future allocations of moneys to the borrowing county, city, or school district should, for any reason, permanently cease, the loan shall be canceled except that if the county, city, or school district is merged with another county, city, or school district which receives an allocation of moneys from the coal development fund, the surviving county, city, or school district shall be obligated to repay the loan from such allocation. If the loan is canceled due to the permanent cessation of allocations of moneys to the county, city, or school district pursuant to this chapter, the board of university and school lands shall cancel those warrants it holds from such county, city, or school district and shall pay from any moneys in the trust fund provided for in subsection 2 of section 12 of this Act the principal and interest, as it becomes due, on those warrants of the county, city, or school district which are held by another party.

Not approved or disapproved by the Governor

Filed April 12, 1979

CHAPTER 627

HOUSE BILL NO. 1402
(A. Hausauer)

SEVERANCE TAX REVENUE ALLOCATION

AN ACT to amend and reenact subsection 3 of section 12 of House Bill No. 1257, as approved by the forty-sixth legislative assembly, relating to the allocation of revenues from the coal severance tax to counties.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 12 of House Bill No. 1257, as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

3. Twenty percent shall be allocated to the coal-producing counties and shall be distributed among such counties in such proportion as the number of tons of coal severed in each county bears to the total number of tons of coal severed in the state during such quarterly period. Such allocations shall be apportioned as follows:
 - a. If the tipple of a currently active coal mining operation in a county is not within fifteen miles of another county in which no coal is mined, the revenue apportioned according to this subsection shall be allocated as follows:
 - (1) Thirty percent shall be paid by the county treasurer to the incorporated cities of the county based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-02 in case of a city incorporated subsequent to such census~~7~~.
 - b- (2) Forty percent shall be deposited by the county treasurer in the county general fund to be used for general governmental purposes~~7~~and.

- e- (3) Thirty percent shall be apportioned by the county treasurer to school districts within the county on the average daily membership basis, as certified to him by the county superintendent of schools.
- b. If the tipple of a currently active coal mining operation in a county is within fifteen miles of another county in which no coal is mined, the revenue apportioned according to this subsection shall be allocated as follows:
- (1) Thirty percent shall be paid by the county treasurer of the coal-producing county to the incorporated cities of that county and to any city of a non-coal-producing county when any portion of the city lies within fifteen miles of the tipple of a currently active coal mining operation in the coal-producing county, based upon the population of each incorporated city according to the last official regular or special federal census or the census taken in accordance with the provisions of chapter 40-42 in case of a city incorporated subsequent to such census.
 - (2) Forty percent shall be divided by the county treasurer of the coal-producing county between the general fund of the coal-producing county and the general fund of any non-coal-producing county when any portion of the latter county lies within fifteen miles of the tipple of a currently active coal mining operation in the coal-producing county. The non-coal-producing county portion shall be based upon the ratio which the assessed valuation of all quarter sections of land in that county, any portion of which lies within fifteen miles of the tipple of a currently active coal mining operation, bears to the combined assessed valuations of all land in the coal-producing county and the quarter sections of land in the non-coal-producing county within fifteen miles of the tipple of the currently active coal mining operation. It shall be the duty of the county director of tax equalization of the coal-producing county to certify to the treasurer of the same county the number of quarter sections of land in the non-coal-producing counties which lie at least in part within fifteen miles of the tipple of a currently active coal mining operation and their assessed valuations.
 - (3) Thirty percent shall be apportioned by the county treasurer of the coal-producing county to school districts within that county and to school

districts in adjoining non-coal-producing counties when a portion of those school districts' land includes any of the quarter sections of land certified by the director of tax equalization to the county treasurer to be eligible to share county funds as provided for in paragraph 2 of subdivision b above. The county superintendent of the non-coal-producing counties shall certify to the county treasurer of the coal-producing county the number of students actually residing on these quarter sections lying outside the coal-producing county and each school district in non-coal-producing counties shall receive a portion of the money under this paragraph based upon the ratio of the number of children residing on quarter sections of that school district within the fifteen mile radius of the tipple of a currently active coal mining operation to the total number of school children from the coal-producing county combined with all the school children certified to be living on quarter sections within fifteen miles of the tipple of a currently active coal mining operation in the coal-producing county.

Approved April 7, 1979

CHAPTER 628

HOUSE BILL NO. 1304
(Strinden)

COAL DEVELOPMENT IMPACT OFFICE

AN ACT to create and enact two new sections to any legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program, creating the coal impact office and setting out the powers and duties of the director; to amend and reenact sections 57-62-04 and 57-62-05 of the North Dakota Century Code, providing for a coal development impact office and setting forth the powers and duties of the director.

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

SECTION 1.) A new section to any legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program is hereby created and enacted to read as follows:

COAL DEVELOPMENT IMPACT OFFICE - APPOINTMENT OF DIRECTOR.)
There is hereby created a coal development impact office, the
director of which shall be appointed by and serve at the pleasure of
the board of university and school lands. The director's
appointment shall be confirmed by the senate. The director shall
have knowledge of state and local government and shall have
experience or training in the fields of taxation and accounting.
The salary of the director shall be set by the board of university
and school lands within the limits of legislative appropriations.
The director may employ such other persons as may be necessary and
may fix their compensation within the appropriation made for such
purpose. The board of university and school lands shall fill any
vacancy in the position of director in the same manner as listed
above and, in addition, shall serve as an appeals board under rules
promulgated by the board of university and school lands to
reconsider grant applications for aid under this chapter which have
been denied by the director. All action by the board of university
and school lands, including appointment of a director, shall be by
majority vote.

SECTION 2.) A new section to any legislation enacted by the forty-sixth legislative assembly providing for a coal development impact aid program is hereby created and enacted to read as follows:

POWERS AND DUTIES OF COAL DEVELOPMENT IMPACT DIRECTOR.) The coal development impact director shall:

1. Develop a plan for the assistance, through financial grants for services and facilities, of counties, cities, school districts, and other political subdivisions in a coal development impact area.
2. Establish procedures and provide proper forms to political subdivisions for use in making application for funds for impact assistance as provided in this chapter.
3. Make grants to counties, cities, school districts, and other taxing districts as provided in this chapter and within the appropriations made for such purposes. In determining the amount of impact grants for which political subdivisions are eligible, the amount of revenue to which such political subdivisions will be entitled from taxes upon the real property of coal development plants and from other tax or fund distribution formulas provided by law shall be considered.

SECTION 3. AMENDMENT.) Section 57-62-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-04. COAL DEVELOPMENT IMPACT OFFICE - COAL DEVELOPMENT IMPACT COMMISSION - APPOINTMENT OF DIRECTOR.) There is hereby created ~~in the office of the governor~~ a coal development impact office. ~~The~~, the director of which shall be appointed by and shall serve at the pleasure of the ~~governor~~ board of university and school lands. The director's appointment shall be confirmed by the senate. The director shall have knowledge of state and local government and shall have experience or training in the fields of taxation and accounting. The salary of the director shall be set by the ~~governor~~ board of university and school lands within the limits of legislative appropriations. The director may employ such other persons as may be necessary and may fix their compensation within the appropriation made for such purpose. The board of university and school lands shall fill any vacancy in the position of director in the same manner as listed above and, in addition, shall serve as an appeals board under rules promulgated by the board of university and school lands to reconsider grant applications for aid under this chapter which have been denied by the director. All action by the board of university and school lands, including appointment of a director, shall be by majority vote.

SECTION 4. AMENDMENT.) Section 57-62-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-62-05. POWERS AND DUTIES OF COAL DEVELOPMENT IMPACT OFFICE DIRECTOR.) The coal development impact office director shall:

1. Develop a plan for the assistance, through financial grants for services and facilities, of counties, cities, school districts, and other political subdivisions in a coal development impact area.
2. ~~Advise, study, recommend, and report to the governor and the legislative assembly on the impact to the state and the political subdivisions of the state resulting from coal development.~~
3. Establish procedures and provide proper forms to political subdivisions for use in making application for funds for impact assistance as provided in this chapter.
4. 3. Make grants to counties, cities, school districts, and other taxing districts as provided in this chapter and within the appropriations made for such purposes. In determining the amount of impact grants for which political subdivisions are eligible, the amount of revenue to which such political subdivisions will be entitled from taxes upon the real property of coal development plants and from other tax or fund distribution formulas provided by law shall be considered.

SECTION 5. LEGISLATIVE INTENT AND GUIDELINES ON IMPACT GRANTS.) The legislative assembly intends that the moneys appropriated to, and distributed by, the coal development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development impact. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts, or services or facilities to meet secondary impacts. All grant applications and presentations to the coal development impact office shall be made by an appointed or elected government official.

Not approved or disapproved by the Governor

Filed April 13, 1979

TOWNSHIPS

CHAPTER 629

SENATE BILL NO. 2255
(Committee on Political Subdivisions)
(At the request of the Water Commission)

TOWNSHIP ZONING REGULATION

AN ACT to amend and reenact section 58-03-11 of the North Dakota Century Code, relating to the zoning regulations and restrictions of organized townships.

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

* SECTION 1. AMENDMENT.) Section 58-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-03-11. ESTABLISHMENT OF ZONING DISTRICTS - LIMITATION - SCOPE OF ZONING REGULATIONS AND RESTRICTIONS.) For the purpose of promoting the health, safety, morals or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within such districts may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes. All such regulations and restrictions shall be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts. No regulation or restriction, however, shall ~~apply--to~~ prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming. The provisions of section 58-03-11 through 58-03-15, shall not be construed to include any power relating to the establishment, repair and maintenance of highways or roads.

Approved March 8, 1979

* NOTE: Section 58-03-11 was also amended by section 9 of Senate Bill No. 2076, chapter 548.

CHAPTER 630

HOUSE BILL NO. 1686
(Reed)

TOWNSHIP SUPERVISOR COMPENSATION

AN ACT to amend and reenact section 58-06-02 of the North Dakota Century Code, increasing the compensation for township supervisors.

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

SECTION 1. AMENDMENT.) Section 58-06-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-06-02. COMPENSATION OF SUPERVISORS.) A township supervisor shall receive as compensation for his services ~~ten~~ fifteen dollars a day for each day necessarily devoted to the work of his office and ~~fifteen~~ twenty cents per mile for each mile necessarily traveled in the performance of his duties, but his compensation shall not exceed ~~one~~ four hundred fifty dollars in any one year.

Approved March 10, 1979

WAREHOUSING AND DEPOSITS

CHAPTER 631

HOUSE BILL NO. 1261
(Peltier, Gorder, Hove)

GRAIN WAREHOUSE AND STORAGE CONTRACT

AN ACT to amend and reenact section 60-02-17 of the North Dakota Century Code, relating to the grain and seed warehouse contract printed on warehouse receipts as it pertains to the amount charged for handling and delivery of grains and seeds.

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

SECTION 1. AMENDMENT.) Section 60-02-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-02-17. WAREHOUSE AND STORAGE CONTRACT - STORAGE RATES - TERMINAL DELIVERY. A warehouse receipt shall contain, either on its face or reverse side, the following warehouse and storage contract:

"This grain is received, insured, and stored subject to the following charges: one-fifteenth of one cent net bushel per day, except for dry edible beans which shall be subject to a daily storage rate fixed at the time of delivery no greater than one-half of one cent per net hundredweight per day, provided, however, that no storage shall be charged for grain so stored for fifteen days from date of delivery if such grain is sold within such fifteen-day period; however, if such grain is not sold within the fifteen days, storage charges shall commence from the date a warehouse receipt was issued. All grain received for storage ~~will~~ shall be subject to a charge of ~~six~~ seven cents per net bushel, except for flax which ~~will~~ shall be subject to a charge of ~~six~~ seven cents per gross bushel and, dry edible beans which shall be subject to a charge of ten cents per net hundredweight. Grain purchased by the warehouseman shall be exempt from the receiving and redelivery charges. Upon surrender of this receipt and payment or tender of a delivery charge per gross bushel of ~~four~~ five cents on flax, three dollars per net hundredweight on dry edible beans, and ~~four~~ five cents per net bushel on all other grains and all other stated lawful charges accrued up to the time of said surrender of this receipt, the above amount,

kind, and grade of grain will be delivered to the person named above or his order as rapidly as due diligence, care, and prudence will permit. At the option of the holder of this receipt, the amount, kind, and grade of grain for which this receipt is issued, on his demand, shall be delivered back to him at any terminal point customarily shipped to, or at the place where received, upon the payment of the above charges for receiving, handling, storage, and insurance and in case of terminal delivery, the payment in addition to the above of the regular freight charges on the gross amount called for by this ticket or in lieu thereof, a receipt issued by a bonded warehouse or elevator company doing business at such terminal point. Nothing in this receipt shall be construed to require the delivery of the identical grain specified herein, but an equal amount of grain of the same kind and grade shall be delivered to him."

Approved March 15, 1979

CHAPTER 632

HOUSE BILL NO. 1265

(Committee on Industry, Business and Labor)

(At the request of the North Dakota Public Service Commission)

WAREHOUSE CLOSURE REQUIREMENTS

AN ACT to amend and reenact section 60-02-41 of the North Dakota Century Code, relating to voluntary closing or failure to renew warehouse license.

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

SECTION 1. AMENDMENT.) Section 60-02-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-02-41. GOING OUT OF BUSINESS - REDEMPTION OF RECEIPTS.) When a public warehouseman ceases business through the destruction of a warehouse by fire or other cause, or through insolvency, such warehouseman shall redeem all outstanding storage receipts at the price prevailing on the date the warehouse was destroyed or closed because of insolvency. The holder of such receipts, upon due notice, must accept this price and surrender the receipts. Any public warehouseman who voluntarily ceases business or fails to renew an existing warehouse license on its expiration shall notify the commission and all warehouse receipt holders of such closing and redeem all outstanding storage receipts at the price prevailing on the date the warehouse closed or at the option of the owner of the warehouse receipt redeliver the kind, grade, and quantity of grain called for by the warehouse receipt. On commingled grain the value of over and under deliveries in quantity, grade and protein shall be settled in cash and priced on the market on the day of closing.

Approved March 7, 1979

CHAPTER 633

HOUSE BILL NO. 1286
 (Committee on State and Federal Government)
 (At the request of the
 North Dakota Public Service Commission)

ACCOUNTING SYSTEM EXAMINATION FEE

AN ACT to amend and reenact section 60-05-04 of the North Dakota Century Code, relating to fees paid to an examiner for installing and examining the accounting system of an elevator or public warehouse.

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

SECTION 1. AMENDMENT.) Section 60-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

60-05-04. FEES OF EXAMINER FOR INSTALLING AND EXAMINING ACCOUNTING SYSTEM.) For making installation of a uniform accounting system and examining the financial accounts of an elevator or public warehouse, and association, copartnership, or corporation shall pay the examiner a reasonable fee, as determined by the commission.

~~1. A fee of ten dollars per day for each day or fraction thereof that the examiner is absent from the capitol for the purpose of making such examination;~~

~~2. His actual traveling and hotel expenses; and~~

~~3. The actual cost of such books and blanks as may be necessary for the installation of a complete system of uniform accounting.~~

In case any such association, copartnership, or corporation shall wrongfully refuse or neglect to pay such fees, then the commission may cancel the license to do business. All such fees shall be paid into the state treasury. The expenses incurred by the examiner under the provisions of this chapter shall be paid out of the appropriations made by the legislative assembly for this purpose and such expenses shall be audited and paid in the same manner as other expenses are audited and paid.

Approved March 3, 1979

CHAPTER 634

HOUSE BILL NO. 1620
(Gerl, Fleming)

LEASEHOLDS ON RAILROAD RIGHTS OF WAY

AN ACT to create and enact a new section to chapter 60-06 of the North Dakota Century Code, relating to the determination of the fair rental terms of existing leaseholds on railroad rights of way.

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

SECTION 1.) The provisions of this chapter shall apply to the renewal of existing leaseholds on railroad rights of way.

Approved March 19, 1979

WATERS

CHAPTER 635

HOUSE BILL NO. 1393
(Lipsiea, Tweten)

REMOVAL OF OBSTRUCTIONS

AN ACT to amend and reenact section 61-01-23 of the North Dakota Century Code, relating to the removal of obstructions in the channel of a nonnavigable stream.

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

SECTION 1. AMENDMENT.) Section 61-01-23 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-01-23. REMOVAL OF OBSTRUCTIONS IN CHANNEL OF NONNAVIGABLE STREAMS.) In order to remove obstructions, such as logs, fallen trees and brush from the channel or bed of a nonnavigable river or stream and thus prevent ice from gorging therein and to prevent flooding or pollution of such stream or river, the state water commission, any water management district, any municipality, any board of county commissioners and any federal agency authorized to construct works for prevention of damage by floods or for abatement of stream pollution, may enter upon lands lying adjacent to such nonnavigable stream to remove, or cause to be removed from the bed, channel or banks of such stream obstructions which prevent or hinder the free flow of water or passage of ice therein. However, such entry upon adjacent lands shall be by the most accessible route and the entering agency shall be responsible to the landowner for any damage.

Approved March 7, 1979

CHAPTER 636

SENATE BILL NO. 2254
(Committee on Natural Resources)
(At the request of the Water Commission)

SPECIAL FUND FOR WATER USE FEES

AN ACT to create and enact chapter 61-02.1 of the North Dakota Century Code, relating to the establishment of a special fund for water use fees.

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

* SECTION 1.) Chapter 61-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-02.1-01. SPECIAL FUND.) All fees collected by the state engineer pursuant to sections 61-04-04.1 and 61-04-06.2 of the North Dakota Century Code shall be deposited in the state treasury in a special fund to be known as the water use fund, and shall be used only for planning, research, and administration required to properly regulate the allocation and appropriation of the waters of North Dakota.

61-02.1-02. PURPOSES OF FUND.) The water use fund may be expended subject to appropriation by the legislative assembly for the purpose of meeting the costs directly incurred in conducting the planning and administration required for the proper regulation of the allocation and appropriation of the waters of the state.

Approved March 28, 1979

* NOTE: The two sections created by this bill are consolidated and codified as North Dakota Century Code Section 61-03-05.1.

CHAPTER 637

HOUSE BILL NO. 1276
(Committee on Natural Resources)
(At the request of the Water Commission)

EMERGENCY OR TEMPORARY USE OF WATER

AN ACT to amend and reenact section 61-04-02.1 of the North Dakota Century Code, relating to emergency or temporary use of water.

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

SECTION 1. AMENDMENT.) Section 61-04-02.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-02.1. EMERGENCY OR TEMPORARY AUTHORIZATION.) The state engineer may authorize emergency or temporary use of water for periods not to exceed ~~six~~ twelve months if he determines such use will not be to the detriment of existing rights. The state engineer shall establish by regulation a separate procedure for the processing of applications for emergency or temporary use. No prescriptive or other rights to the use of water shall be acquired by use of water as authorized herein.

Approved March 3, 1979

CHAPTER 638

SENATE BILL NO. 2453
(Jacobson)

BENEFICIAL USE APPLICATION

AN ACT to amend and reenact section 61-04-14 of the North Dakota Century Code, relating to extending time for application to beneficial use.

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

SECTION 1. AMENDMENT.) Section 61-04-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-14. EXTENDING TIME FOR APPLICATION TO BENEFICIAL USE.) The state engineer may extend the time for the application of water to the beneficial use cited in the conditional water permit for good cause shown. Where such time has expired, the state engineer may renew and extend the same upon application; provided, however, a conditional water permit, or any portion thereof, shall be considered forfeited, abandoned, and void if no request for renewal is received by the state engineer within ~~thirty~~ sixty days after the date the permittee is informed by certified mail that the period for applying water to a the beneficial use cited in the conditional permit has expired. If a request to extend the time for application to beneficial use for any conditional permit, or portion thereof, is denied, such conditional permit, or portion thereof, shall be considered forfeited, abandoned, and void. Sections 61-04-23 through 61-04-25 of the North Dakota Century Code shall not apply to this section.

Approved March 8, 1979

CHAPTER 639

HOUSE BILL NO. 1391
(Hedstrom, Langley)

IRRIGATION DISTRICT BOARD COMPENSATION

AN ACT to amend and reenact section 61-06-22 of the North Dakota Century Code, relating to the compensation for board members of irrigation districts.

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

SECTION 1. AMENDMENT.) Section 61-06-22 of the 1977 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 twenty-five 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~~ expenses 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, in a manner determined by the board of directors. The salary of the secretary, assessor, and treasurer shall be determined by the board of directors.

Approved March 10, 1979

CHAPTER 640

HOUSE BILL NO. 1155
(Kingsbury, Gorder)

WATER MANAGEMENT DISTRICT BOARD MEMBERSHIP

AN ACT to amend and reenact section 61-16-08 of the North Dakota Century Code, relating to membership of water management district boards of commissioners.

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

* SECTION 1. AMENDMENT.) Section 61-16-08 of the 1977 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 landowner in the district, except a county commissioner, shall be eligible, subject to the provisions of this section, 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. After expiration of the first term to expire after January 1, 1980, at least one of the commissioners appointed to a three-member district board shall be from a flood prone area, if any, within the district. 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. After expiration of the first two terms to expire after January 1, 1980, at least two of the commissioners appointed to a five-member district board shall be from flood prone areas, if any, within the district. 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. After expiration of the first three

* NOTE: Section 61-16-08 was also amended by section 1 of Senate Bill No. 2380, chapter 641.

terms to expire after January 1, 1980, at least three of the commissioners appointed to a seven-member district board shall be from flood prone areas, if any, within the district. For the purposes of this section, a flood prone area is a flood plain area of a river subject to periodic and reoccurring flooding. 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 twenty dollars per day while performing his duties as a member of the board, and an allowance for meals and lodging expenses 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.

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 3, 1979

CHAPTER 641

SENATE BILL NO. 2380
(Sands, Farrington)

WATER BOARDS' COMPENSATION

AN ACT to amend and reenact sections 61-16-08 and 61-21-03 of the North Dakota Century Code, relating to the eligibility, term of office, and compensation for appointed members to a water management district board, and the appointment, term, removal, and compensation of the board of drainage commissioners.

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

* SECTION 1. AMENDMENT.) Section 61-16-08 of the 1977 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 landowner 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

* NOTE: Section 61-16-08 was also amended by section 1 of House Bill No. 1155, chapter 640.

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 twenty forty-five dollars per day while performing his duties as a member of the board, and an allowance for meals and lodging expenses 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. 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.

SECTION 2. AMENDMENT.) Section 61-21-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-03. BOARD OF DRAINAGE COMMISSIONERS - APPOINTMENT - TERM - REMOVAL - COMPENSATION.) The board of county commissioners of any county in this state, at any meeting of ~~such~~ the board, by majority vote of all the members upon its own motion, or on the petition of any interested person, may appoint three residents of the county to the board of drainage commissioners of ~~such~~ the county. The members of the board shall be appointed for terms of three years each and their terms shall be so arranged that the term of one member shall expire each year. Each member of the board shall hold his office until his successor is appointed and qualified. The board of county commissioners may remove any or all of ~~such~~ the drain commissioners and shall appoint successors to fill any vacancies that occur. Each member of the board may be allowed the sum of fifteen forty-five dollars per day while performing his duties as a member of the board of drainage commissioners, and an allowance for actual meals and lodging expenses in an amount of ~~not to exceed twelve dollars per day for each day actually employed in the performance of his duties as a drainage board commissioner. Compensation for expenses incurred in the performance of these duties shall be made in the manner provided in chapter 44-08~~ expense at the rates provided in section 44-08-04, and shall receive mileage expense reimbursement at the same rate as provided in section 11-10-15, with expense claims stated as provided in section 21-05-01.

Approved March 23, 1979

CHAPTER 642

HOUSE BILL NO. 1274
(Committee on Natural Resources)
(At the request of the Water Commission)

AUTHORIZATION OF DIKES AND DAMS

AN ACT to amend and reenact section 61-16-15 of the North Dakota Century Code, relating to the authorization of dikes and dams.

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

SECTION 1. AMENDMENT.) Section 61-16-15 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-15. CONSTRUCTION AND REPAIR OF DAM - PROPOSALS FOR - PRESENTED TO WHOM - HEARING PROPOSALS.) No dikes, dams or other devices for water conservation, flood control regulation, watershed improvement or storage of water which are capable of retaining more than twelve and one-half acre-feet of water shall be constructed within any water management district except in accordance with the provisions of this chapter. Any proposal An application for the construction of any dike, dam or other facilities, along with complete plans and specifications therefor, shall be presented first to the board of commissioners of the district within which the contemplated project is located. Such board shall consider the same, and if the proposal meets with its approval, it shall forward the proposal to the state water commission as seen as possible state engineer. After the receipt thereof, the state water commission shall consider the same in such detail as to it may seem necessary and proper, and shall make its recommendations and suggestions as to the propriety, efficiency, and feasibility of the proposal application, and, within forty-five days of its receipt forward the same to the board of commissioners of the district within which the contemplated project is located. The board thereupon shall require, or if the project is to be constructed at the expense of the district shall furnish, complete plans and specifications therefor, which shall be forwarded to the state water commission. The state water commission shall examine the same in detail and, within forty-five days of the receipt of such plans and specifications consider the same, and if the proposal and recommendations shall meet with its approval, it shall return the same within forty-five days to the state engineer. The state

engineer shall either refuse to allow the construction of any unsafe, improper, or dangerous dike, dam or other device which would interfere with the orderly control of the water resources of the district, or order such changes or modifications thereof as in ~~his~~ his judgment may be necessary for safety or the protection of property. Any person aggrieved by any such ruling of the state ~~water--commission~~ engineer shall have the right to a full hearing before ~~such--commission~~ the state engineer and a full consideration of all evidence available before a final order of the state ~~water~~ commission engineer shall be entered. Such order of the state ~~water~~ commission engineer shall be subject to appeal to the district court as provided in this chapter.

Approved March 10, 1979

CHAPTER 643

HOUSE BILL NO. 1128
(Berg)

OBSTRUCTION TO A DRAIN DEFINED

AN ACT to amend and reenact section 61-16-28.1 of the North Dakota Century Code, relating to removal of obstructions to a drain, and providing a definition of "obstruction to a drain".

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

SECTION 1. AMENDMENT.) Section 61-16-28.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-16-28.1. REMOVAL OF OBSTRUCTIONS TO DRAIN - NOTICE AND HEARING - APPEAL - INJUNCTION - DEFINITION.) If the board shall determine that an obstruction to a drain has been caused by the negligent act or omission of a landowner or his tenant, the board shall notify such landowner by registered or certified mail at his post office of record. A copy of such notice shall also be sent to the tenant, if any. Such notice shall specify the nature and extent of the obstruction, the opinion of the board as to its cause, and shall state that if such obstruction is not removed within such period as the board shall determine, but not less than thirty days, the board shall procure removal of said obstruction and assess the cost thereof, or such portion as the board shall determine, against the property of the landowner responsible. The notice shall also state that the affected landowner may, within fifteen days of the date the notice is mailed, demand in writing a hearing upon the matter. Upon receipt of such demand the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency the board may immediately apply to a court of proper jurisdiction for an injunction prohibiting such a landowner or his tenant from maintaining such an obstruction. Any assessments levied under the provisions of this section shall be collected in the same manner as other assessments authorized by this chapter. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in accordance with the proportionate responsibility of the landowners. Any landowner aggrieved by action of the board under the provisions of this section may appeal the decision of the

board to the district court of the county in which the land is located in accordance with the procedure provided for by sections 61-16-36 through 61-16-39. A hearing as provided for in this section shall not be a prerequisite to such appeal.

An "obstruction to a drain" is defined, for the purposes of this section, as any barrier to the free flow of water in any watercourse, as defined by section 61-01-06 of the North Dakota Century Code, or any artificial drain, which materially affects the free flow of waters in such watercourse or drain.

Approved March 3, 1979

CHAPTER 644

HOUSE BILL NO. 1479
(F. Larson)

WATER DISTRICT WARRANT REFUNDING

AN ACT to create and enact section 61-16-34.1 of the North Dakota Century Code, relating to the terms and conditions for refunding special assessments warrants of water management districts.

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

SECTION 1.) Section 61-16-34.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-16-34.1. REFUNDING OUTSTANDING REFUNDING WARRANTS - TERMS AND CONDITIONS.) Any district having valid outstanding refunding warrants or bonds issued pursuant to the provisions of this chapter may issue refunding bonds to refund the outstanding warrants or bonds, if there is not sufficient money in the project fund or funds against which the outstanding refunding warrants or bonds are drawn to pay the same. The new bonds may be issued for the purpose of extending the maturities of the outstanding refunding warrants or bonds, or reducing the interest cost thereon, or equalizing the general tax which the county or counties may be, or may become, obligated to levy to discharge deficiencies in the project fund or funds against which they are drawn. The new bonds shall be issued according to the procedure set forth in this chapter for the issuance of the original refunding warrants or bonds. In any case where refunding bonds are issued and sold six months or more before the date on which all outstanding refunding warrants or bonds of the issue to be refunded thereby mature or are to be prepaid in accordance with their terms, the proceeds of the new bonds, including any premium, 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 the amount and in securities maturing on the dates and bearing interest at rates required to provide funds sufficient to pay when due the interest to accrue on each warrant or bond refunded to its maturity or, if it is prepayable, to the earliest prior date for redemption, and to pay and redeem the principal amount of each warrant or bond at maturity or, if prepayable, at the earliest redemption date, and any premium

required for redemption on that date. The resolution authorizing the new 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 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 new bonds. Moneys on hand in the 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 18, 1979

CHAPTER 645

SENATE BILL NO. 2417
(Senator Jones)
(Representative Berg)

REMOVAL OF ILLEGAL DIKES AND DAMS

AN ACT relating to the removal of illegal dikes and dams by water management districts.

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

SECTION 1.) CLOSING A NONCOMPLYING DIKE OR DAM - NOTICE AND HEARING - APPEAL - INJUNCTION.) Upon receipt of a complaint of unauthorized construction of a dike, dam or other device for water conservation, flood control, regulation, watershed improvement or storage of water, the board shall promptly investigate and make a determination thereon. If the board shall determine that a dam or other device, capable of retaining more than twelve and one-half acre-feet of water, has been established or constructed by a landowner or tenant contrary to the provisions of title 61 or any rules or regulations promulgated by the board, the board shall notify the landowner by registered or certified mail at the landowner's post office of record. A copy of the notice shall also be sent to the tenant, if any. The notice shall specify the nature and extent of the noncompliance and shall state that if the dike, dam, or other device is not removed within such period as the board shall determine, but not less than thirty days, the board shall procure the removal of the dike, dam, or other device and assess the cost thereof, or such portion as the board shall determine, against the property of the landowner responsible. The notice shall also state that the affected landowner may, within fifteen days of the date the notice is mailed, demand in writing a hearing upon the matter. Upon receipt of such demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the dike, dam, or other device. Any assessments levied under the provisions of this section shall be collected in the same manner as other assessments authorized by this chapter. If, in the opinion of the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in accordance with the proportionate responsibility of the landowners. Any landowner

aggrieved by action of the board under the provisions of this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided for by sections 61-16-36 through 61-16-39. A hearing as provided for in this section shall not be prerequisite to such appeal.

Approved April 7, 1979

CHAPTER 646

SENATE BILL NO. 2398
(Shablow, Jones)

DRAIN PETITIONER BOND LIABILITY

AN ACT to amend and reenact sections 61-21-11 and 61-21-15 of the North Dakota Century Code, relating to the bond required of petitioners wishing to construct a drain and allocation of costs when a petition to drain is denied.

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

SECTION 1. AMENDMENT.) Section 61-21-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-11. BOND REQUIRED FROM PETITIONERS.) The board shall may require the petitioners referred to in section 61-21-10 to file a bond with the petition in a sum sufficient to pay all expenses of surveys and of the drainage commissioners should the petition be later denied.

SECTION 2. AMENDMENT.) Section 61-21-15 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-21-15. DENYING OR MAKING ORDER ESTABLISHING DRAIN - COSTS WHEN PETITION DENIED.) If, upon the examination by the board before the survey has been made, or, if upon the hearing upon the petition or upon the trial in the district court, it shall appear that there was not sufficient cause for making such petition, or that the proposed drain would cost more than the amount of the benefits to be derived therefrom or that fifty percent or more of the votes of affected landowners as determined by section 61-21-16, which were filed with the board, are opposed to such drain, the board shall deny the petition. An objection in writing filed with the board shall, as provided in section 61-21-13, be considered the same as a vote by ballot. ~~The petitioners shall be liable jointly and severally to the board for all costs and expenses incurred in the proceedings, to be recovered by the board by action against the petitioners or upon their bond.~~ The board may bring an action against the petitioners or upon their bond for all costs and expenses incurred in the proceedings, in which case the petitioners

shall be jointly and severally liable, or the board may pay the costs and expenses out of any moneys available. If it shall appear, after due hearing as provided in sections 61-21-13 and 61-21-14, that the proposed drain will not cost more than the amount of the benefits to be derived therefrom and is approved by more than fifty percent of the votes of the affected landowners filed with the board as determined by section 61-21-16, the board shall make an order establishing the drain, accurately describing it, and giving the same a name under which it shall be recorded and indexed.

Approved March 23, 1979

CHAPTER 647

SENATE BILL NO. 2064
(Legislative Council)

(At the request of the Garrison Diversion Overview Committee)

GARRISON DIVERSION IRRIGATION PRACTICES

AN ACT relating to "best management practices", for farming land to be irrigated by water from the Garrison Diversion Unit of the Pick-Sloan Missouri River basin project.

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

SECTION 1. DIRECTOR OF AGRICULTURAL EXPERIMENT STATION TO DETERMINE BEST MANAGEMENT PRACTICES - REPORTS TO THE GARRISON DIVERSION CONSERVANCY DISTRICT - MONITORING OF GROUND WATER QUALITY.)

1. The director of the agricultural experiment station, with respect to all land to be irrigated by water from the Garrison Diversion Unit of the Pick-Sloan Missouri River basin project, shall promulgate rules and regulations for the determination of best management practices on the affected land. The rules and regulations may be amended from time to time. For the purposes of this Act, "best management practices" means the application of water, fertilizers, pesticides, and herbicides in amounts that maximize crop production and economically efficient farming, while, at the same time, minimizing chemical or other pollution and degradation of ground or surface water supplies in areas irrigated with water from the Garrison Diversion Unit. Upon determining the best management practices for all land in question, the director of the agricultural experiment station shall file the information with the headquarters office of the Garrison Diversion Conservancy District.
2. The Garrison Diversion Conservancy District in cooperation with other state agencies shall monitor the ground and surface water quality in all areas irrigated with water from the Garrison Diversion Unit, to determine compliance with the regulations concerning best management practices for farming of that land. If violations of best management practices are discovered, the Garrison

Diversion Conservancy District shall determine the location of all irrigators causing the violation and shall reduce the amount of water which may be distributed to the violating irrigator consistent with best management practices.

SECTION 2. DISTRICT TO ALLOCATE WATER IN ACCORDANCE WITH BEST MANAGEMENT PRACTICES.) The Garrison Diversion Conservancy District shall distribute water to irrigators purchasing water from the district in amounts that are consistent with the determinations of the director of the agricultural experiment station for best management practices in the farming of the applicable land.

Approved March 19, 1979

CHAPTER 648

SENATE BILL NO. 2485
(Committee on Delayed Bills)
(At the request of Senator Nething)

GARRISON DIVERSION MITIGATION AND ENHANCEMENT LANDS COMMISSION

AN ACT to create and enact chapter 61-24.1 of the North Dakota Century Code, creating the Garrison diversion mitigation and enhancement lands commission and setting forth the powers and duties thereof.

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

SECTION 1.) Chapter 61-24.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

61-24.1-01. FINDINGS OF FACT AND DECLARATION OF POLICY.) The legislative assembly finds and declares that the construction of the Garrison Diversion Unit project is of utmost importance to the economy of the state of North Dakota and the health and welfare of its citizens. The legislative assembly also recognizes and declares that the Garrison Diversion Unit project will necessarily require the mitigation of damages to fish and wildlife habitat and the enhancement of recreation, fish and wildlife. The legislative assembly recognizes and declares that it is in the reasoned best interests of both the state and the United States to provide a mechanism whereby compensation may be made to landowners for property acquired for the required mitigation and enhancement to recreation and fish and wildlife in a manner acceptable to both the state and the United States, consistent with both the best recreation, fish and wildlife management practices and the efficient and beneficial use of the agricultural resources of this state. Therefore, the legislative assembly finds and declares it to be in the best interests of the state and the United States and it is the purpose of this Act to seek a balanced method of determining and establishing recreation and fish and wildlife mitigation and enhancement areas in conjunction with the construction of the Garrison Diversion Unit project.

61-24.1-02. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Commission" means the Garrison diversion mitigation and enhancement lands commission.
2. "District" means the Garrison Diversion Conservancy District, created pursuant to chapter 61-24.
3. "Plan" means the fish and wildlife mitigation and enhancement plan proposed by the United States pursuant to the provisions of the Act of August 5, 1965 [Pub. L. 89-108].
4. "United States" includes all appropriate departments and agencies of the United States, including the United States fish and wildlife service and the United States bureau of reclamation, designated by federal law as being the appropriate agencies to carry out the responsibilities referred to in this chapter.

61-24.1-03. COMMISSION CREATED - MEMBERSHIP - OFFICERS.) There is hereby created the Garrison diversion mitigation and enhancement lands commission. The commission shall be composed of five commissioners, one commissioner to be selected and appointed by each of the following: the director of the United States fish and wildlife service; the commissioner of the United States bureau of reclamation; the governor of the state of North Dakota; the chairman of the board of directors of the district, which appointed commissioner shall reside within the district; and the North Dakota commissioner of agriculture, which appointed commissioner shall own agricultural land within the state of North Dakota. Each commissioner selected and appointed pursuant to this section shall serve at the pleasure of the appointing state or federal official. At the first meeting of the commission, and annually thereafter, the commission members shall elect a chairman.

61-24.1-04. COMMISSION MEETINGS - QUORUM - BYLAWS.) All the business of the commission as such, except those duties delegated to the staff of the commission, shall be conducted by public meetings, held upon a minimum of fifteen days' public notice and otherwise in accordance with the provisions of this chapter. A majority of the appointed members shall constitute a quorum for the purpose of conducting the business of the commission. The commission may adopt such bylaws and regulations governing its manner of proceedings as it shall deem necessary or desirable.

61-24.1-05. COMPENSATION AND EXPENSES OF COMMISSIONERS.) Any commissioner not in the regular employment of this state or a political subdivision thereof, or the United States, and who would otherwise not receive a salary during such time as is necessary to conduct the business of the commission, shall receive compensation at the rate of fifty dollars per day for time actually and necessarily spent on the work of the commission. All commissioners not otherwise reimbursed from state or federal funds shall receive their actual expenses, at the rate normally allowed for employees of

this state, which are necessarily incurred to conduct the business of the commission.

61-24.1-06. ADMINISTRATION.) The commission shall receive all administrative support and assistance deemed necessary for the purpose of carrying out its responsibilities under this chapter from the administrative staff of the Garrison Diversion Conservancy District. However, such staff support shall not relieve the commission members themselves from any duty to be fully and completely informed on all issues and facts necessary for the fulfillment of responsibilities required by this chapter. The commission and the district are empowered to enter into any contracts between them necessary to receive and provide such administrative support. The district is hereby appointed fiscal agent for the commission, and as such is authorized to receive and expend gifts, donations, grants, and other financial aids and funds received for the benefit of the commission.

61-24.1-07. COMMISSION TO INVESTIGATE AND ENDORSE PLAN.) It shall be the duty of the commission to make an investigation of any plan proposed by the United States for the purposes of mitigation and enhancement of recreation and fish and wildlife resources as may be required by the construction of the Garrison Diversion Unit project. Upon completion of such investigation as the commission deems necessary, it shall by majority vote endorse or refuse to endorse any such plan. If no such plan is proposed by the United States, or if the commission shall refuse to endorse any such plan, the duty of the commission shall be declared at an end and the commission shall be dissolved, except for the purposes of paying such expenses as may have been lawfully incurred prior to the date of dissolution.

61-24.1-08. COMMISSION TO INVESTIGATE AND RECOMMEND PURCHASE OF MITIGATION AND ENHANCEMENT LANDS - HEARINGS.)

1. It shall be the duty of the commission, following endorsement of any plan, to make an investigation of any property or interest in property proposed pursuant to such plan for acquisition by either the United States or the district, and to recommend the purchase or refusal of such property or property interests to the United States or the district. If the commission recommends that the property proposed to be acquired be purchased, a purchase price shall also be recommended. In making its recommendation, the commission shall consider, without limitation to, the following factors:
 - a. The agricultural productivity of such property.
 - b. The contribution made by such property to the establishment or maintenance of recreation, fish and wildlife resources.
 - c. Alternatives to the proposed purchase.

- d. The direct and indirect economic impacts of the proposed purchase.
 - e. Any potential adverse environmental or aesthetic impacts of the proposed purchase.
2. Before any recommendation shall be made by the commission, it shall hold at least one public hearing in each county in which the property or properties proposed for purchase are located, such hearing to be held on at least fifteen days' notice in the official newspaper of the county. All testimony, data, plans, maps, and other information upon which the commission shall base its decision shall be presented orally at the hearing, or by writing at or before the hearing.

61-24.1-09. ACTION BY COMMISSION - ACQUISITION BY CONDEMNATION DELAYED.) When the commission has received the information it deems necessary to make the determination required under section 61-24.1-07, it shall within ten days of the last public hearing in any county, make its recommendation in writing to the agency seeking to acquire the property, and three days thereafter shall make its recommendation public. The district and any agency of the United States seeking to acquire property or an interest in property for the purpose of complying with any plan proposed pursuant to the provisions of the Act of August 5, 1965, [Pub. L. 89-108] shall be without authority to acquire such property by the sovereign power of eminent domain until the endorsement of, or the refusal to endorse, any plan by the commission, and until the recommendation of the commission has been made public in accordance with this section.

61-24.1-10. LIMITATION.) The provisions of this chapter shall not in any way diminish or otherwise affect the existing powers and duties of the district, or other agencies or political subdivisions of this state, except as provided for in section 61-24.1-09.

Approved March 27, 1979

CHAPTER 649

SENATE BILL NO. 2310
(Senators Krauter, Olin)
(Representatives Meyer, Thompson)

WEST RIVER WATER SUPPLY DISTRICT

AN ACT to create the west river water supply district in order to coordinate and facilitate the development and implementation of a plan for the supplementation of the water resources of Dickinson and other North Dakota counties and governmental entities with water from the Missouri River; and providing an appropriation.

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

SECTION 1. FINDINGS AND DECLARATION OF POLICY.) It is hereby found and declared by the legislative assembly that many areas and localities do not enjoy safe drinking water, and that in many such areas and localities the water contains iron, sulfates, alkali, salt, nitrates, and other hazardous and discoloring substances, and that other areas and localities do not have sufficient quantities of water to ensure a dependable, long-term supply. It is further found and declared that supplementation of the water resources of the city of Dickinson and other governmental entities with water supplies from the Missouri River, utilizing a pipeline transmission and delivery system, is a potentially feasible approach to provide the city of Dickinson and other governmental entities with a safe and dependable source of water. It is therefore declared to be in the best interest of the people of the city of Dickinson and other governmental entities to exercise the sovereign power of the state by providing a means for the establishment of the west river water supply district to further investigate and develop a pipeline transmission and delivery system for purposes including, but not limited to, domestic, rural water districts, municipal, livestock, irrigation, light industrial, mining, recreational, fish and wildlife, and pollution abatement uses which will result in the best use of such waters and related land resources, with primary emphasis on domestic, rural water district, and municipal uses.

SECTION 2. DEFINITIONS.) In this chapter, unless the context or subject matter requires otherwise:

1. "Board" means the board of directors of the west river water supply district.
2. "District" means the west river water supply district.
3. "Works" shall include:
 - a. All property rights, easements, and franchises relating thereto and deemed necessary or convenient for their operation.
 - b. All water rights acquired and exercised by the district in connection with such works.
 - c. All means of delivering and distributing water through the utilization of a pipeline transmission and delivery system.
4. "Person" includes any state agency, natural person, municipality, political subdivision, public or private corporation, partnership, or association.
5. "Governmental entity" means any city, county, portion of any county, organized township, or other political subdivision.

SECTION 3. CREATION OF DISTRICT BY ELECTION - SECRETARY OF STATE TO CERTIFY RESULT - DISTRICT TO BE CORPORATE AGENCY OF STATE.) A vote upon the question of the creation of the district and authorization of a mill levy may be held in the first election in the city of Dickinson and any other governmental entity, following the effective date of this Act. The election results shall be determined in the manner provided by section 40-21-12, and shall also be certified to the secretary of state. The secretary of state shall receive, record, and maintain the certification of the result of the election in the manner provided by section 16-13-26. The district shall be established by a sixty percent majority of the votes cast in any governmental entity in favor of the creation of the district. Upon the determination of the secretary of state that the district has been created in accordance with law, he shall certify that fact to the governmental entities within the district. If so created, the district shall be a corporate agency of this state, a body politic and corporate with the authority to exercise the powers specified in this Act, including the power to certify a mill levy as provided by section 8 of this Act, and an administrative agency within the meaning of chapter 28-32.

Laws applicable to elections generally and not inconsistent with this section shall govern the elections required by this section.

SECTION 4. BOARD OF DIRECTORS - OFFICERS - MEETINGS - COMPENSATION.) The district shall be governed by a board of directors who shall be chosen in accordance with the provisions of

this Act. The board shall elect annually from its membership a chairman, vice chairman, and secretary. A majority of the members shall constitute a quorum for the purpose of conducting the business of the board. The board shall meet at the time and place designated by the secretary. Board members shall receive compensation in the amount provided for by subsection 1 of section 54-35-10, and shall be reimbursed for their mileage and expenses in the amount provided for by sections 44-08-04 and 54-06-09.

SECTION 5. APPOINTMENT OF DIRECTORS - TERM OF OFFICE.)

Within thirty days of the creation of the district, the governing bodies of the governmental entities within the district shall each appoint a director who shall be a resident and elector of the governmental entity from which he is appointed. Each governmental entity shall be represented by one director, provided that in no case shall any county within the district have more than one representative on the board of directors of the district, except for Stark County whose representation shall include two directors from the city of Dickinson and one director representing Stark County, provided that Dickinson and Stark County are members of the district. An appointee from the state water commission shall serve as a board member temporarily until the time that the board shall be comprised of no less than three directors as defined in section 5 of this Act. The first governmental entity of any county within the district electing to be a part of the district shall be entitled to a representative on the board of directors until such time as the county elects to become a part of the district. If a county elects to become a part of the district, the other governmental entity representative of that county shall serve until the end of that term as director, at which time the county shall be entitled to elect a single member on the board of directors to represent that county and all governmental entities within that county which are members of the district, except that Stark County shall be represented as set out above. Directors so appointed shall serve in the manner provided by section 3 of this Act and shall hold office until a successor has been duly elected and qualified.

SECTION 6. ELECTION OF DIRECTORS - TERM OF OFFICE - VACANCY.)

In 1980, and thereafter, a director of the district shall be nominated and elected in each governmental entity within the district in the same manner as city or county officers are nominated and elected.

One-half of the members of the board of directors elected in 1980 shall hold office for a term of two years, and one-half of the members of the board of directors elected in 1980 shall hold office for a term of four years.

Directors elected after 1980 shall each serve for a term of four years. In the event the office of any district director shall become vacant by reason of removal from a governmental entity, death, resignation, or otherwise, the vacancy shall be filled by appointment of the governing body of the governmental entity in which the vacancy occurs. A director so appointed shall be an

elector and a resident of the governmental entity from which he is appointed and shall serve only for the unexpired term.

SECTION 7. POWERS AND DUTIES OF THE BOARD.) The district board of directors may exercise the following powers and shall have the following duties:

1. To sue and be sued in the name of the district.
2. To accept funds, property, and services or other assistance, financial or otherwise, from federal, state, and other public or private sources for the purpose of aiding and promoting the construction, maintenance, and operation of the west river water supply district, or any part thereof.
3. To cooperate and contract with the state of North Dakota, its agencies and political subdivisions, and any agency of the United States, in investigation and the establishment, construction, development, of operation of the west river water supply district, or any part thereof.
4. To construct either separately or in cooperation with agencies of the United States, the state of North Dakota or any agency thereof, and equip, maintain, and operate an office and principal place of business for the district and other buildings and facilities necessary to carry out activities authorized by this Act, and to acquire and dispose of any interest in real and personal property.
5. To appoint and, within the limits of legislative appropriations, fix the compensation of, such employees as the board shall deem necessary to conduct the business and affairs of the district.
6. To contract for supplies of water from the United States, any department or agency thereof, the state of North Dakota, any department or agency thereof, or any rural water association; and to sell, lease, and otherwise to furnish any such water for beneficial use.
7. To levy a tax, in 1980 and thereafter, of not to exceed one mill annually on each dollar of taxable property in those governmental entities creating a district pursuant to section 3 of this Act, for the payment of the expenses of the district, including but not limited to per diem, mileage, and other expenses of directors; technical, administrative, clerical, operating, and other expenses of the district office, and for the cumulation of a continuing fund through such levy for the performance of obligations entered into with the United States of America, the state of North Dakota, or any political subdivision or other person. All moneys collected pursuant to such levy shall be deposited in the Bank of

North Dakota to the credit of the district and shall be disbursed only as provided herein.

8. To exercise all powers for, or incidental to, the achievement of the purposes and objectives of this Act.

SECTION 8. DISTRICT BUDGET - CERTIFICATION OF MILL LEVY - LIMITATIONS.) The board of directors of the district shall, upon the organization of the board in 1980, and in July of each year thereafter, estimate the expenses and obligations of the district, including, but not limited to, expenses of the directors, expenses of operating and maintaining the offices of the district, and other administrative expenses. The board of directors may include in the budget estimates of funds deemed necessary to create a reserve fund to meet future payments of obligations incurred by the district. Upon the completion and adoption of the budget, the board shall determine a mill levy for each governmental entity within the district in an amount sufficient to meet the expenses of the budget. The mill levy may be in differing amounts for each governmental entity and shall be based upon the benefit to be gained by such governmental entities from the project for which the assessment is made, but in no event shall the mill levy for any governmental entity exceed one mill. The determination of the mill levy shall be in the form of a resolution adopted by a majority vote of the members of the board.

SECTION 9. BOARD TO CERTIFY MILL LEVY TO CITY AUDITORS, COUNTY AUDITORS, AND STATE TAX COMMISSIONER.) Upon the adoption of the annual mill levy by the board of directors, but no later than October first, the secretary of the board shall send one certified copy of the appropriate mill levy to the city auditor of every member city within the district, and shall send to the county auditor one copy of the mill levy for each governmental entity within the county which is a member of the district. Copies of all such documents shall be sent to the state tax commissioner.

SECTION 10. CITY AUDITORS AND COUNTY AUDITORS TO EXTEND TAX LEVY.) The city auditor of each member city and county auditor of each county within the district, to whom a mill levy is certified in accordance with this chapter, shall extend the levy upon the tax lists for the current year against each description of real property and all personal property within the governmental entities, as defined for the purposes of this Act, in the same manner and with the same effect as other taxes are extended.

SECTION 11. COUNTY OR CITY TREASURER TO COLLECT AND REMIT DISTRICT TAXES - DISTRICT FUND ESTABLISHED - NONREVERTER - DISBURSEMENTS.) The treasurer of each city or county within the district to which a mill levy has been certified shall collect the district taxes, together with interest and penalty thereon, if any, in the same manner as the general taxes are collected, and shall pay over to the treasurer of the district, on demand, all taxes, interest, and penalties so collected, and shall forthwith notify the secretary of the district of such payment. Expenditures shall be

made by the board of directors upon vouchers signed by the chairman of the board.

SECTION 12. PROCEEDINGS TO CONFIRM CONTRACT.) The board of directors of the district, after entering into a contract with the United States government, the state of North Dakota, or with any public corporation of the state of North Dakota, may commence a special proceeding in and by which the proceedings of the board and the making of such contract, or contracts, shall be judicially examined, approved, and confirmed, or disapproved and disaffirmed. Such proceeding shall comply as nearly as possible with the procedure required in the case of irrigation districts under the laws of North Dakota.

SECTION 13. TERMINATION OF DISTRICT.) Upon the vote of a majority of the directors of the board, the district shall cease to exist from and after the thirty-first day of December following the vote, subject to the payment of any obligations entered into prior to such vote. After all obligations of the district have been paid, the board of directors shall certify such fact to the city or county auditor of each of the cities or counties within the district and shall proceed to liquidate the assets of the district in such a manner as the board shall deem in the best interests of the district. Following liquidation, the board shall return to each governmental entity its pro rata share of any moneys remaining in the district treasury. The pro rata share shall be equal to the proportion that such governmental entity's total contribution to the district bears to the total contribution of all governmental entities to the district.

SECTION 14. ADDITION OF OTHER GOVERNMENTAL ENTITY TO DISTRICT.) Upon filing with the county commission a petition containing the signatures of ten percent of the eligible electors residing in the governmental entity, voters within that governmental entity may join the district upon a favorable vote of sixty percent majority of the eligible electors residing therein, exclusive of any cities within the entity, provided that the governing body's application for membership be approved by the board of directors of the district. The county auditor of each county shall certify the results of the election to the secretary of state in the manner provided by section 16-13-24. The board of directors, as a condition of approval of such application, may require the levy of such taxes within said governmental entity as may be equitable to equalize the burden of such governmental entity with the obligations paid or assumed by the other governmental entities in the district. Such governmental entity is hereby authorized to levy such taxes as may be necessary to carry out its part of the agreement for becoming a part of the district, which levy shall be in addition to the amount which may otherwise be legally levied by that governmental entity.

SECTION 15. LIMITATIONS.) The provisions of this Act shall not be construed to limit the rights, powers, or duties of any state department or agency, or of any political subdivision. Nor shall

any of the provisions of this Act be construed as limiting or in any way affecting the laws of this state relating to organization and maintenance of water management districts, park districts, or irrigation districts, or any other legal entity found wholly or partly within the boundaries of the west river water supply district.

SECTION 16. APPROPRIATION.) There is hereby appropriated out of any moneys in the lands and mineral trust fund in the state treasury, not otherwise appropriated, the sum of \$40,000.00, or so much thereof as may be necessary, to the state water commission for the purpose of assisting the west river water supply district in carrying out the provisions of the Act for the biennium beginning July 1, 1979, and ending June 30, 1981. Such moneys shall be available only in the event that the district is created.

Approved April 7, 1979

WEEDS

CHAPTER 651

SENATE BILL NO. 2475
(Dotzenrod)

DEFINITION AND CONTROL OF NOXIOUS WEEDS

AN ACT to create and enact section 63-01.1-10.1; to amend and reenact subsections 4 and 5 of section 63-01.1-02 and sections 63-01.1-03, 63-01.1-04, 63-01.1-05, 63-01.1-06, subsection 2 of section 63-01.1-12, section 63-01.1-13 and subsection 1 of section 63-01.1-15 of the North Dakota Century Code; and to repeal section 63-01.1-07 of the North Dakota Century Code, all relating to the definition and control of noxious weeds.

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

SECTION 1. AMENDMENT.) Subsections 4 and 5 of section 63-01.1-02 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 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, or a county control authority after consulting with the county extension agent, 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, and the governing body of each county, organized township and city 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.~~

SECTION 2. AMENDMENT.) Section 63-01.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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~~ a state list of noxious weeds 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, township and special-control city 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, township and special-control city 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.

SECTION 3. AMENDMENT.) Section 63-01.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-04. ~~COUNTY~~ GOVERNING BODY AS 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; the board of township supervisors in each organized township in the state shall be the control authority for that township; and the city council or board of city commissioners of each city in the state shall be the control authority for that city.
2. ~~The board--of--county--commissioners governing body 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 governing body~~ or may be any other interested and able person. The same person may serve as weed control officer for more than one ~~county governing body~~. Employment may be for such tenure, and at such rates of compensation and reimbursement for travel expenses as the ~~county--commissioners governing body~~ 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 ~~county~~ governing authority to the commissioner.
3. The control authority of any county, city, or township may expend such funds from those sources authorized in section 63-01.1-06 for the purpose of controlling noxious weeds, in addition to any other expenditures for control authorized by this chapter, when such weeds have grown on any public or private land and the control authority finds that the extent of such weeds is so severe that their eradication would constitute an extreme financial burden upon the person otherwise liable for such expense.

4. The control authority of any county may develop and compile a county list of noxious weeds for the purposes of such county. Any such county list shall, at a minimum, contain those noxious weeds determined by the commissioner. The commissioner may remove the county noxious weed determination from the county list after consulting with the board of county commissioners and the state cooperative extension service.
5. Any control authority shall cooperate with any other control authority.

SECTION 4. AMENDMENT.) Section 63-01.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-05. DUTIES OF WEED CONTROL OFFICER.) The weed control officer shall:

1. Cooperate with ~~the other control authority~~ authorities and officers, 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~~ jurisdiction of the control authority.
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. The control officer may cause such weeds and grasses to be cut or controlled and the expenses shall be charged against the land of the landowner or such persons controlling the land 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, or the landowner and such persons controlling the land shall 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.
8. Serve as county seed inspector for the purposes of enforcing such laws and regulations under the jurisdiction of the North Dakota state seed department as shall be directed by the state seed commissioner.

SECTION 5. AMENDMENT.) Section 63-01.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-06. FUNDING COUNTY OF 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.
2. The township board of supervisors may pay for any expenses incurred in control of noxious weeds in accordance with the provisions of this chapter in the manner provided in section 63-01.1-10. Expenses of any township may also be paid by a township tax levy made by the township board of supervisors in the manner provided for a county levy under subsection 1 of this section.
3. The governing body of any city may pay any expenses incurred by it in carrying out the provisions of this chapter from such city's general fund revenues.

SECTION 6.) Section 63-01.1-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

63-01.1-10.1. CITIES TO CONTROL NOXIOUS WEEDS WITHIN CITIES.) The governing body of any city, when acting as a control authority, shall eradicate or control noxious weeds as defined in this law when found within or adjacent to such city, and may act in conjunction with any other control authority or officer also required to act under this law.

SECTION 7. AMENDMENT.) Subsection 2 of section 63-01.1-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. ~~Custom--or--commercial~~ All 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.

SECTION 8. AMENDMENT.) Section 63-01.1-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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. In the event that agencies coming within the provisions of this section shall fail or refuse to eradicate or control noxious weeds in accordance with this section, the commissioner may hold a public hearing under such conditions and terms as he shall deem advisable, to determine the reason for such failure or refusal.

SECTION 9. AMENDMENT.) Subsection 1 of section 63-01.1-15 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any--person Custom or commercial operators of tillage, seeding, and harvesting equipment who violates the provisions of subsection 2 of section 63-01.1-12 shall be guilty of a class B misdemeanor. The weed control officers or control authorities shall institute necessary criminal actions under this subsection.

SECTION 10. REPEAL.) Section 63-01.1-07 of the North Dakota Century Code is hereby repealed.

Approved March 23, 1979

WEAPONS

CHAPTER 650

HOUSE BILL NO. 1596
(Murphy)

PISTOL REGULATION

AN ACT to create and enact a new section to chapter 62-01 of the North Dakota Century Code, relating to a prohibition of possessing a pistol in a liquor establishment, providing for an exception and a penalty; and to amend and reenact sections 62-01-01, 62-01-08, 62-01-09, 62-01-10, and 62-01-14 of the North Dakota Century Code, relating to the definition of a pistol, the form and term of a pistol license, regulation of pistol sales, the penalty for violating sales regulations, and the granting and conditions of pistol dealers' licenses.

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

SECTION 1.) A new section to chapter 62-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

PISTOLS PROHIBITED IN LIQUOR ESTABLISHMENTS - EXCEPTIONS - PENALTY.) Any person, other than a law enforcement officer or the proprietor, who enters or remains in an establishment engaged in the retail sale of alcoholic beverages while in the possession of a pistol is guilty of a class A misdemeanor.

SECTION 2. AMENDMENT.) Section 62-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-01-01. "PISTOL" DEFINED.) "Pistol" as used in this chapter means any firearm having a barrel less than ~~twelve~~ sixteen and one-half inches long that is not designed to be fired from the shoulder.

SECTION 3. AMENDMENT.) Section 62-01-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-01-08. LICENSE - FORM - TERM - FILING.) The license shall be in the form prescribed by the chief of the bureau of criminal investigation and shall bear the name, address, description, and

signature of the licensee, ~~and the reason given for desiring a license.~~ ~~It shall~~ At the option of the licensee, the license may not contain a description of the pistol or the reason for which the license is desired. It shall be issued for ~~not more than one year~~ two years. It shall be prepared in triplicate, and the original shall be delivered to the licensee, the duplicate shall be sent by registered or certified mail, within seven days after ~~issue~~ issuance, to the chief of the bureau of criminal investigation, and the triplicate shall be preserved for six years by the authority issuing the license.

SECTION 4. AMENDMENT.) Section 62-01-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-01-09. REGULATION OF SALES OF PISTOLS.) No person shall sell, deliver, or otherwise transfer a pistol to any other person unless such other person shall:

1. Exhibit a license to carry a pistol; or
2. ~~Be one of the persons exempted under the provisions of section 62-01-05~~ Sign an affidavit stating that he is not one of the persons prohibited by section 62-01-04 from possessing a pistol. The person transferring the pistol, within seven days after such transfer, shall sign and attach his address to the original statement signed by the person obtaining the pistol and forward same by registered or certified mail to the chief of the bureau of criminal investigation.

~~The~~ In addition, the person to whom a pistol is sold, delivered, or otherwise transferred must be known or identified to the person making the sale, delivery, or transfer. Before delivery of the pistol, the person to whom the same is sold, delivered, or otherwise transferred must sign and deliver to the person selling, delivering, or transferring the same, a statement in triplicate containing the full name, age birth date, address, and occupation place of birth of the person receiving the pistol, and the caliber, make, model, and manufacturer's number of the pistol, and the number of the license possessed by the person obtaining the pistol. ~~The person transferring the pistol, within seven days after such transfer, shall sign and attach his address to and forward by registered or certified mail the original statement signed by the person obtaining the pistol to the chief of the bureau of criminal investigation, the duplicate to the chief of police of the city or sheriff of the county of which the person so transferring the pistol is a resident, and he shall retain the other copy for six years. This original statement signed by the person obtaining the pistol is to be retained by the person transferring the pistol for a period of six years. This section shall not apply to purchase by licensed retailers from manufacturers, wholesalers, other retailers, or jobbers, or to purchase by wholesalers or jobbers from manufacturers.~~

SECTION 5. AMENDMENT.) Section 62-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-01-10. VIOLATION OF SALES REGULATIONS - PENALTY.) Any person who shall violate the provisions of section 62-01-09 shall be ~~punished by a fine of not less than one hundred dollars or by imprisonment for not less than one year, or by both such fine and imprisonment~~ guilty of a class A misdemeanor.

SECTION 6. AMENDMENT.) Section 62-01-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

62-01-14. DEALERS' LICENSES - BY WHOM GRANTED AND CONDITIONS THEREOF.) Any city may provide by ordinance for the licensing of retail dealers in pistols. If such license is required, it shall be effective for not more than one year from the date of issue, and shall permit the licensee to sell pistols at retail within the said city. If such licenses are issued, they shall be subject to the following conditions, for the breach of any of which the license shall be subject to forfeiture:

1. The business shall be carried on only in the building designated in the license~~;~~.
2. The license, or a copy thereof certified by the issuing authority, shall be displayed on the premises where it can easily be read~~;~~.
3. No pistol shall be delivered:
 - a. ~~On the day of the application for the purchase;~~
 - b. Unless the purchaser either is personally known to the seller or shall present clear evidence of his identity; nor
 - e- b. Unless the purchaser shall exhibit a license to carry a pistol, or sign an affidavit to be forwarded, within seven days, by registered or certified mail to the chief of police of said city stating that the purchaser is not one of the persons prohibited by section 62-01-04 from possessing a pistol.
4. A true record~~, in triplicate,~~ shall be made of every pistol sold~~, said record to be made~~ in a book kept for such that 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~~ The record of sale shall include the date of sale, the caliber, make, model, and manufacturer's number of the weapon, and the name, and address, and occupation of the purchaser. One copy of said record, within seven days, shall be forwarded by certified mail to the chief of the bureau of criminal

~~investigation, 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~~ The record shall be retained for six years.

~~5. No pistol, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of said premises where it can readily be seen from the outside.~~

Approved March 12, 1979

WORKMEN'S COMPENSATION

CHAPTER 652

SENATE BILL NO. 2219
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

DEATH BENEFITS AND CLAIMS

AN ACT to amend and reenact section 65-05-01, subsection 4 of section 65-05-16, and section 65-05-17 of the North Dakota Century Code, relating to filing of claims for compensation and an increase in death benefits; and to declare an emergency.

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

SECTION 1. AMENDMENT.) Section 65-05-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-01. CLAIMS FOR COMPENSATION - WHEN AND WHERE FILED.) All original claims for compensation shall be filed within one year after the injury or within two years after the death. The date of injury for purposes of this section shall be the actual date of injury when such can be determined with certainty by the claimant and bureau. When the actual date of injury cannot be determined with certainty the date of injury shall be the first date that a reasonable person knew or should have known that the injury was related to employment. No compensation or benefits shall be allowed under the provisions of this title to any person, except as provided in section 65-05-04, unless he or she, or someone on his or her behalf, shall file a written claim therefor within the time specified in this section. Such claim shall be filed by:

1. Delivering it at the office of the bureau or to any person whom the bureau by regulation may designate; or
2. Depositing it in the mail properly stamped and addressed to the bureau or to any person whom the bureau by regulation may designate.

SECTION 2. AMENDMENT.) Subsection 4 of section 65-05-16 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. In all events no death benefits shall be payable unless a claim is submitted within ~~one-year~~ two years of the death and:
 - a. The death is a direct result of an accepted compensable injury; or
 - b. If no claim was submitted by the deceased, the claim for death benefits is submitted within ~~one--year~~ two years of the injury.

SECTION 3. AMENDMENT.) Section 65-05-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-05-17. WEEKLY COMPENSATION ALLOWANCES FOR DEATH CLAIMS.) If death results from an injury under the conditions specified in section 65-05-16, the fund shall pay to the following persons, for the periods specified, a weekly compensation:

1. To the spouse or guardian of the orphaned child or children of the decedent, an amount ~~equal to two-thirds of the weekly wage of the deceased, not to exceed the sum of seventy-five dollars per week,~~ of ninety dollars until the death or remarriage of the spouse; or, in the case of a guardian, until the orphaned child or children of the decedent reach the age of eighteen; or, if such child or children are incapable of self-support, until they are capable of self-support. Where there is more than one orphaned child of a decedent, death benefits shall be divided equally among guardians. In no case shall total death benefits be less than ten dollars per week.
2. To each surviving dependent child or issue of said deceased employee born within ten months after the employee's date of death, the amount of seven dollars until such child dies, marries, or reaches the age of eighteen years or if such child is incapable of self-support until it becomes capable of self-support. The bureau, in its discretion, may make such payment directly to such surviving child or issue of the deceased employee or to the surviving parent or guardian of such child or issue.

In addition to the awards herein, the commissioners shall make an award in the sum of three hundred dollars to the spouse or guardian of the orphaned child or children of the deceased and one hundred dollars for each dependent child. Where there is more than one guardian of orphaned children, the three hundred dollars shall be divided equally among such guardians.

SECTION 4. EMERGENCY.) Sections 1 and 2 of this Act are hereby declared to be an emergency and shall be in effect from and after this Act's passage and approval.

Approved March 22, 1979

CHAPTER 653

SENATE BILL NO. 2488
(Committee on Delayed Bills)
(At the request of Senator Reiten)

SURVIVOR'S DEATH BENEFIT

AN ACT to amend and reenact section 65-05-17 of the North Dakota Century Code, as amended by Senate Bill No. 2219 as approved by the forty-sixth legislative assembly, relating to widows' death benefits under workmen's compensation.

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

SECTION 1. AMENDMENT.) Section 65-05-17 of the North Dakota Century Code, as amended by section 3 of Senate Bill No. 2219 as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

65-05-17. WEEKLY COMPENSATION ALLOWANCES FOR DEATH CLAIMS.) If death results from an injury under the conditions specified in section 65-05-16, the fund shall pay to the following persons, for the periods specified, a weekly compensation:

1. To the spouse or guardian of the orphaned child or children of the decedent, an amount ~~of~~ equal to two-thirds of the weekly wage of the deceased, not to exceed ninety dollars per week, until the death or remarriage of the spouse; or, in the case of a guardian, until the orphaned child or children of the decedent reach the age of eighteen; or, if such child or children are incapable of self-support, until they are capable of self-support. Where there is more than one orphaned child of a decedent, death benefits shall be divided equally among guardians. In no case shall total death benefits be less than ten dollars per week.
2. To each surviving dependent child or issue of said deceased employee born within ten months after the employee's date of death, the amount of seven dollars until such child dies, marries, or reaches the age of eighteen years or if such child is incapable of self-support until it becomes capable of self-support. The bureau, in its discretion, may make such payment directly

to such surviving child or issue of the deceased employee or to the surviving parent or guardian of such child or issue.

In addition to the awards herein, the commissioners shall make an award in the sum of three hundred dollars to the spouse or guardian of the orphaned child or children of the deceased and one hundred dollars for each dependent child. Where there is more than one guardian of orphaned children, the three hundred dollars shall be divided equally among such guardians.

Approved April 7, 1979

CHAPTER 654

SENATE BILL NO. 2217
(Committee on Industry, Business and Labor)
(At the request of the Workmen's Compensation Bureau)

SOCIAL SECURITY OFFSET

AN ACT to create and enact a new section to chapter 65-05 of the North Dakota Century Code, relating to an offset of social security benefits.

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

SECTION 1.) A new section to chapter 65-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

SOCIAL SECURITY OFFSET.) When an injured employee, spouse or dependent of an injured employee, is eligible for and is receiving permanent total or temporary total disability benefits under section 65-05-09, and is also eligible for, is receiving, or will receive, benefits under Title II of the Social Security Act [42 U.S.C. 423], the aggregate benefits payable under section 65-05-09 shall be reduced, but not below zero, by an amount equal as nearly as practical to one-half of such federal benefit. The amount of the offset computed by the bureau initially will remain the same throughout the period of eligibility and will not be affected by any increase or decrease in federal benefits.

Any injured employee, or dependent of an injured employee, receiving permanent total or temporary total disability benefits under section 65-05-09 and whose benefits are offset as provided herein, shall not be eligible for any escalation of benefits, provided for in this chapter. This offset will become effective on January 1, 1980, provided that it meets the criteria necessary to allow states to offset federal benefits under Title II of the Social Security Act [42 U.S.C. 424a].

Approved March 15, 1979

CHAPTER 655

HOUSE BILL NO. 1322
(Rued)

SUPPLEMENTARY BENEFITS

AN ACT to provide for supplementary benefits to persons receiving workmen's compensation benefits under previous benefit allowances, and establishment of a supplementary benefit fund within the workmen's compensation fund.

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

SECTION 1. ELIGIBILITY FOR SUPPLEMENTARY BENEFITS.) Any workmen's compensation claimant who was receiving permanent total disability or death benefits as of July 1, 1975, and is receiving such benefits as of July 1, 1979, is eligible for supplementary benefits. Eligibility for supplementary benefits starts on July 1, 1979, and lasts for as long as the claimant is entitled to workmen's compensation benefits.

SECTION 2. SUPPLEMENTARY BENEFITS - AMOUNT.) If a claimant was eligible for the maximum permanent total disability or death benefits in effect at the time of injury, supplementary benefits are twenty percent of the difference between the amount of benefits which the claimant is receiving and the maximum amount of benefits in effect on July 1, 1975. Supplementary benefits for a claimant who was eligible for less than the maximum permanent total disability or death benefits in effect at the time of the injury shall be twenty percent of the difference between the amount of benefits the claimant is receiving and the benefits in effect on July 1, 1975, in the same proportion as the claimant's present benefits bear to the maximum benefits in effect at the time of injury.

SECTION 3. PAYMENT OF SUPPLEMENTARY BENEFITS FROM THE SUPPLEMENTARY BENEFIT FUND.) The payment of supplementary benefits to eligible recipients shall be made by the workmen's compensation bureau from the supplementary benefit fund. If the supplementary benefit fund is inadequate to pay the full amount of supplementary benefits to an eligible recipient, the levels of supplementary benefits shall be prorated for all eligible recipients.

SECTION 4. SUPPLEMENTARY BENEFIT FUND.) The workmen's compensation bureau shall periodically determine the amount of money earned on reserves in the workmen's compensation fund necessary to provide for the payment of supplementary benefits under this Act and shall periodically transfer an adequate amount from the earnings on the reserves of the workmen's compensation fund to the supplementary benefit fund.

SECTION 5. PREMIUM RATE NOT TO BE INCREASED.) During the period of July 1, 1979 through June 30, 1981 the bureau shall not effectuate any increase to base premium to any employer as the result of this amendment. Rate adjustment required as the result of other benefit increases provided by law or due to other increased costs or based on actuarial studies or merit rating shall not be limited by this section.

Approved March 15, 1979

CHAPTER 656

HOUSE BILL NO. 1502
(Stenehjem, Kuchera)

COST OF APPEAL FROM DECISION OF BUREAU

AN ACT to amend and reenact section 65-10-03 of the North Dakota Century Code, relating to costs of appeal, attorney's fees; and providing a statement of legislative intent.

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

SECTION 1. AMENDMENT.) Section 65-10-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

65-10-03. COSTS OF APPEAL ~~INCLUDING AND ATTORNEYS' FEES FIXED BY THE COURT.~~) The cost of the appeal, ~~including~~ and an attorney's fee for the appellant's attorney, shall be set by the ~~trial-judge~~ appellate court and taxed against the bureau unless the appeal is determined to be frivolous. The bureau shall pay such attorney's fee from the bureau general fund. The amount of such attorney's fee shall be determined in the same manner as prescribed by ~~rule of~~ the bureau for attorney fees, ~~adopted pursuant to this title,~~ and the amount of attorney's fee already allowed in proceedings before the bureau shall be taken into consideration.

Such attorney's fee shall constitute the entire remuneration for the appellant's attorney for all services in connection with the appeal. Nothing provided herein shall be construed to prevent a claimant or employer from hiring or paying his or her own attorney.

SECTION 2. INTENT.) It is the intent of the legislative assembly that the workmen's compensation bureau be allowed to pay the fees of all attorneys who performed work on behalf of claimants at the appellate level pursuant to the bureau's practice prior to these amendments.

Approved March 19, 1979

VETOED MEASURES

CHAPTER 657

HOUSE BILL NO. 1002
(Legislative Council)
(Interim Committee on Resources Research)

SCIENCE AND TECHNOLOGY PROGRAM

AN ACT directing the legislative council to administer a scientific and technological research and development program, to set out its responsibilities and duties, to provide for its staffing; to set forth legislative intent concerning the coal trust fund; and to provide an appropriation.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

House Bill 1002 provides a \$1,600,000 appropriation to the Legislative Council to administer a scientific and technological research and development program. The bill states that the science and technology program is the statutory successor of the Regional Environmental Assessment Program (REAP).

The concept for the Regional Environmental Assessment Program developed from an interim study of the Legislative Council before the Forty-Fourth Legislative Assembly in 1975. The intent of the interim committee studying the proposal was to plan for the use of non-renewable natural resources by designing a system to collect available environmental, economic, and societal information.

According to the Report of the Legislative Council, the thinking at that time was that two important products could result from such an information system:

1. A continually developing baseline assessment of environmental, economic, and social conditions in the region.
2. A list of potential development activities which would contribute to the regional objectives within the limitations of the regional ecological, social, and economic conditions.

The interim committee envisioned that REAP would reliably predict the impact or results of development before they occurred in order that state and local government as well as citizens could intelligently judge whether the development is desirable.

REAP was officially created by an appropriation of \$2,000,000 from the Coal Severance Tax Trust Fund to the Legislative Council in the Forty-Fourth Legislative Session. The Legislature expressed its hopes for the new information system as follows:

"It is the intent of the legislative assembly that priorities shall be given to the development of necessary data and information systems in regard to the existence of and potential use of North Dakota's natural resources in order that citizens of this state, officials of the executive branch of government and local government, and the legislative assembly, may know with a high degree of certainty the alternatives available to the state in any use and development of resources, and the results and impacts of any such use or development, in order that there shall not be material detrimental deterioration of the environmental quality of life in North Dakota, but that any such use shall in fact enhance the quality of life of the citizens of this state."

Through fiscal year 1979, North Dakota will have spent \$4,000,000 on this project. It is apparent that the laudable objectives of 1975 are not attainable. After four years REAP has not addressed the social impacts of natural resource development. Although this focus was central to the original concept of REAP's mission, REAP's governing body has ignored it.

REAP changed direction during the current biennium. Instead of continuing to gather important baseline data, which changes daily, REAP's governing body chose to commit resources to purchasing expensive computer hardware. All the federal standards for determining the deterioration of air and water quality are based on base-year data which REAP was directed to gather. The decision to buy a computer system rather than gathering this critical data permits the development of North Dakota's resources without first establishing adequate environmental safeguards. I cannot agree with this priority.

House Bill 1002 changes the original concept of REAP in another way: REAP would become a staff function of the Legislative Council to be known as the science and technology program. This is objectionable because the bill avoids any statutory reference to coordination between the legislative and executive branches of government. The original recommendations for REAP included in the Report of the Legislative Council to the Forty-Fourth Legislative Assembly called for transferring REAP to the executive branch of government in two to four years. In House Bill 1002 there is no official role provided for the executive branch in the important process of collecting and analyzing the data which would be available for future decision-makers. The choices which lie ahead of our state are important enough to demand that state government be united in its stand on how much pollution and environmental change and how much disruption of our established way of life will be tolerated. The people expect this coordination, but the Legislature has avoided it.

I do not approve the appropriation of another \$1,600,000 for a system that has not accomplished the purposes it was created for.

Therefore, I veto House Bill 1002.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. SCIENCE AND TECHNOLOGY PROGRAM - STAFF -
RELATIONSHIP TO USERS.)

1. The legislative council, or its designee, shall administer a scientific and technological research and development program (hereafter called "science and technology program" or "program"). The program shall be operated in accordance with the provisions of this Act and the existing statutory authority of the legislative council.
2. The legislative council staff office shall provide staff for the program, and the council, or its designee, may hire such additional staff as it deems necessary, including a program staff director. The council, or its designee, shall set compensation for any additional staff within the limits of legislative appropriations.
3. The council, or its designee, shall structure the program to provide scientific and technical assistance to the legislative assembly and the legislative council; and, in

cooperation with other state agencies, to coordinate with and assist in the:

- a. Development of a comprehensive environmental data base for North Dakota.
- b. Development of information systems capable of meeting the needs of North Dakota decision makers.
- c. Development of assessment/modeling capabilities to forecast the environmental characteristics of North Dakota.
- d. Development of monitoring systems to detect changes in the environmental characteristics of North Dakota.

As used in this subsection, "environmental" includes physical, biological, social, and economic factors.

4. The council, or its designee, may contract for such research or development with any suitable person or governmental or private entity. The emergency commission may authorize the transfer of funds between the council, or its designee, and any state agency to support contracts between the council, or its designee, and that agency.
5. The council shall give preference to existing state entities when contracting for research or development.
6. Capabilities developed by, or under contract to, the council shall, to the extent possible, be multidisciplinary in nature and be designed to:
 - a. Provide comprehensive outputs useful to a variety of user entities.
 - b. Ensure that all data and analytic methods can be clearly identified by the user so as to allow the user to judge its value.
 - c. Enhance the ability of user entities to meet their own responsibilities, thus reducing the duplication of research and development among governmental entities.
7. Capabilities developed shall, to the extent feasible, be transferred to other governmental entities for operation. The recipient entity is hereby authorized to enter into an agreement with the council, or its designee, for receipt and operation of a capability to be transferred. All computer software developed by or for the council shall be its property and may be sold by the council, and all proceeds from such sale shall be deposited in the special trust fund from the coal severance tax. Any software sold pursuant to this subsection shall be sold without warranty

of any kind, and shall not be maintained by the council, or its designee.

SECTION 2. SCIENCE AND TECHNOLOGY PROGRAM - FEE POLICIES - DATA HANDLING - AID FROM AGENCIES AND INSTITUTIONS.)

1. The council, or its designee, may establish a user fee policy to be charged to various classes of users of its products and services. The council may decide that one or more classes of users may receive its products or services, or both, free of charge.
2. Data obtained by the council, its designee, or its staff from other governmental agencies which is not normally made public or, if it is made public, is not made public in the form the council, its designee, or its staff will be using it, shall be subject to the source agency's policy on dissemination of the information consistent with state and federal laws.

SECTION 3. SCIENCE AND TECHNOLOGY PROGRAM - GRANTS TO STATE AGENCIES - PROCEDURES - DURATION.)

1. The council, or its designee, may, from appropriated funds available to it for that purpose, make grants to state agencies to fund, wholly or partially, unanticipated environmental research needs. The council will be solely responsible for determining which grant applications will be funded. The council shall not consider or fund any grant applications pursuant to this section after December thirty-first of the second fiscal year of any biennium.
2. The council will adopt guidelines for grant applications by August 1, 1979. In addition to the guidelines developed by the council, the council and all applicants shall be guided by the following:
 - a. State agencies shall be the only eligible applicants for grants under this section.
 - b. Grants may be made only for projects projected to be completed during the biennium in which the grant is made.
 - c. Grants shall not be made in which the state would incur costs during a time period following the biennium in which the grant is made.
 - d. The recognition of the need for the environmental research must have occurred after adjournment of the legislative assembly which appropriated the funds from which the grant would be made.

- e. Grant applications may be submitted to any member of the council, or its designee, and will be forwarded by that member to the council, or its designee.
- f. All grant applications received will be placed on the agenda of the council, or its designee, no later than the second meeting after receipt of the application.
- g. The council, or its designee, will notify the emergency commission of grant applications and grants made pursuant to this section.

SECTION 4. SCIENCE AND TECHNOLOGY PROGRAM - DATA PROCESSING SERVICES TO COUNCIL.) The office of data processing of the department of accounts and purchases, hereafter "the office", shall provide such data processing services as the council may request within the limits of the appropriations available to the council. All agreements between the department of accounts and purchases, the office, or both, and the predecessor of the council program herein authorized shall be void on July 1, 1979.

SECTION 5. SCIENCE AND TECHNOLOGY PROGRAM - APPROPRIATION.)

1. There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, to the legislative council, the sum of \$1,600,000, or so much thereof as may be necessary, and such other public and private funds as may be available, which are hereby appropriated, for the operation of the science and technology program. These funds will be available commencing July 1, 1979, until June 30, 1981, except as provided in subsection 2 of this section.
2. Section 54-44.1-11 shall not apply to the appropriation in this section.
3. The director of accounts and purchases and the state treasurer will make such transfers of funds between lined items of appropriation in this section as may be requested by the chairman of the council when the nature of studies and duties undertaken by the council requires such transfers.
4. The science and technology program created by this Act is the statutory successor to the resources research committee and the North Dakota regional environmental assessment program established by Senate Bill No. 2004, forty-fifth legislative assembly.

SECTION 6. LEGISLATIVE INTENT.) The legislative assembly recognizes that moneys were appropriated from the special fund created by subsection 2 of section 12 of chapter 563 of the 1975 Session Laws for support of the regional environmental assessment program, and that such moneys were used, in essence, in response to

the impact of rapid coal development. The legislative assembly intends that, until otherwise specifically provided by law, further deposits in the trust fund referred to above, or its statutory successor, shall consist of moneys allocated from coal severance tax revenue as provided by law, and shall not consist of deposits from the regional environmental assessment program or its successor entity.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 658

HOUSE BILL NO. 1014
(Committee on Appropriations)

COMMISSIONER OF VETERANS' AFFAIRS
SALARY MAXIMUM

AN ACT making an appropriation for defraying the expenses of the department of veterans' affairs of the state of North Dakota.

VETO

March 8, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1014 appropriates \$273,766 for the expenses of the Department of Veterans' Affairs.

Section 1 of the bill includes the following line item:

"Salaries and wages	\$227,006
(Includes salary of commissioner not to exceed \$46,200 for the biennium)"	

State law provides that the Administrative Committee on Veterans' Affairs shall set the salary of the commissioner. The only restriction on the Committee's authority to determine the salary level of the commissioner is that the salary must be "within the limits of legislative appropriation". (Section 37-18.1-03 North Dakota Century Code)

With the parenthetical phrase "(Includes salary of commissioner not to exceed \$46,200 for the biennium)", the Legislature is substituting itself for the statutory committee for purposes of setting the salary of the commissioner. This in effect would amend state statute in an appropriation bill and is inappropriate.

The specific language by which the Legislature proposes to determine the salary of the commissioner is as follows:

"(Includes salary of commissioner not to exceed \$46,200 for the biennium)"

Therefore, I veto this specific language in House Bill 1014.

Sincerely yours,

ARTHUR A. LINK
Governor

Disapproved March 8, 1979

Filed March 14, 1979

NOTE: For the full text of House Bill No. 1014 containing the salaries and wages line item of section 1, see chapter 13.

CHAPTER 659

HOUSE BILL NO. 1067
(Legislative Council)
(Interim Committee on Judicial System)

JUDICIAL NOMINATING COMMITTEE

AN ACT to create and enact chapter 27-25 of the North Dakota Century Code, relating to the creation of a judicial nominating committee.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

House Bill 1067 creates a nine member judicial nominating committee composed of three members appointed by the Chief Justice of the North Dakota Supreme Court, three members appointed by the President of the State Bar Association and three members appointed by the Speaker of the House of Representatives.

Although I favor the concept of a judicial nominating committee, I object to this bill because the composition of the committee lacks balance.

Section 97 of the North Dakota Constitution, passed by the people in 1976, requires the Legislature to establish a judicial nominating committee. However, the Forty-Fifth Legislative Assembly failed to enact judicial nominating committee legislation. During the interim

following the legislative session, I carried out what I believed to be the intent of the Constitution by creating judicial nominating committees by executive act when vacancies occurred in the offices of a district judge and a supreme court justice.

In each case, I established a nominating committee consisting of six members; two appointed by the Governor, two appointed by the Chief Justice of the North Dakota Supreme Court and two appointed by the President of the State Bar Association. By all reports, the two interim nominating committees worked well and in each case, succeeded in providing me with a list of qualified candidates from which to make the judicial appointment.

House Bill 1067 is not acceptable because the Governor has been excluded from the bill as an appointing authority for members of the nominating committee. Early in the Forty-Sixth Legislative session, the House of Representatives unanimously approved an amended version of House Bill 1067 giving the Chief Justice of the North Dakota Supreme Court, the President of the State Bar Association, the Speaker of the House of Representatives, and the Governor two appointments each to an eight member nominating committee. However, the Senate rejected the House amendments and passed the bill in its present form.

The Governor should be included as an appointing authority for some members of the nominating committee.

Therefore, I veto House Bill 1067.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) Chapter 27-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

27-25-01. DEFINITIONS.) In this Act unless the context or subject matter otherwise requires:

1. "Candidate" means any person under consideration by the committee to fill a judicial vacancy.
2. "Chairman" means the chairman of the committee and includes any acting chairman.
3. "Committee" means the judicial nominating committee.

4. "Judge" means a justice of the supreme court or a judge of district court, including an associate district judge.
5. "Nominee" means any candidate selected by the committee for inclusion on the list of candidates submitted to the governor.

27-25-02. CREATION AND COMPOSITION OF COMMITTEE - TERMS OF OFFICE - APPOINTMENT - VACANCIES.) A judicial nominating committee is hereby created to consist of nine persons of whom three shall be appointed by the chief justice, three by the president of the state bar association, and three by the speaker of the house of representatives. If the house of representatives is not in session, the speaker for the most recent session shall make the indicated appointments. Each appointing authority shall appoint one judge or one attorney authorized to practice law in this state and two citizens who are not judges, former judges, or attorneys authorized to practice law in this state. An appointment not made within forty-five days after July 1, 1979, shall be made by the chief justice. The term of each member shall be three years. Initially, as determined by lot, three members shall serve for three years, three members shall serve for two years, and three members shall serve for one year. At the end of a member's term, the appointing authority shall appoint a successor for a full three-year term. No member shall serve for more than two full three-year terms. Membership shall terminate if a member ceases to hold the position that qualified the member for appointment. A vacancy shall be filled by the appointing authority for the remainder of the term. Any appointment to fill a vacancy not made within forty-five days after a vacancy occurs shall be made by the chief justice. The committee shall select one of its members as chairman.

27-25-03. SUBMISSION OF NOMINEE LIST TO GOVERNOR.) Within sixty days of receipt of written notice from the governor to the chairman that a vacancy in the office of judge exists, the committee shall submit to the governor a list of not fewer than three nor more than seven nominees for appointment. No list of nominees submitted to the governor by the committee shall be valid unless concurred in by a majority of its members and so certified by the chairman to the governor. If the committee fails to submit the list of nominees within the time prescribed by this section, the governor may fill the vacancy by appointing a qualified person, or proceed according to subsection 2 of section 27-25-04.

27-25-04. GOVERNOR APPOINTMENT OR SPECIAL ELECTION CALLED.) Within thirty days of receipt of the list of nominees the governor shall do either of the following:

1. Fill the vacancy by appointment from the list of nominees submitted by the committee, which appointment shall continue only until the next general election, when the office shall be filled by election for the remainder of the term.

2. Call a special election to fill the vacancy for the remainder of the term.

Whenever the governor determines to call a special election to fill a vacancy, the governor shall issue a writ of election to the auditors of all counties when a vacancy exists on the supreme court or to the auditors of the counties in the district in which the district court vacancy occurs commanding them to notify the boards of election in the counties to hold a special election at a time designated by the governor. If the governor determines to call a special election within sixty days of time of the holding of the next general election, the special election shall be held at the same time as the general election.

27-25-05. POWERS AND DUTIES.) The committee shall:

1. Establish rules and procedures to implement this Act, subject to the approval of the supreme court. The committee shall file a copy of current rules and procedures with the secretary of state and shall provide a copy to any citizen upon written request. A copy shall also be filed with the legislative council for publication in the administrative code in accordance with the format established by the legislative council.
2. Seek out qualified judicial candidates and may solicit judicial candidate nominations from any citizen.
3. Consider the qualifications of each candidate whose name is submitted to the committee for consideration.
4. Assure that each judicial nominee submitted by the committee to the governor is qualified to hold the office in which there is a vacancy.
5. Make such inquiry into the qualifications of each candidate, including age, residence, experience, and moral character, as the committee deems appropriate in order to secure a list of the most highly qualified nominees.

27-25-06. SUBMISSION OF NAMES BY CITIZENS - WITHDRAWAL.) A person may submit the name of any qualified citizen for consideration as a candidate. Submission shall be in writing on forms provided by the committee. Any candidate may withdraw from consideration by written request to the chairman of the committee.

27-25-07. COMMITTEE MEMBERS INELIGIBLE FOR VACANCY APPOINTMENT.) No member of the committee shall be considered as a candidate or nominee during the member's term on the committee, or for a period of two years thereafter.

27-25-08. EXPENSES OF COMMITTEE.) Committee members shall be allowed expenses for travel, board, and lodging incurred in the

performance of their duties as provided in sections 44-08-04 and 54-06-09.

27-25-09. COMMITTEE BUDGET.) The supreme court shall prepare and present to the legislative assembly a proposed biennial budget for the committee.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 660

HOUSE BILL NO. 1192
(Murphy)

GAME AND FISH PERSONNEL POLICE POWERS

AN ACT to amend and reenact sections 20.1-02-15 and 29-05-10 of the North Dakota Century Code, relating to the definition of peace officer, and to the powers of certain game and fish department personnel; and providing a penalty.

VETO

March 16, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1192 restricts the authority of game wardens to enter buildings without a search warrant. Present law gives game wardens the authority to enter buildings without a search warrant when the warden has reason to believe that game or fish or green furs are present in the building that have been taken as the result of some illegal activity. (Section 20.1-02-15, N.D.C.C.) The law does not give game wardens the authority to enter dwelling houses without a warrant, nor would this bill have any effect on that Fourth Amendment safeguard. However, House Bill 1192 will restrict the game warden's authority to search buildings and will make a game warden's job more difficult.

A peace officer presently has the authority to enter a building if there is danger of evidence being removed or destroyed. The change in the law proposed in House Bill 1192 could be interpreted in a manner that will require game wardens to obtain a search warrant even if there is immediate danger of evidence being removed or destroyed. House Bill 1192 does not grant any exceptions to the warrant requirement, but simply states that the right to enter and search without a warrant shall not apply to buildings. Abandoned buildings used by poachers to hide game will be impossible to enter without a search warrant or permission of the owner or person in charge of the premises.

If, for example, a game warden was aware of contraband such as an illegally taken deer stored in an abandoned barn, granary, or school house, he would not be allowed to enter such a building without first obtaining a search warrant or finding the owner of the building to obtain permission. The evidence could easily be removed while the warden is obtaining a warrant or permission.

State laws cannot give game wardens the authority to violate citizen rights by performing illegal searches. All game wardens must comply with the Fourth Amendment requirements for search and seizure, as must all peace officers. House Bill 1192, however, unnecessarily restricts game wardens more than other peace officers. For this reason, it should not be permitted to become law.

Therefore, I veto House Bill 1192.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Section 20.1-02-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-15. POLICE POWERS OF COMMISSIONER, DEPUTY COMMISSIONER, AND BONDED APPOINTEES OF COMMISSIONER.) The commissioner, deputy commissioner, and any bonded appointees of the commissioner shall have the power:

1+---0# of a peace officer as provided in title 29, for the purpose of enforcing this title and any other state laws, rules, or regulations relating to big game, small game, fur-bearers, fish, and other wildlife.

~~2. To make arrests upon view and without warrant for any violation committed in his presence of this title and any other state laws, rules or regulations relating to big game, small game, fur bearers, fish, and other wildlife.~~

~~3. To enter and inspect any hotel, restaurant, cold storage warehouse, plant, icehouse, or any building used for the storage of dressed meat, game, or fish to determine if game or fish, or parts thereof, are kept or stored therein contrary to this title.~~

4. In addition each such person shall have power:

1. To open, enter, and examine, without warrant, all buildings, meat processing plants, game cleaning facilities, fishhouses, camps, tents, vessels, boats, wagons, automobiles, or other vehicles, cars, crates, boxes, and other receptacles and places when he has reason to believe that game or fish, or parts thereof, or green furs which have been taken or are held or possessed contrary to this title may be found. The right to enter and search without a warrant, however, shall not apply to the buildings, dwelling house or living quarters of any person, or of a sealed railroad car, unless permission is given by the owner or person in control of the premises.

5. 2. To open and examine any package in the possession of a common carrier which he suspects or has reason to believe contains game or fish, or parts thereof, taken, held, or falsely labeled contrary to this title. Every such common carrier, and every agent, servant, or employee thereof, shall permit any such officer to open and examine any such package. Any package so opened and not confiscated shall be restored to its original condition by the officer making the examination.

6. 3. To enter, without warrant, upon the premises of any dealer or trader in green furs to inspect any warehouses, storerooms, or other storage places, and may call for and inspect records of buying, shipping, or selling of green furs. ~~The right to enter and search without a warrant, however, shall not apply to the dwelling house or the living quarters of any person or of a sealed railroad car.~~

7. 4. To seize and hold, subject to court order, any green furs obtained illegally.

8. 5. To inspect all premises used for the purpose of propagating and domesticating game birds or protected animals.

SECTION 2. AMENDMENT.) Section 29-05-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

29-05-10. "PEACE OFFICER" DEFINED.) A peace officer is a sheriff ~~of a county~~ or his deputy, ~~or~~ a coroner, constable, marshal, or policeman of a township or city, and, for the purposes of enforcing title 20.1, the commissioner, deputy commissioner, and bonded employees of the game and fish department.

Disapproved March 16, 1979

Filed March 23, 1979

CHAPTER 661

HOUSE BILL NO. 1291
(Representative Gackle)
(Senator Goodman)

COAL CONVERSION FACILITY PROPERTY TAX EXEMPTION

AN ACT to amend and reenact section 57-60-06 of the North Dakota Century Code, relating to the exemption from property taxes of coal conversion facilities under construction.

VETO

March 15, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1291, as passed by the Forty-Sixth Legislative Assembly, would exempt coal conversion facilities from property tax while they are under construction. Under present law, these plants are taxable during the construction phase. Once a coal conversion facility comes into production, present law imposes a conversion privilege tax upon the plant based upon production in lieu of property taxes.

My objection to the exemption of power plants from property tax during construction is based on simple fairness.

A house in the city that is under construction on the assessment date is subject to assessment and taxation according to its value in its uncompleted state.

A commercial building under construction on the assessment date is subject to property tax.

Industrial buildings under construction on the assessment date are subject to assessment and taxation even if the plant will receive a new industry property tax exemption, upon completion of construction, pursuant to chapter 40-57.1, N.D.C.C.

It is unfair to exempt a large coal conversion facility from taxes during the time it is under construction when other property in the state is subject to assessment and taxation while under construction.

As an example of the effect the passage of House Bill 1291 could have on a county in terms of lost revenue, I would cite the property taxes levied on Coal Creek Station while under construction. McLean County levied a total of \$600,672.58 in taxes on the Coal Creek Station buildings and power plant in 1976 and 1977 while the plant was under construction. This tax is a legitimate source of revenue to a county experiencing the impact of the construction of a large coal conversion facility.

For these reasons, I veto House Bill 1291.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Section 57-60-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-60-06. PROPERTY CLASSIFIED AND EXEMPTED FROM AD VALOREM TAXES - IN LIEU OF CERTAIN OTHER TAXES - CREDIT FOR CERTAIN OTHER TAXES.) Each coal conversion facility shall be classified as personal property and, from commencement of construction, shall be exempt from all ad valorem taxes except for taxes on the land on which such facility is located. The taxes imposed by this chapter shall be in lieu of ad valorem taxes on the property so classified as personal property. The taxes imposed by this chapter shall also be in lieu of those taxes imposed by chapters 57-33 and 57-33.1 on cooperative electrical generating plants that qualify as coal conversion facilities as defined in this chapter for gross receipts derived from the operation of such plants on or after July 1, 1975. Each cooperative electrical generating plant shall receive a credit against the taxes imposed by this chapter for any taxes imposed pursuant to chapters 57-33 and 57-33.1 and payable after July 1, 1975. Such credit shall apply only for such taxes actually paid, and shall be applied against the taxes imposed by this chapter in the years in which such payments are made.

Disapproved March 14, 1979

Filed March 23, 1979

CHAPTER 662

HOUSE BILL NO. 1335
(Gackle, Freborg, Scofield, Winkjer)

COAL DEFINED

AN ACT to create and enact a new section to any legislation enacted by the forty-sixth legislative assembly providing for a coal severance tax, defining the term "coal" and specifically excluding leonardite (natural oxidized lignite) from that definition.

VETO

March 22, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1335 defines the word "coal" for purposes of the coal severance tax. The bill specifically excludes leonardite (natural oxidized lignite) from the definition of coal. Under current law the coal severance tax is imposed on all leonardite mined in the state.

"Leonardite" is lignite slack or oxidized lignite. It is formed by the natural weathering of lignite coal. The term "leonardite" was chosen to honor Dr. A. G. Leonard, the first director of the North Dakota Geological Survey, who took part in the initial investigations of the mineral. According to the North Dakota Geological Survey, the term "leonardite" has been used generally to

designate partially oxidized lignite, although the term is seldom used outside the state of North Dakota. In other parts of the country, the substance is known generally as "lignite slack."

Leonardite has been mined commercially in several western North Dakota counties. Commercial development of leonardite in North Dakota has been limited primarily to use for drilling mud in the oil industry. It appears that the demand for leonardite will increase as the pace quickens nationwide for oil field development. Other potential uses of leonardite include use as a stabilizer in water treatment, as a source of brown stain for wood finishing, and, because of leonardite's high humic acid content, use as a soil conditioner and fertilizer. According to Philip G. Freeman of the University of North Dakota, the leading researcher in the uses of leonardite, the humic acid properties of leonardite have little or no value for the soils of North Dakota because the soils in the state have a high humus content. Rather, if leonardite is going to be used for agricultural purposes, it would best serve those soils not located in North Dakota, such as the sandy soils of the American Southwest.

Because of the current demand for leonardite for oil-well drilling mud, processed leonardite presently sells for \$30 to \$50 a ton.

I believe that creating an exemption from the coal severance tax for leonardite is unwarranted for several reasons.

First and foremost, leonardite is, in fact, a form of lignite. Like lignite, it is severed from the earth through strip-mining. As in the case of lignite, leonardite is a non-renewable natural resource of our state. The strip-mined lands reclamation laws apply to the mining of leonardite.

The proponents of this bill have argued that leonardite should be exempt from the coal severance tax because, unlike lignite, leonardite is not used as a fuel. This argument is not persuasive since the use of the resource is not and was not the inspiration for the coal severance tax. The severance tax was enacted to tax the sale of non-renewable natural resources that are the product of strip-mining. The purpose and policy of the tax was to compensate the state for the depletion of its non-renewable natural resources. It was also enacted to raise revenue for impact costs.

The severance tax, as the name implies, is truly a severance tax, rather than a sales or use tax. In the case of leonardite, as in the case of lignite, the "severance" consists of stripping the overbearing soils to allow for the excavation of the mineral, followed by replacing the soils according to the state's reclamation laws.

I find the imposition of the severance tax on leonardite to be just and reasonable. I see no reason to exempt this natural resource from taxation.

Therefore, I veto House Bill 1335.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) A new section to any legislation enacted by the forty-sixth legislative assembly providing for a severance tax on coal is hereby created and enacted to read as follows:

DEFINITION.) As used in this chapter, the term "coal" means a dark-colored compact and earthy organic rock with less than forty percent inorganic components, based on dry material, formed by the accumulation and decomposition of plant material. The term shall not include leonardite (natural oxidized lignite).

Disapproved March 22, 1979

Filed April 3, 1979

CHAPTER 663

HOUSE BILL NO. 1340
(Hanson)

BIG GAME HUNTING WITH ANIMALS

AN ACT to amend and reenact section 20.1-05-04 of the North Dakota Century Code, relating to the use of horses and mules in hunting big game.

VETO

March 5, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1340 allows hunters to use horses, mules, and other animals in pursuing big game. Present law prohibits the use of horses, mules and other animals in hunting big game.

This bill gives an unfair advantage to those hunters who are privileged to own or rent horses. Other hunters are confined to established trails in their vehicles, or, if they leave the trail, they must pursue their quarry on foot.

Allowing hunters to use horses to take big game decreases the hunted animal's chances of evading the hunter.

Furthermore, I have received information that indicates passage of this bill will put a strain on hunter-landowner relationships.

Prior to 1973, hunters were permitted to use horses, but problems developed and the practice was outlawed by the Forty-Third Legislative Assembly.

For the foregoing reasons, I veto House Bill 1340.

Sincerely yours,

ARTHUR A LINK
Governor

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

SECTION 1. AMENDMENT.) Section 20.1-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-05-04. USING DOGS~~7--HORSES7~~ AND ARTIFICIAL LIGHTS IN TAKING BIG GAME UNLAWFUL.) No person, to hunt, pursue, kill, take, or attempt to take, or to aid in the hunting or taking of, any big game animal, shall:

1. Use any dog~~7--horse7--mule7--or--other--animal.~~
2. Use any artificial light, including spotlights and automobile and motorcycle headlights.
3. Engage in the practice commonly known as shining for deer. Any person who shines any area commonly frequented by big game animals with any artificial light, between the hours of sunset and sunrise, is in violation of this section. ~~However,--any--person--may--use--a--flashlight--of--not--over--two--cells--in--the--aggregate--of--three--volts--to--take--raceen-~~

Disapproved March 5, 1979

Filed March 9, 1979

CHAPTER 664

HOUSE BILL NO. 1487
(Conmy, Kloubec, R. Hausauer, Timm)

CONSTRUCTION WORK IN PROGRESS

AN ACT to amend and reenact section 49-06-02 of the North Dakota Century Code, relating to value of property for ratemaking purposes.

VETO

March 16, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1487 would amend the North Dakota Century Code to add "construction work in progress" to the value of property for rate-making purposes. The law now says the rate base is determined from the money "honestly and prudently invested, less accrued depreciation."

Arguments can be made for the concept of "Construction Work in Progress" (CWIP). The most convincing argument for it is that if CWIP is allowed in the rate base, the utility can avoid one large, sudden rate increase occurring when the plant is placed in service.

However, I believe the disadvantages of adding CWIP to the rate base through mandatory language in a statute far outweigh any possible benefits. The primary disadvantages are:

1. The consumer is assuming a stockholder expense.
2. Higher initial rates are passed on to the consumer.
3. Consumers' dollars are worth more to consumers today, due to inflation, and future dollars will be worth less. This is particularly true for low and moderate income families and those on fixed incomes.
4. Elderly citizens should not be forced to pay more for electricity in order to finance future developments they may never have the opportunity to use. We should also take note of people who have to move because of changes in jobs who will not be able to take advantage of all of the benefits of future construction.

I recognize that the cost of power plant construction has escalated in recent years, but I fear that there will be less incentive for public utilities to control costs when they know that the consumer will be paying these costs years and years before the same consumer gets his or her first kilowatt of electricity from the project.

At the present time the Public Service Commission is able, through administrative policies, to significantly ease the economic burden that inflation has placed on utilities. For example, the Public Service Commission has, through administrative decisions, allowed utilities to pass on directly the increased costs of fuel to consumers each month. The Commission has, through its policies, permitted the interest on funds used during construction to be added to the rate base. Recently the Public Service Commission adopted the policy of permitting utilities to increase their rates based on "forward test years." When a utility files a rate increase, it projects a forward test year which is used as a base for estimating costs and revenues. This gives a much more reasonable picture of inflation and its effect on utilities earnings.

I believe that the present administrative policies of the Public Service Commission provide more than adequate protection of the economic interests of the utilities.

Therefore, I veto House Bill 1487.

Sincerely yours,

ARTHUR A. LINK
Governor

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

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

49-06-02. VALUE OF PROPERTY FOR RATEMAKING PURPOSES - DETERMINATION.) The value of the property of a public utility, as determined by the public service commission for ratemaking purposes, shall be the money honestly and prudently invested therein by the utility, including construction work in progress, less accrued depreciation.

Disapproved March 16, 1979

Filed March 23, 1979

CHAPTER 665

HOUSE BILL NO. 1491
(Wald)

RECOVERY OF DAMAGES FROM INTOXICATION

AN ACT to amend and reenact sections 5-01-06 and 5-01-09 of the North Dakota Century Code, relating to recovery of damages resulting from intoxication and the unlawful delivery of alcoholic beverages to certain persons; and providing a penalty.

VETO

March 13, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1491 amends sections 5-01-06 and 5-01-09 of the North Dakota Century Code.

Section 5-01-06, N.D.C.C. is sometimes referred to as the "Civil Damage Act" or the "Dram Shop Act." This statute reads as follows:

"5-01-06. Recovery of damages resulting from intoxication.-- Every wife, child, parent, guardian, employer, or other person who shall be injured in person, property or means of support by any intoxicated person, or in consequence of intoxication, shall have a right of action against any person who shall have caused such intoxication by disposing, selling, bartering, or

giving away alcoholic beverages contrary to statute for all damages sustained."

House Bill 1491 would limit civil liability under the Dram Shop Act to licensed or unlicensed sellers of alcoholic beverages. I believe this legislation to be harmful to the residents of North Dakota.

The proponents of this legislation argue that one should be able to serve intoxicants to guests in one's home without fear of being held civilly liable because of negligent acts committed by a guest who was served the intoxicants. I submit that the primary emphasis should be on the protection of totally innocent third parties who may be injured or killed because of the intoxication of the guest.

The amendment to section 5-01-09 consists of the word "obviously" before the words "intoxicated person" in that section. The effect of the amendment is to make it more difficult for a plaintiff to recover from a liquor dealer who has sold intoxicants to an individual who has, because of that intoxication, either killed or injured someone. The North Dakota Supreme Court has, in various decisions, set forth what a plaintiff must prove in order to recover from a dispenser of alcoholic beverages. It is submitted that there should be no further roadblocks placed in the way of the legitimately injured plaintiff to recover from someone whose actions of selling or providing excessive alcoholic beverages to another person has caused the injury or death of the plaintiff.

For the above reasons, I veto House Bill 1491.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Section 5-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5-01-06. RECOVERY OF DAMAGES RESULTING FROM INTOXICATION.) Every ~~wife, child, parent, guardian, employer, or other~~ person who shall be injured in person, property, or means of support by any intoxicated person, or in consequence of intoxication, shall have a right of action against any person licensed or unlicensed seller and his agent or employees who shall have caused such intoxication by ~~disposing, of or selling, bartering, or giving away~~ alcoholic beverages contrary to statute for all damages sustained.

SECTION 2. AMENDMENT.) Section 5-01-09 of 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 obviously intoxicated person is guilty of a class A misdemeanor, subject to the provisions of sections 5-01-08, 5-01-08.1 and 5-01-08.2.

Disapproved March 13, 1979

Filed March 19, 1979

CHAPTER 666

HOUSE BILL NO. 1493
(Representatives Gackle, Berg, A. Hausauer)
(Senators Tallackson, Nelson)

WATER USE FEES

AN ACT to amend and reenact subsection 2 of section 61-02-14 and section 61-04-06.2 of the North Dakota Century Code, relating to water use fees.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

House Bill 1493 limits the authority of the Water Commission to promulgate regulations relating to water use fees.

The restrictions that this legislation places on the Water Commission are the direct result of an Attorney General's opinion of December 27, 1978 that was requested by the Water Commission. Basically, this bill enacts into law the content of the Attorney General's opinion on the power of the Water Commission to levy water use fees. However, House Bill 1493 contains language which goes beyond the content of the Attorney General's opinion in restricting the Water Commission's authority to set fees. Section 2 of the bill contains the following statement:

"The permit fees shall be based only on the direct costs incurred for the necessary and proper planning and administration of the allocation and appropriation of the waters of the state for a specific permit or a specific class of permits." (Emphasis supplied)

The underlined portion of the above-quoted language in the bill is objectionable because it limits the authority of the Water Commission beyond that which was considered necessary in the opinion of the Attorney General.

For this reason, I veto House Bill 1493.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Subsection 2 of section 61-02-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. To define, declare, and establish rules and regulations:

- a. For the sale of waters and water rights to individuals, associations, corporations, municipalities, and other political subdivisions of the state, and for the delivery of water to users; however, if the commission promulgates regulations for the sale of water, the regulations shall apply only to those waters which the commission has itself appropriated and reserved by the construction, operation, and control of works undertaken by the commission, and which has made available to water users; and the extent of the charges for water use authorized by those regulations shall be limited to the costs of making those waters available through storage and delivery works.
- b. For the full and complete supervision, regulation, and control of the water supplies within the state.
- c. Repealed by S.L. 1975, ch. 575, § 2.
- d. Establish rules and regulations governing and providing for financing by local participants to the maximum extent deemed practical and equitable in any water development project in which the state

participates in cooperation with the United States or with political subdivisions or local entities.

SECTION 2. AMENDMENT.) Section 61-04-06.2 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-04-06.2. TERMS OF PERMIT.) The state engineer may issue a conditional permit for less than the amount of water requested, but in no case may he issue a permit for more water than can be beneficially used for the purposes stated in the application. He may require modification of the plans and specifications for the appropriation. He may issue a permit subject to fees for water use, terms, conditions, restrictions, limitations, and termination dates he considers necessary to protect the rights of others, and the public interest. The permit fees shall be based only on the direct costs incurred for the necessary and proper planning and administration of the allocation and appropriation of the waters of the state for a specific permit or a specific class of permits. Conditions and limitations so attached shall be related to matters within the jurisdiction of the state engineer; provided, however, that all conditions attached to any permit issued prior to July 1, 1975, shall be binding upon the permittee.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 667

HOUSE BILL NO. 1519
(Representatives Marsden, R. Hausauer, Timm)
(Senator Melland)

**BUSINESS AND INDUSTRIAL DEVELOPMENT
COMMISSION**

AN ACT to amend and reenact section 54-34-03 of the North Dakota Century Code, relating to the appointment of the business and industrial development commission.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

House Bill 1519 amends the section of the North Dakota Century Code which sets forth the composition of the Business and Industrial Development Commission. Under present law, the Commission is composed of one member appointed by the Governor from each judicial district and two members from the state at large. This bill also sets forth legislative intent as follows:

- "1. Maximum emphasis be put on industrial development and international marketing.
2. Provision for input from development related groups in North Dakota industry be made.

3. Industry compatible to existing North Dakota culture and environment be attracted.
4. The commission be representative of the segment of the North Dakota economy most interested in business and industrial development."

I object to House Bill 1519 for the following reasons:

1. The bill changes the number of members on the Commission from eight to six. This change is unnecessary.
2. The bill changes the make-up of the Commission as follows: Four members are to be appointed by the Governor from lists of nominees submitted by specified special interest groups and two members are to be appointed from the state at large. I believe that the present law gives the Governor the flexibility to appoint members to the Commission to fairly reflect the business and industrial community. To curtail the Governor's appointment power as proposed by this bill is undesirable.

If the proponents of this bill felt there was a need to update the statute to provide consistency with any new judicial districts as may be adopted by Supreme Court rule, that change could have been made without limiting the Governor's appointment power in the manner provided in this bill. Until the Code is amended to reflect any changes in the judicial districts, I see no reason why the present law cannot serve as the geographical basis for selecting members of the Business and Industrial Development Commission.

3. The bill states that the terms of the presently serving members of the Commission are all scheduled for expiration on June 30, 1979. This is unfair to the currently serving commissioners because they were appointed to four-year staggered terms.
4. The bill states that the legislative intent is to put "maximum emphasis" on "industrial development and international marketing." I submit that the Legislature should have demonstrated its concern for developing North Dakota's potential in the field of international marketing by committing funds, as requested in the executive budget, for the position of international marketing representative for the Business and Industrial Development Department.

Because the changes in the Business and Industrial Development Commission contained in this legislation are undesirable and totally without justification, I hereby veto House Bill 1519.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Section 54-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34-03. APPOINTMENT OF BUSINESS AND INDUSTRIAL DEVELOPMENT COMMISSION - LEGISLATIVE INTENT.) The business and industrial development commission, hereinafter called the commission, shall consist of the governor as chairman and ~~eight~~ six members appointed by ~~him,--one~~ the governor. One member ~~to~~ shall be appointed from each of the six judicial districts and two a list of three names submitted by each of the following four groups: the financial community in North Dakota, consisting of the North Dakota savings and loan league and the North Dakota bankers association; the North Dakota state chamber of commerce; the North Dakota industrial development association; and organized labor. Two members ~~to~~ shall be appointed from the state at large. The Terms of the commission members appointed or serving before July 1, 1979, will terminate on June 30, 1979. New members shall be appointed for a term of four years staggered so that the terms of ~~two~~ three members expire ~~each year~~ every two years. The terms of the three commission members appointed for the first two year period shall be determined by lot. Vacancies shall be filled in the same manner as the original appointment, except that vacancies occurring for other than the expiration of a term shall be filled by appointment for only the remainder of the term of the member causing the vacancy. All members of the commission shall be reimbursed for expenses incurred in attending meetings and otherwise performing official duties at the same rates and in the same manner as other state officials.

It is the intent of the legislative assembly of the state of North Dakota that:

1. Maximum emphasis be put on industrial development and international marketing.
2. Provision for input from development related groups in North Dakota industry be made.
3. Industry compatible to existing North Dakota culture and environment be attracted.
4. The commission be representative of the segment of the North Dakota economy most interested in business and industrial development.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 668

HOUSE BILL NO. 1604
(Winkjer, Kretschmar, Stenehjem, Unhjem)

MINERAL DEVELOPER DEFINED

AN ACT to amend and reenact subsection 4 of section 38-18-05 of the North Dakota Century Code, relating to the definition of mineral developer.

VETO

March 12, 1979

The Honorable Vernon Wagner
Speaker of the House
House Chambers
Bismarck, North Dakota 58505

Dear Mr. Speaker:

House Bill 1604 would change the definition of "mineral developer" under the "Surface Owner Protection Act", (Chapter 38-18, N.D.C.C.) to mean a person who acquires or leases "at least fifty-one percent of the mineral rights..." The present law defines the term "mineral developer" as "the person who acquires the mineral rights or lease...."

The North Dakota Supreme Court has held that present law requires a person to own or lease one hundred percent of the mineral rights in order to fall within the definition of "mineral developer" under the Act. (North American Coal Corporation v. Huber, 268 N.W. 2d 593 (1978)).

The Legislature enacted the "Surface Owner Protection Act" in 1975 as the result of an interim study by the Legislative Council Committee on Resources Development before the Forty-fourth Legislative Assembly. The Executive Branch Advisory Committee Task Force on Coal Gasification participated in the study.

The stated purpose of the Act is to "provide the maximum amount of constitutionally permissible protection to surface owners from the undesirable effects of development, without their consent, of minerals underlying their surface." (Section 38-18-03, N.D.C.C.).

The major thrust of the Act is to require the mineral developer to obtain the consent of the surface owner before a mining permit may be issued by the Public Service Commission. However, the Act does provide a narrow exception to the consent requirement. Section 38-18-06(5), N.D.C.C. sets forth a procedure whereby the mineral developer who owns or has acquired leases to all of the mineral rights may bring an action in district court to determine adequate compensation for the surface owner. The statute states that, upon making such a determination, the district court is required to issue an order authorizing the Public Service Commission to issue a surface mining permit. (Section 38-18-06(5), N.D.C.C.).

With this bill, the Legislature would give a coal company that does not own all of the mineral rights the status of a "mineral developer" and the right to take advantage of the section of the "Surface Owner Protection Act" designed as an exception for mineral developers who own or have acquired all of the minerals. This would allow a company that owns only fifty-one percent of the minerals to go to court to receive authorization for a mining permit, not only without the consent of the surface owner, but without the consent of the owner of forty-nine percent of the minerals.

I do not believe that North Dakota should give this power, which has been likened to the power of eminent domain, to the coal companies.

Therefore, I veto House Bill 1604.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Subsection 4 of section 38-18-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Mineral developer" shall mean the person who acquires ~~the mineral-rights-ex-lease~~ at least fifty-one percent of the mineral rights or a lease of at least fifty-one percent of the mineral rights for the purpose of extracting or using the mineral for nonagricultural purposes.

Disapproved March 12, 1979

Filed March 19, 1979

CHAPTER 669

SENATE BILL NO. 2039
(Committee on Appropriations)

LEGISLATIVE INTENT ON COAL DEVELOPMENT
IMPACT GRANTS

AN ACT making an appropriation for defraying the expenses of the coal development impact office of the state of North Dakota; and setting forth legislative intent and guidelines.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2039 appropriates funds from the Coal Development Fund to the Coal Development Impact Office. Section 3 of this bill sets forth the legislative intent concerning how the coal impact money should be spent by the Coal Impact Office:

"SECTION 3. LEGISLATIVE INTENT AND GUIDELINES ON IMPACT GRANTS.) The legislative assembly intends that the moneys appropriated to, and distributed by, the coal development impact office for grants are to be used by grantees to meet initial impacts affecting basic governmental services, and directly necessitated by coal development impact. As used in this section, "basic governmental services" do not include activities relating to marriage or guidance counseling, services or programs to alleviate other sociological impacts,

or services or facilities to meet secondary impacts. All grant applications and presentations to the coal development impact office shall be made by an appointed or elected government official."

I object to this section of Senate Bill 2039 because I believe that "sociological" costs of coal development can be as real as "basic governmental services" and should properly be considered in grants made by the Coal Impact Office.

Side effects of rapid development often include increases in the incidence of crime, alcoholism, drug abuse, child abuse, and marital problems, to name a few. It is clear to me that some agency of state or local government must bear the responsibility for addressing these sociological costs of sudden population growth in a community.

I believe that impact money raised by the coal severance tax is the appropriate source of revenue to pay for social costs of coal development.

If the Coal Impact Office is prohibited by law from expending funds for sociological costs, local and state taxpayers will be required to pay these costs.

I further object to the provision in Section 3 of Senate Bill 2039 which states that only elected or appointed governmental officials may make applications or presentations to the Coal Impact Office. Ordinary citizens are thereby excluded from this aspect of the governmental process. I believe that all people have the right to appear before any agency of government to state their case. I abhor legislation which seeks to curtail this fundamental right of the citizens of this state and of this nation.

I believe Section 3 of Senate Bill 2039 is contrary to the interests of all the people of this state. I hereby veto Section 3 of Senate Bill 2039.

Sincerely yours,

ARTHUR A. LINK
Governor

Disapproved April 12, 1979

Filed April 13, 1979

NOTE: For the full text of Senate Bill No. 2039 containing section 3, see chapter 77.

CHAPTER 670

SENATE BILL NO. 2040
(Committee on Appropriations)

QUALIFICATIONS OF GAME AND FISH
COMMISSIONER

AN ACT making an appropriation for defraying the expenses of the game and fish department of the state of North Dakota; providing for a performance review; and declaring an emergency.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2040 provides the appropriation for the State Game and Fish Department. Section 5 of the bill contains the following language:

"SECTION 5. SALARIES AND QUALIFICATIONS OF COMMISSIONER.) The legislative assembly encourages the appointment of a game and fish commissioner possessing a bachelor's degree, or the equivalent thereof, in fishery and wildlife management or a related natural science, and having experience in fish and wildlife management and public administration, including the supervision of employees, development of programs, and the preparation of budgets. If the commissioner meets such qualifications, the commissioner's salary shall be \$32,000 for

the first year of the biennium and \$34,080 for the second year of the biennium. If the new commissioner does not meet such qualifications, the commissioner's salary shall not exceed \$51,000 for the 1979-81 biennium."

I find this section objectionable because the Governor's ability to appoint a qualified person to the office of Game and Fish Department Commissioner is unnecessarily limited.

The law gives the Governor the authority to appoint a Game and Fish commissioner and gives the Legislature the authority to set the commissioner's salary. (Section 20.1-02-01 and 20.1-02-03, N.D.C.C.) Since the Game and Fish commissioner's salary is set forth in the appropriation in Senate Bill 2040, Section 5 of the bill is unnecessary for this purpose.

Therefore, I veto Section 5 of Senate Bill 2040.

Sincerely yours,

ARTHUR A. LINK
Governor

Disapproved April 12, 1979

Filed April 13, 1979

NOTE: For the full text of Senate Bill No. 2040 containing section 5, see chapter 78.

CHAPTER 671

SENATE BILL NO. 2044
(Legislative Council)
(Interim Budget Section)

APPROVAL OF CETA EMPLOYEES REQUIRED

AN ACT to require state agencies, departments, and institutions to obtain the approval of the budget section of the legislative council prior to employing persons through programs provided under the Federal Comprehensive Employment and Training Act of 1973.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2044 prohibits state agencies from employing persons funded under the federal Comprehensive Employment and Training Act (CETA) without first obtaining the approval of the budget section of the Legislative Council.

By limiting the ability of state agencies to hire CETA employees, this bill hinders state government's ability to provide maximum services to the citizens of the state at minimal direct cost.

Present law gives the Emergency Commission the authority to permit agencies to receive federal funds during the interim. (Section 54-16-04.1, N.D.C.C.) This statute provides adequate safeguards

against unchecked growth in the size of state government between legislative sessions while permitting state agencies to take advantage of federal dollars which may be available for public service employment programs.

The budget section of the Legislature is not a statutorily established body. Senate Bill 2044 poses a constitutional question as to the legality of delegating the decision to place CETA workers in agencies during the interim.

The state should be permitted, with as little hindrance as possible, to accept federal dollars and personnel to provide services to the citizens of the state.

Senate Bill 2044 is an intrusion into the authority of the executive branch to meet the needs of the citizens at the lowest cost to the state taxpayer.

Therefore, I veto Senate Bill 2044.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. USE OF EMPLOYEES UNDER CETA PROGRAMS - APPROVAL OF BUDGET SECTION OF THE LEGISLATIVE COUNCIL REQUIRED.) No state agency, board, commission, department, institution, or other unit of state government which receives any funds appropriated by the legislative assembly may employ any participant in any Public Service Employment programs under the Federal Comprehensive Employment and Training Act of 1973 [Pub. L. 93-203; 87 Stat. 839; 29 U.S.C. 801 et. seq.], as amended, without obtaining the prior approval of the budget section of the Legislative Council. Further, any positions funded as Public Service Employment positions shall remain in effect only for such period of time as may be approved by the budget section.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 672

SENATE BILL NO. 2070
(Legislative Council)
(Interim Committee on Industry, Business and Labor)

MIDA BONDS RESTRICTED FOR RETAIL ENTERPRISES

AN ACT to amend and reenact section 40-57-02 of the North Dakota Century Code, relating to the definitions of projects and municipalities under the Municipal Industrial Development Act of 1955; and to provide for the application of this Act.

VETO

March 26, 1979

The Honorable Wayne G. Sanstead
President of the Senate
Senate Chambers
Bismarck, North Dakota 58505

Dear Mr. President:

Senate Bill 2070 restricts the issuance of bonds under the Municipal Industrial Development Act (chapter 40-57, N.D.C.C.) for financing retail enterprises in municipalities having a population over 7,500. The bill also repeals the section of existing law which permits MIDA bond financing for "any other industry or business not prohibited by the Constitution or laws of the state of North Dakota." (Section 40-57-02(6), N.D.C.C.)

Under current law, the governing body of the municipality is permitted to authorize the issuance of MIDA bonds for whatever projects are deemed necessary or desirable for the community.

I recently signed into law Senate Bills 2068 and 2069, which are intended to address some of the problems surrounding the issuance of bonds under the Municipal Industrial Development Act.

Elected officials in the communities of North Dakota should have the responsibility and the right to make independent decisions on the industries and enterprises which would be beneficial or detrimental to their communities. Senate Bill 2070 deprives these officials of that part of our governmental process.

Therefore, I veto Senate Bill 2070.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) Section 40-57-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-57-02. "PROJECTS" "PROJECT" AND "MUNICIPALITIES"
"MUNICIPALITY" DEFINED.) As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" ~~shall include~~ includes counties as well as ~~municipalities of the types listed in section 40-01-01, subsection 1 cities,~~ and, in the case of parking projects, municipal parking authorities created pursuant to section 40-61-02; and the term "project" ~~shall mean~~ means any real property, buildings, and improvements on real property or the buildings thereon, and any equipment located on such real property or in such buildings, or elsewhere, or personal property which is used or useful in connection with a revenue-producing enterprise, or any combination of two or more such enterprises, engaged or to be engaged in:

1. Assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured products, or any combination thereof, including the retail sale of any such product by the enterprise that assembled, fabricated, manufactured, mixed, or processed it and the incidental sale of any service of a kind essential to the primary activities of the enterprise.
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or ~~manufacture~~ manufacturing, provided that "selling" shall not include the sale of any service except storing, warehousing, and distributing or as provided in subsection 1 nor shall it

include the sale at retail of any product except as provided in subsection 1.

3. Providing hospital, nursing home, or other health care facilities and service.
4. Improvements or equipment used or to be used for the abatement or control of environmental pollution in connection with any new or existing revenue-producing enterprise.
5. Public vocational education.
6. ~~Any other industry or business not prohibited by the Constitution or laws of the state of North Dakota.~~

In no event, however, shall the term "project" include those undertakings defined in chapter 40-35, with the exception of projects referred to in subsections 3, 4, and 5.

SECTION 2. APPLICATION.) This Act does not apply to any bond issue authorized by the governing body of the municipality pursuant to section 40-57-04 prior to July 1, 1979, even though the bonds are actually issued or sold after July 1, 1979, nor shall it apply to municipalities having a population of less than seven thousand five hundred.

Disapproved March 26, 1979

Filed April 3, 1979

CHAPTER 673

SENATE BILL NO. 2083
(Legislative Council)
(Interim Committee on State and Federal Government)

LEGISLATIVE REVIEW OF ADMINISTRATIVE RULES

AN ACT to provide for the referral of proposed and existing administrative rules to an interim committee of the legislative council.

VETO

March 12, 1979

The Honorable Wayne Sanstead
President of the Senate
Senate Chambers
Bismarck, North Dakota 58505

Dear Mr. President:

Senate Bill 2083 would give the chairman of the Legislative Council the authority to assign proposed and existing rules and regulations promulgated by executive branch agencies to an interim committee for review and recommendation. I vetoed similar bills in 1975 and 1977.

Every executive branch agency has the statutory authority to promulgate reasonable rules and regulations. All proposed administrative rules are submitted to the Attorney General for his opinion as to their legality before they are adopted. (Section 28-32-01, N.D.C.C.)

If any person is aggrieved by the operation of an administrative rule, that person has the right to petition the agency for a reconsideration of the rule. The agency may hold a public hearing

on the reconsideration of the rule if it deems such a hearing desirable.

Furthermore, the Administrative Agencies Practices Act gives persons aggrieved by the decisions or the rules of an administrative agency the right to appeal the question in the district court and the Supreme Court. (Sections 28-32-15 and 28-32-19, N.D.C.C.)

Since the present statutory procedures are fully adequate to insure that the administrative agency rule-making power is exercised fairly and competently, I see no valid reason for the legislative branch of government to encroach on the rule-making power of the executive branch.

Therefore, I veto Senate Bill 2083 as a violation of the separation of powers doctrine.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. PROPOSED RULES REFERRED TO INTERIM COMMITTEE - COMMITTEE RESPONSIBILITY.) The chairman of the legislative council may assign proposed and existing rules and written complaints received concerning such rules to an appropriate interim subject matter committee. The committee shall study and review assigned rules to determine whether or not:

1. Administrative agencies are properly implementing legislative purpose and intent.
2. There are court or agency expressions of dissatisfaction with state statutes or with rules of administrative agencies promulgated pursuant thereto.
3. The court opinions or rules indicate unclear or ambiguous statutes.

The committee may make rule change recommendations to the adopting agency and may make recommendations to the legislative council for the amendment or repeal of enabling legislation serving as authority for rules.

An interim committee's failure to review proposed rules prior to publication shall not prevent rules from taking effect, nor shall the recommendations or opinions of an interim committee in any way affect the legality of any rule as determined by the attorney general.

Disapproved March 12, 1979

Filed April 3, 1979

CHAPTER 674

SENATE BILL NO. 2092
(Melland)

LATE PAYMENT CHARGES

AN ACT to allow creditors to charge a late payment charge in the amount of one and one-half percent on accounts receivable from thirty days after the obligation is incurred, and to require creditors to supply debtors with a periodic statement.

VETO

March 23, 1979

The Honorable Wayne G. Sanstead
President of the Senate
Senate Chambers
Bismarck, North Dakota 58505

Dear Mr. President:

Senate Bill 2092 allows creditors to collect a late payment service charge in the amount of 1 1/2% per month (18% per year) on overdue accounts. This is not legal under present law. Current law only permits creditors to collect interest or service charges if they are agreed to in a written contract by the debtor.

At the outset, it should be made clear that this legislation will have no effect on retail sales installment contracts. Whenever a consumer purchases goods or services on an installment basis, he or she must sign a contract for the interest and service charges that are added to the price of the goods or services. This would remain the case under Senate Bill 2092.

Senate Bill 2092 would affect debts for goods or services where the consumer has not agreed to pay for interest or service charges. Generally, these debts are for necessities and are involuntarily rather than voluntarily incurred. The most common types of debts that this bill applies to are medical, hospital, and fuel bills.

This bill permits creditors to charge interest at the rate of 18% per year by calling it a "service charge" or "late payment" charge. I submit there is no relationship between the creditor's actual cost of carrying an overdue account and the 18% carrying charge contained in this bill. For example, a hospital bill of \$5,000 is not at all unusual today. If a person fell behind in making payments on a hospital bill, the creditor could, from the thirty-first day after the obligation became due, begin charging monthly "service charges" of \$75 (\$900 in a year). Many families would be hard-pressed to pay that service charge alone and would be literally unable to reduce the principal of the debt. This legislation would have the undesirable result of forcing many families who are struggling to pay large medical bills into bankruptcy.

It is apparent that the people who will be hardest hit by this legislation are those who can ill-afford the cost of additional interest on their involuntary debts. It is those who are on fixed or low incomes who are least able to afford the kind of medical insurance that would protect them from large medical and hospital bills.

Because I cannot support legislation that treads most heavily on those with limited resources, I veto Senate Bill 2092.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. LATE PAYMENT CHARGE ON ACCOUNTS RECEIVABLE.) A creditor may charge, receive, and collect a late payment charge in an amount not to exceed one and one-half percent per month on all money due on account from thirty days after the obligation of the debtor to pay shall have been incurred. The late payment charge provided in this section may be charged only if at the time the obligation was incurred the creditor did not intend to extend any credit beyond thirty days and any late payment of the obligation was unanticipated. The provisions of this section shall not apply to money due on retail installment contracts, as defined in chapter 51-13, and money due on revolving charge accounts, as defined in chapter 51-14.

SECTION 2. PERIODIC STATEMENT TO BE FURNISHED TO DEBTOR.) A creditor may charge the late payment charge provided for in section 1 only if he promptly supplies the debtor with a statement as of the end of each monthly period, or other regular period agreed upon by the creditor and the debtor, in which there is any unpaid balance. Such statement shall recite the following:

1. The percentage amount of the late payment charge which will be charged beginning thirty days after the obligation is incurred.
2. The unpaid balance at the beginning or end of the period.
3. An identification of any amounts debited to the debtor's account during the period.
4. The payments made by the debtor to the creditor during the period.
5. The amount of the late payment charge and also the percentage annual simple interest equivalent of such amount.
6. A legend to the effect that the debtor may at any time pay the total unpaid balance.

The items need not be stated in the sequence or order set forth above. Additional items may be included to explain the computations made in determining the amount to be paid by the debtor.

Disapproved March 21, 1979

Filed April 3, 1979

CHAPTER 675

SENATE BILL NO. 2125
(Strinden, Smykowski)

DRIVER RECORD ABSTRACT CONFIDENTIALITY

AN ACT to create and enact a new subsection to section 39-16-01 of the North Dakota Century Code, relating to the definition of consumer reporting agency; and to amend and reenact sections 39-16-03 and 39-16-03.1 of the North Dakota Century Code, relating to the highway commissioner releasing abstracts of operating records on court order only, and the confidentiality of driver record abstracts more than three years old.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2125 requires written permission from the licensed driver or a court order before an insurance company can obtain the driver's motor vehicle driving record from the Highway Department. Under current law any person can request a driving record provided the Department notifies the driver that his or her record was requested.

The cumbersome process for obtaining driving records required by Senate Bill 2125 will make it difficult for insurance companies to issue insurance binders to North Dakota residents for standard

family auto policies. This is so because insurance companies base their rates on the driving records of all the drivers in the applicant's household. Although the local insurance agent could secure the written permission of the head of the household, this would authorize only the release of his or her driving record.

Denying insurance companies access to driving records leads to the inevitable result of penalizing the good drivers in the state. At the present time some insurance companies provide discounts of up to 20% for drivers with good driving records. If Senate Bill 2125 becomes law, it would be difficult if not impossible for insurance companies to distinguish the good drivers from the careless drivers.

In my recent veto of a similar bill seeking to limit legitimate access to driving records, I stated in my message that:

"Restricting the availability of motor vehicle records to insurance companies will have an adverse effect on the insurance rating system in North Dakota. The overall result may be the good drivers with no or few violations will be subsidizing the careless drivers with numerous tickets. Ultimately, rates may be increased to cover claims by poor drivers."

The citizens of this state have nothing to gain and may lose the economic benefits of merit rating of their insurance premiums if Senate Bill 2125 becomes law.

For these reasons and the reasons stated in my veto message on House Bill 1352, I hereby veto Senate Bill 2125.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) A new subsection to section 39-16-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Consumer reporting agency" means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of commerce for the purpose of preparing or furnishing consumer reports.

SECTION 2. AMENDMENT.) Section 39-16-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-03. ABSTRACTS - ACCIDENT REPORTS - FEE - NOT ADMISSIBLE IN EVIDENCE.)

1. The commissioner upon request shall furnish any the requesting person a certified abstract of the operating record of any person subject to the provisions of this chapter, which shall include the convictions, adjudications, and admissions of commission of traffic offenses of such the person and suspensions, revocations, and restrictions of his driving privileges, if the request for the abstract is made by any federal, state, or local law enforcement agency or their agents. The commissioner upon request shall in addition furnish any-person a copy of that portion of an officer's accident report which does not disclose the opinion of the reporting officer, when the report shows that death, personal injury, or property damage of two three hundred dollars or more resulted from such the accident.
2. Notwithstanding the provisions of section 44-04-18, a court order or a written request signed by the licensed person is required before the commissioner may furnish a certified abstract of the operating record of any person subject to this chapter to any person, other than those listed in subsection 1. For the purposes of administration, if the commissioner receives a request from a consumer reporting agency, or an insurance company, it shall be presumed that the requirements of this section have been met. Requests from individuals shall be accompanied by a signed request before the commissioner could release the record.
3. Copies of accident reports and abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident.
4. A fee of two dollars shall be paid for each 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 ordered to be furnished, accompanied by a statement identifying the person making the request,--provided--that--no who requested the court order. No abstract or statement shall be sent to a driver where if the request for his the 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.

SECTION 3. AMENDMENT.) Section 39-16-03.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-16-03.1. ENTRIES ON DRIVER RECORD ABSTRACTS MORE THAN THREE YEARS OLD CONFIDENTIAL.) ~~Notwithstanding any other provisions of this chapter~~ Except when used for statistical purposes, no entry more than three years old on a driver record or abstract shall be available to the public, ~~except for statistical purposes reported by any consumer reporting agency, or used by any insurance company as information in connection with the underwriting of insurance or in determining insurance coverage,~~ other than by order of a court of competent jurisdiction.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 676

SENATE BILL NO. 2131
(Committee on Education)
(At the request of the Department of Public Instruction)

TUITION PAYMENT BY SCHOOL DISTRICT

AN ACT to amend and reenact subsections 1 and 2 of section 15-40.2-05 of the North Dakota Century Code, relating to payment of tuition by school district.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2131 amends the section of the North Dakota Century Code that sets forth the procedure for the determination of school tuition disputes.

Under present law the parent or guardian of a pupil may apply to the school board of the county of residence for approval of elementary and high school tuition payments to another school district when the pupil attends school in another district. The law now provides that if the application of the parent or guardian is disapproved by the school board, the parent or guardian may appeal the decision to a committee composed of the county judge, the states attorney, and the county superintendent of schools. Under current law the decision of this committee is final in elementary school tuition cases and

appealable to the State Board of Public School Education in high school tuition cases.

Senate Bill 2131 provides that elementary school tuition decisions of the three-member county committee are appealable to the State Board of Public School Education.

I object to Senate Bill 2131 because I believe elementary school tuition decisions are local matters that are best decided at the local level by the elected officials of the county.

I believe that the strength of our state lies in the independence of our local communities and local institutions. I do not approve of legislation that lessens the decision-making power of local government because the inevitable result is an erosion of local government's responsibility to the citizens who reside in the community.

Because of my conviction that local government is the best judge of its own interest in local matters and because of my belief that the interjection of state government into matters of purely local interest is undesirable, I hereby veto Senate Bill 2131.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Subsection 1 of section 15-40.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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~~ the committee may approve or disapprove the application. Upon approval, the committee 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.

SECTION 2. AMENDMENT.) Subsection 2 of section 15-40.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 the committee may approve or disapprove the application.~~ Upon approval, the committee 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 may be appealed to the state board of public school education and the decision of the board shall be final.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 677

SENATE BILL NO. 2150
(Sands)SEVERANCE TAX EXEMPTION FOR COAL USED
FOR SPACE HEATING

AN ACT to create and enact a new section to any legislation enacted by the forty-sixth legislative assembly providing for a severance tax on coal, to provide an exemption for coal used for space heating purposes.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2150 provides an exemption from the coal severance tax for coal used for heating buildings in this state.

I object to this bill for three reasons:

1. This bill at best would give minimal tax relief to a very few people.
2. The tax exemption sought in this bill is based on the ultimate use of the coal. Such an exemption ignores the purpose of the coal severance tax. As I stated in my recent message to the Legislative Assembly in vetoing House Bill 1335 . . ."the use of the resource is not and

was not the inspiration for the coal severance tax. The severance tax was enacted to tax the sale of non-renewable natural resources that are the product of strip mining."

3. If Senate Bill 2150 becomes law, it will open the door for exemptions from the coal severance tax and will inevitably lead to erosion of this tax base.

For these reasons, I hereby veto Senate Bill 2150.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) A new section to any legislation enacted by the forty-sixth legislative assembly providing for a severance tax on coal is hereby created and enacted to read as follows:

SEVERANCE TAX EXEMPTION FOR COAL USED FOR SPACE HEATING PURPOSES.) No severance tax shall be imposed on coal used for heating buildings in this state. The coal mine owner or operator shall require the person purchasing the coal for heating of buildings or for resale to consumers for heating of buildings to certify the amount of the coal purchased which will be used for heating purposes.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 678

SENATE BILL NO. 2160
(Olin, Strinden)

UNEMPLOYMENT COMPENSATION BENEFIT ADJUSTMENT

AN ACT to create and enact a new subdivision to subsection 1 of section 57-38-01.2 of the North Dakota Century Code, relating to an adjustment to taxable income for individuals and fiduciaries with respect to unemployment compensation benefits.

VETO

March 26, 1979

The Honorable Wayne G. Sanstead
President of the Senate
Senate Chambers
Bismarck, North Dakota 58505

Dear Mr. President:

Senate Bill 2160 would tax an unemployed worker's insurance benefits when his or her gross income reaches \$12,000 a year.

This bill would place an undue financial burden on seasonally unemployed workers in North Dakota. The formula for determining the weekly benefits awards approximately one-half of the worker's former wage. This benefit amount is barely sufficient to maintain the worker until he or she can return to work. To tax these minimum benefits when a worker is living on an income that is meant to substitute his or her normal wage is unjustified.

Unemployment insurance benefits have always been regarded as insurance benefits and are not awarded on the basis of means. This bill violates that concept. The taxing of unemployment insurance benefits will create more pressure for higher benefit payments and wages on the part of workers, and to pay higher benefits will accomplish nothing more than transferring payments from one tax fund into another.

The Congress of the United States, after intensive study, set the gross income requirements at \$20,000 for a single taxpayer, and \$25,000 for a couple filing a joint tax return before taxing unemployment insurance benefits. The National Commission on Unemployment Insurance, after a year of study and hearings throughout the United States, has strongly recommended to the Congress of the United States that the Federal Tax Act be repealed.

Senate Bill 2484 would provide conformance of North Dakota's tax law to Public Law 95-600, which includes the taxation of unemployment insurance benefits after the worker's wages reach \$20,000 and \$25,000 respectively. This conformity will further reduce the confusion the taxpayer faces when preparing his or her federal and state income tax returns.

Senate Bill 2484 carries an emergency clause making it effective January 1, 1979, while Senate Bill 2160 would go into effect on July 1, 1979. Accordingly, the taxpayer would pay taxes on \$20,000 or \$25,000 from January 1, 1979 to June 30, 1979, and from July 1, 1979 to December 31, 1979 the taxpayer would be required to pay state income taxes on the unemployment insurance benefits in excess of \$12,000 gross income.

Senate Bill 2160 does not provide any administrative costs to administer this tax by the North Dakota Employment Security Bureau. Additional costs will be incurred to maintain additional records of payments to workers, notifying all recipients of insurance benefits, maintaining current addresses of previously paid workers, and providing the information to the State Tax Department. Federal funds will not be made available for this purpose.

Therefore, I veto Senate Bill 2160.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) A new subdivision to subsection 1 of section 57-38-01.2 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Increased by the amount of any unemployment compensation benefits received to the extent that the federal adjusted gross income of the taxpayer, determined without regard to unemployment compensation benefits, and the unemployment compensation exceeds twelve thousand dollars.

Disapproved March 26, 1979

Filed April 3, 1979

CHAPTER 679

SENATE BILL NO. 2280
(Senators Vosper, Iszler, Nelson)
(Representatives Berg, Dotzenrod, R. Jacobsen)

FAMILY FARM CORPORATIONS

AN ACT to create and enact five new sections to chapter 10-06 of the North Dakota Century Code, authorizing small family-type corporations to engage in farming and ranching operations within specified limitations, providing for a definition of farming, requiring reports, and providing for enforcement; to amend and reenact section 10-06-01 of the North Dakota Century Code, prohibiting farming by corporations; to repeal sections 10-06-02, 10-06-03, 10-06-05, and 10-06-06 of the North Dakota Century Code, relating to disposal of lands acquired prior to July 29, 1932, disposal of lands acquired subsequent to July 29, 1932, title to farm lands acquired by corporation since July 29, 1932, and the sale of the lands of noncomplying corporations; and providing a penalty.

VETO

March 29, 1979

The Honorable Wayne G. Sanstead
President of the Senate
Senate Chambers
Bismarck, North Dakota 58505

Dear Mr. President:

Senate Bill 2280 repeals North Dakota's anti-corporation farm law and permits family farm and ranch operations to incorporate.

Corporation farming is not a new idea in North Dakota. The Anti-Corporation Farming Act was initiated and passed by the people in 1932 in the drought and depression days. The law gave banks and corporations that had acquired farms through foreclosure proceedings and other means ten years to dispose of the farmlands they owned. The law prohibits corporations from farming or owning farmlands. Its constitutionality was tested and upheld in both the North Dakota Supreme Court and the United States Supreme Court.

Toward the end of the ten-year grace period, a concerted effort was made to amend the anti-corporation farm law in the 1941 legislative session. According to the news stories of that time, five thousand farmers marched on the State Capitol; they succeeded in killing the attempt to weaken the law.

Corporate farming legislation has been introduced and defeated in many legislative sessions since 1941. In 1967 the legislative assembly passed a corporate farm bill. Governor William L. Guy vetoed the bill, and the assembly passed it over his veto. The bill was referred and in November, 1968, the people defeated the corporate farming measure by a three to one margin.

Today North Dakota is unique in the nation because it has retained its family-based style of agriculture. We are the envy of many states which have recently enacted laws restricting corporate farm activity.

North Dakotans can thank our present law for our unique status; it has served us well over the past forty-five years. That law has helped to keep the ownership of the land in the hands of those who are farming it. Current law permits cooperative corporations to farm only if 75% of the stockholders are actually making their living from farming. Consequently, most North Dakota farmland is owned by North Dakotans. I do not think we want to change that.

I cannot support Senate Bill 2280 because it will endanger the strong family-based type of agriculture which prevails in our state.

At first glance, this bill appears to be acceptable legislation. By its title it permits only small family-type operations to incorporate. To the casual observer, it appears that this bill will restrict corporation farming to those families who now farm North Dakota's land. But consider the implications of this bill. First, there is no limit on the amount of acreage that could be accumulated. This could lead to very few large corporations controlling much of North Dakota's food production.

Second, there is no requirement that 14 out of 15 possible stockholders be residents of North Dakota. This will foster absentee ownership of the land. The bill does require the officers and the directors of the corporation to be "actively engaged in operating the farm or ranch." However, the bill does not define what "actively engaged in farming or ranching" means. This provision could lead to out-of-state officers and directors

controlling the management of the corporation. The bill only requires one stockholder to actually reside on the farm. I contend that personal ownership of farmland by the people who farm it is a major factor contributing to North Dakota's present strength and agricultural productivity.

Third, I submit that this bill has implications far beyond our generation or even our children's generation. It may take three or four generations, but eventually these corporation farms are going to become larger and larger at the expense of our small family farms. When the family farms disappear, so do our towns and so does our rural North Dakota way of life. Any action that hastens the depopulation of rural communities works a hardship on main street and such necessary institutions as schools and churches.

We need only to look at what is happening across the country for evidence of this pattern. There have been many changes in agriculture over the last forty years. Farms have dramatically increased in size. We have noted the nationwide trend away from on-farm, family ownership of land. We have seen the declining proportion of farm labor contributed by the operator and immediate family. This differentiation between ownership, management, and labor indicates the tendency away from the family farm as the historically dominant farm type in this country.

There are several other reasons why this bill should not become law. Although the tax benefits of incorporating have been emphasized, there is no doubt that these benefits will only accrue to the large, wealthy farmer or rancher. In essence, incorporation provides tax benefits to those farmers who need them the least. This is not an estate planning or tax planning tool that would be used by average-sized farms simply because other less costly estate planning methods are now available.

In Senate Bill 2280, North Dakotans are faced with a policy decision of potentially enormous consequences. The future of the small farm is at stake. I subscribe to the policy of preserving and rejuvenating our rural life style and economy. I strongly believe that all agricultural policy decisions made in North Dakota today should work toward a system of agriculture in which the ownership, operation, and management of a farm unit are all vested within the family who resides on the farm and makes its livelihood from that farm.

To further this policy, I have worked closely with the Agriculture Department and the Family Farm Committee, the Industrial Commission and the Bank of North Dakota in developing the Beginning Farmer Program. I have recently signed into law three bills proposed by the Family Farm Committee to help ease the entry of young farmers into agriculture. These bills, by providing tax incentives to persons who sell their farmland to beginning farmers and by increasing the availability of agricultural loans, will help foster the family farm.

Because I believe that opening the door to corporation farming is potentially dangerous to the small family farm and contrary to the public interest of the state of North Dakota, I hereby veto Senate Bill 2280.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) A new section to chapter 10-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

CORPORATIONS ALLOWED TO CARRY ON FARMING AND RANCHING OPERATIONS - LIMITATIONS.) Nothing in this chapter shall be construed as prohibiting any domestic corporation from owning real estate or carrying on farming or ranching operations, if the domestic corporation meets all of the following qualifications:

1. Shareholders or members do not exceed fifteen in number, and each shareholder or member is related to each of the other shareholders or members within one of the following degrees of kinship: parent, child, grandparent, grandchild, brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild, first cousin, or is the spouse of a person so related.
2. The corporation does not have as a shareholder or member a person, other than a trust or estate, who is not a natural person.
3. The corporation does not have as a shareholder or member any person who is not a citizen of the United States or a permanent resident alien of the United States.
4. The corporation does not have more than one class of shares.
5. The officers and directors of the corporation are limited to stockholders or members who are actively engaged in operating the farm or ranch. At least one of its shareholders or members shall be an individual residing on or operating the farm or ranch.
6. At least fifty-one percent of the gross income of the corporation comes from farming or ranching operations.

7. The corporation's income from rent, royalties, dividends, interest, and annuities does not exceed twenty percent of the corporation's gross receipts.

SECTION 2.) A new section to chapter 10-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

FARMING - DEFINITION.) As used in this chapter, "farming" means a cultivation of land for production of agricultural crops or livestock, or the raising of livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit or horticultural products. It does not include production of timber or forest products, nor does it include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

SECTION 3.) A new section to chapter 10-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

REPORTS.) Every corporation engaged in farming after July 1, 1979, shall file with the secretary of state a report containing all of the following information:

1. The name of the corporation and its place of incorporation.
2. The address of the registered office of the corporation in this state and the name and address of its registered agent in this state.
3. The acreage and location listed by section, township, range, and county of all land in the state owned or leased by the corporation and used for farming.
4. The names and addresses of the officers and the members of the board of directors of the corporation.
5. The numbers of shares of stock or the percentage of interest and the acreage the corporation used for farming owned or leased by persons residing on the farm and actively engaged in farming and the number of shares of stock or the percentage of interest in the acreage of the corporation used for farming owned or leased by relatives within the degree of kinship listed in subsection 1 of section 1.
6. The name, address, and number of the shares of stock or the percentage of interest in the acreage of the corporation use for farming owned or leased by each stockholder or member and the relationship of each stockholder or member to the other stockholders or members.

7. A statement as to percentage of gross receipts of the corporation derived from rent, royalties, dividends, interest, and annuities.

No corporation may commence farming in this state until the secretary of state has inspected the reports and certified that its proposed operations comply with the provisions of section 1 of this Act. Each corporation engaged in farming shall file an annual report containing the information with respect to the preceding calendar year prior to March first of each year.

SECTION 4.) A new section to chapter 10-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

FAILING TO FILE REPORT - FALSIFIED INFORMATION - PENALTY.) Every corporation which fails to file any report required under the provisions of this chapter or willfully files false information on any report required under the provisions of this chapter is guilty of a class A misdemeanor.

SECTION 5.) A new section to chapter 10-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

ENFORCEMENT.) If the attorney general has reason to believe that any person is violating the provisions of this chapter, the attorney general shall commence an action in the district court in which any agricultural or farm land relative to the violation is situated, or if situated in two or more counties, in the district court for that county in which a substantial part of the land is situated. The attorney general shall file for the record with the register of deeds in each county in which any portion of the land is located a notice of the pendency of the action. If the court finds that the land in question is being held in violation of this chapter, it shall enter an order so declaring. The attorney general shall file any such order for record with the register of deeds of each county in which any portion of the land is located. Thereafter, the corporation, owning or leasing the land has a period of three years from the date of the order to divest itself of the lands. During the three-year period, the corporation may farm and use the lands for agricultural purposes. The three-year limitation period is deemed to be a covenant running with the title to the land against any grantee, successor, or assignee of the corporation, which is also a corporation. Any land not divested within the time prescribed shall be sold at public sale in the manner prescribed by law for the foreclosure of a real estate mortgage by action. In addition, any prospective or threatened violation may be enjoined by an action brought by the attorney general in the manner provided by law. It shall be lawful for any corporation, domestic or foreign, to acquire agricultural or farm land as security for indebtedness, by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise; provided, that all agricultural or farm land

acquired as security for indebtedness, in the collection of debts, or by the enforcement of a lien or claim shall be disposed of within three years after acquiring ownership, if the acquisition would otherwise violate this chapter.

SECTION 6. AMENDMENT.) Section 10-06-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

10-06-01. FARMING BY DOMESTIC AND FOREIGN CORPORATIONS PROHIBITED.) All corporations, both domestic and foreign, except as otherwise provided in this chapter, are hereby prohibited from engaging in the business of farming or agriculture. For the purposes of this chapter the term "corporation" includes joint stock companies and associations.

SECTION 7. REPEAL.) Sections 10-06-02, 10-06-03, 10-06-05, and 10-06-06 of the North Dakota Century Code are hereby repealed.

Disapproved March 28, 1979

Filed April 3, 1979

CHAPTER 680

SENATE BILL NO. 2330
(Committee on Appropriations)

NATURAL GAS PIPELINES ACROSS
FEDERAL LANDS

AN ACT to allow low pressure natural gas pipelines to cross federal lands located in North Dakota.

VETO

March 17, 1979

The Honorable Wayne G. Sanstead
President of the Senate
Senate Chambers
Bismarck, North Dakota 58505

Dear Mr. President:

Senate Bill 2330 authorizes the construction of low pressure gas gathering lines across federal lands without a permit from the federal government.

The federal government has, in the past, been slow to act on gas gathering line permit applications. Furthermore, the current federal moratorium on permits pending the completion of a pipeline corridor study has caused the needless waste of natural gas by flaring at the wellhead. As chairman of the Industrial Commission, I am fully aware of this deplorable situation and of the need to save our natural gas resource at a time when energy resources are scarce. The Industrial Commission's policy is to restrict flaring of gas at the wellhead through a system of limited oil production until gas gathering systems are in place.

Thus, while I understand the reasons why Senate Bill 2330 was introduced, I object to it for the following reasons:

First, this bill will be ineffective. The federal government has full control over the management of its own lands. This legislation will have no legal force or effect on federal law or policy. The appropriate vehicle for conveying grievances to the federal government is through a resolution of the Legislative Assembly.

Second, Senate Bill 2330 states that any gas gathering lines constructed across federal lands would come under the jurisdiction of the Public Service Commission. This creates a potential conflict with a major bill still pending before the Legislature concerning the state's siting act--Senate Bill 2233. Under present law and under Senate Bill 2233, the Public Service Commission has no jurisdiction over the laying of gas gathering lines. There are good reasons for exempting these low pressure lines from the siting act:

1. These lines are small and have minimal impact on the environment.
2. Rights of way for these pipelines cannot be acquired by eminent domain.
3. Subjecting these lines to the siting act would cause inevitable delays, potentially resulting in more gas being wasted pending the site reviews required under the act before a permit may be issued.

I do not believe the Legislative Assembly intended to subject gas gathering lines to the provisions of the siting act. However, in order to avoid the possibility of conflicting laws on gas gathering lines, I hereby veto Senate Bill 2330.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. LEGISLATIVE FINDINGS.) The legislative assembly finds that, at a time when every effort should be made to avoid the needless waste of energy, much natural gas associated with oil production in western North Dakota must be flared at the well site rather than transported to a place where it can be used because private persons are prohibited from constructing pipelines which cross federal lands without a permit.

SECTION 2. NATURAL GAS - PIPELINES TO CROSS FEDERAL LANDS.) Subject to regulations of the public service commission, adopted after consultation and in agreement with appropriate federal agencies, and subject to any relevant federal or state laws, any person directly involved in the production of oil and gas may construct a low pressure pipeline across federal lands if the pipeline is necessary to deliver natural gas to a point where it can be used to supply energy for people. As used in this Act, "person" includes individuals, corporations, partnerships, cooperative associations, and joint ventures.

Disapproved March 17, 1979

Filed April 3, 1979

CHAPTER 681

SENATE BILL NO. 2350
(Albers, Solberg)

SPEEDING, MOVING VIOLATIONS, AND SPEED ZONES

AN ACT to create and enact a new section to chapter 39-09 of the North Dakota Century Code, relating to limitations on the reduction of speed zone speed limits; and to amend and reenact sections 39-06.1-06 and 39-06.1-09 of the North Dakota Century Code, as contained in sections 1 and 2 of House Bill No. 1449, as approved by the forty-sixth legislative assembly, relating to fines and points assessed against driver's licenses for violation of speed limits, and to the definition of moving violation, and removing certain violations related to motorcycles from that legislation; and to amend and reenact paragraph 11 of subdivision a of subsection 3 of section 39-06.1-10 of the North Dakota Century Code, relating to points assessed against driving records for speeding violations.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2350 establishes a new system of graduated fines and points for speeding violations under 55 miles per hour. The point

and fine system set forth in this bill for speeds under 55 miles per hour is less stringent than under current law.

I believe it is important to maintain our present point and fine penalties at these low speeds to discourage speeding violations within city limits.

For this reason, I hereby veto Senate Bill 2350.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Section 39-06.1-06 of the North Dakota Century Code as amended by section 1 of House Bill No. 1449, as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

39-06.1-06. AMOUNT OF STATUTORY FEES.) The fees required for a noncriminal disposition pursuant to either section 39-06.1-02 or section 39-06.1-03 shall be as follows:

1. For a nonmoving violation as defined in section 39-06.1-08, a fee in the amount of ten dollars.
2. For a moving violation as defined in section 39-06.1-09, a fee in the amount of twenty dollars.
3. For a violation of section 39-09-02, or an equivalent ordinance, involving a speed in excess of fifty-five miles per hour, the penalty shall be a fee and a point assessment against the driver's license as follows:

Speed (mph)	Fee (\$)	Points
56 - 60	\$ 5	0
61 - 65	\$ 5 plus \$1/each mph over 60	1
66 - 70	\$10 plus \$1/each mph over 65	2
71 - 75	\$15 plus \$2/each mph over 70	3
76 - 80	\$25 plus \$3/each mph over 75	4
81 - 90	\$40 plus \$3/each mph over 80	6
91 - 100	\$70 plus \$3/each mph over 90	8
101 +	\$100 plus \$5/each mph over 100	12

The provisions of paragraph (11) of subdivision a of subsection 3 of section 39-06.1-10 shall only apply to violations involving speed limits less than fifty-five miles per hour.

4. For a violation of section 39-09-01, or an ordinance defining careless driving, a fee in the amount of thirty dollars.
5. For a violation of section 39-09-02, or an equivalent ordinance, which violation is not provided for in subsection 3 of this section, the penalty shall be a fee as follows:
 - a. From one to five miles per hour in excess of the lawful limit, a fee in the amount of five dollars.
 - b. From six to ten miles per hour in excess of the lawful speed limit, a fee in the amount of ten dollars.
 - c. From eleven to twenty-five miles per hour in excess of the lawful speed limit, a fee in the amount of ten dollars, plus an additional fee in the amount of one dollar for each mile per hour above ten miles per hour in excess of the lawful speed limit.
 - d. Twenty-six or more miles per hour in excess of the lawful speed limit, a fee in the amount of thirty dollars, plus an additional fee in the amount of two dollars for each mile per hour above twenty-five miles per hour in excess of the lawful speed limit.

SECTION 2. AMENDMENT.) Section 39-06.1-09 of the 1977 Supplement to the North Dakota Century Code as contained in section 2 of House Bill No. 1449, as approved by the forty-sixth legislative assembly, is hereby amended and reenacted to read as follows:

39-06.1-09. "MOVING VIOLATION" DEFINED.) For the purposes of section 39-06.1-06 and section 39-06.1-13, a "moving violation" means ~~a--violation-of-section-39-09-02,-or-an-equivalent-ordinance,~~ ~~e~~ a violation of section 39-04-22; subsection 1 of section 39-04-37; sections 39-05-12; 39-06-01; 39-06-14; 39-06-16; 39-08-09; 39-08-18; 39-09-05; 39-09-09; 39-12-04; 39-12-05; 39-12-06; 39-12-09; 39-24-02; or 39-24-09, except subdivisions b and c of subsection 5, or equivalent ordinances; or a violation of the provisions of chapters 39-10 ("general rules of the road") or 39-21 ("equipment of vehicles"), or equivalent ordinances, except those sections within those chapters which are specifically listed in subsection 1 of section 39-06.1-08.

SECTION 3.) A new section to chapter 39-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

SPEED ZONES - REDUCTION LIMITATION.) No street, road, or highway in the state highway system or any other township, county, or state road or highway shall be posted in a manner which reduces the maximum speed limit on the street, road, or highway by more than

twenty miles per hour between any two signs so posted in a speed zone.

SECTION 4. AMENDMENT.) Paragraph 11 of subdivision a of subsection 3 of section 39-06.1-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (11) A violation of section 39-09-02, or equivalent ordinance, where charge is speeding in violation of speed limits set at less than fifty-five miles per hour:
- | | |
|--|--------------------------------------|
| (a) From nine to fifteen miles per hour in excess of the lawful limit | 2- points <u>1 point</u> |
| (b) From sixteen to twenty-five miles per hour in excess of the lawful limit | 4- points <u>3 points</u> |
| (c) Twenty-six or more miles per hour in excess of the lawful limit | 6 points |

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 682

SENATE BILL NO. 2367
(Nething, Melland)

SALE OF STATE HOSPITAL LAND

AN ACT to authorize the state health officer of the state department of health to sell or trade one tract of land owned by the state of North Dakota and used by the state hospital.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2367 authorizes the sale of a tract of land owned by the state at Jamestown, North Dakota. The land is adjacent to the State Hospital and is currently used by the State Hospital as part of the Hospital Farming Program.

I am opposed to this sale of 86 acres of prime hayland because I believe that owning this land will be worth more to our state over the years than the monetary compensation the state would receive for the sale of the land. This parcel presently provides a stable source of feed supply for the maintenance of the State Hospital dairy herd.

Therefore, I veto Senate Bill 2367.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1.) The state health officer of the state department of health is authorized to sell or trade, in separate parcels or in any combination, the following property presently used by the state hospital at not less than the appraised value obtained from a duly qualified appraiser:

1. That portion of section five, township one hundred thirty-nine north, range sixty-three west, which runs in a northwest-southeast direction, being bound by that certain township road on the north and east and by the Burlington northern railroad right of way on the west and south. This tract of land comprises approximately eighty-six acres.

SECTION 2.) The tracts of land described in section 1 shall be sold as prescribed by sections 38-09-01, 54-01-05.1, and 54-01-05.2. However, the state health officer may accept sealed bids in lieu of the public auction required by section 54-01-05.2. The state health officer, with the concurrence of a representative of the Bank of North Dakota and the commissioner of university and school lands, may accept or reject any or all bids received on the land. Factors to be considered by the state health officer, the representative of the Bank of North Dakota, and the commissioner of university and school lands in accepting any bid shall be:

1. The bidder's ability to comply with local zoning ordinances.
2. The history of the bidder in protecting environmental and aesthetic considerations.
3. The bidder's past performance and current expertise in industrial development within the community.

Any proceeds received from the sale of the tracts shall be deposited in the general fund in the state treasury.

SECTION 3.) The state is not responsible for the payment of any special assessments levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 683

SENATE BILL NO. 2371
(Senators Tennefos, Peterson)
(Representatives Rued, Vander Vorst)

SUITABILITY FOR WORK

AN ACT to amend and reenact section 52-06-36 of the North Dakota Century Code, relating to the factors considered in determining suitability for work and good cause for voluntarily leaving with respect to unemployment compensation benefits.

VETO

March 23, 1979

The Honorable Wayne G. Sanstead
President of the Senate
Senate Chambers
Bismarck, North Dakota 58505

Dear Mr. President:

Senate Bill 2371 amends section 52-06-36 of the North Dakota Century Code by establishing additional criteria for determining "suitable work" for purposes of eligibility for unemployment compensation benefits.

Under the provisions of the present North Dakota Unemployment Compensation Law, an individual is disqualified from benefits for failing to accept or to apply for suitable employment without good cause. Present law provides a number of factors which are to be considered in determining suitability of work. These factors include the degree of risk involved to an individual's health, safety, and morals, the physical fitness and prior training of the

individual, the experience and prior earnings of the individual, the length of unemployment of the individual, the individual's prospects of obtaining work in his customary occupation, and the distance of available work from the residence of the individual.

The existing provisions of the North Dakota Unemployment Compensation Law allow for a fair and reasonable determination to be made as to whether work is suitable based upon an examination of the facts and circumstances of each case. Senate Bill 2371 provides that work is to be deemed suitable if net earnings available after payroll tax deductions are at least equal to 75% of the individual's average weekly wage in the individual's last base period quarter and in no event less than minimum wage. The definition of "suitable work", as set forth in Senate Bill 2371, is inflexible and does not allow for the application of pertinent factors necessary to make a fair and reasonable determination as to whether or not work is suitable.

There are two types of problems which are created by Senate Bill 2371, administrative and conceptual. The administrative problems created by Senate Bill 2371 arise from the language which refers to the individual's average weekly wage in the individual's last base period quarter. Senate Bill 2371 does not specify how the individual's weekly wage is to be determined, nor does it specify what is to be done in the event that an individual does not have any earnings during the last quarter of the individual's base period. Even if an individual does have earnings during the last quarter of the base period, these earnings may not be representative of the individual's earnings during his base period. Additionally, on each claim the employer who paid the wages in the last base period quarter would have to be contacted to verify average weekly wages. This would be an administratively cumbersome process.

The conceptual problems created by Senate Bill 2371 concern two areas. First, in some instances, Senate Bill 2371 would make the law more liberal than it is in its present form. A good example would be the situation where an individual moved to North Dakota from a highly industrialized state where wages are generally higher than they are in North Dakota. Under present law, this individual would be required to accept the prevailing wage for similar employment in North Dakota in order to be eligible for unemployment compensation benefits. Senate Bill 2371 would allow this type of individual to hold out for a higher wage than the prevailing wage in North Dakota.

Another conceptual problem in the bill is that it would promote extensive inconsistency in the administration of the Unemployment Compensation Program. This inconsistency would be caused by the reference to net earnings after payroll tax deductions, in determining suitability of work. Since an individual has flexibility in determining the number of exemptions he claims for payroll tax deductions, situations would arise in which two individuals had the same number of dependents but each individual claimed a different number of exemptions for purposes of payroll tax

deductions. In these situations, work which would be considered suitable for one individual might not be considered suitable for another individual even though both individuals have the same number of dependents. This type of inconsistency is totally unacceptable, and would not promote a fair and proper administration of the Unemployment Compensation Program.

In the operation of the Unemployment Compensation Program, the issue of suitability of work has been administered without difficulty over the years. In fiscal year 1978, 262 claimants were disqualified for refusal to accept or to apply for suitable work. The issue of what is suitable work is a very complex question which should have a great deal of study before undergoing legislative change.

Consequently, I will direct the North Dakota Employment Security Bureau, through its staff and advisory council, to study the issue of suitability of work to determine if there are any problems in this area and to develop proposed solutions in the event that any problems are discovered.

The changes in the Unemployment Compensation Law provided in Senate Bill 2371 are unworkable and not justified. Therefore, I veto Senate Bill 2371.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. AMENDMENT.) Section 52-06-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

52-06-36. FACTORS CONSIDERED IN DETERMINING SUITABILITY OF WORK AND GOOD CAUSE FOR VOLUNTARY LEAVING.) In determining whether or not any work is suitable for an individual and in determining the existence of good cause for voluntarily leaving his work under section 52-06-02, subsections 1 and 3, there shall be considered among other factors, and in addition to those enumerated in this section, the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, the length of his unemployment, his prospects for obtaining work in his customary occupation, the distance of available work from his residence, and the prospects for obtaining local work. Work shall be deemed suitable if the net earnings available after payroll tax deductions are at least equal to seventy-five percent of the individual's average weekly wage in the individual's last base period quarter and in no event shall be less than minimum wage. No work shall be deemed suitable and benefits

shall not be denied under the North Dakota unemployment compensation law to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

1. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
2. If the wages, hours, or other conditions of work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or
3. If, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

Disapproved March 21, 1979

Filed April 3, 1979

CHAPTER 684

SENATE BILL NO. 2450
(Senator Barth)
(Representative Kretschmar)

PARIMUTUEL HORSE RACING AUTHORIZED

AN ACT to provide for parimutuel horse racing conducted by nonprofit charitable, fraternal, religious, and veterans' organizations, civic and service clubs, and other public-spirited organizations; definitions; the creation of a racing commission; appointment of a director of racing; racing commission powers and duties; issuance of licenses; license authorization and fees; allotment of racing days to applicants; bets and certificates; bet payoff formulas; payments to school districts; audits and investigations; reasons and procedure for license refusal, suspension and revocation; and the attorney general to represent the commission in hearings; and providing a penalty.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

The Forty-Sixth Legislative Session made substantial strides to increase gambling in North Dakota. House Bill 1215 adds sports pools and authorizes raffles on college campuses. Senate Bill 2450 is "AN ACT to provide for parimutuel horse racing conducted by nonprofit charitable, fraternal, religious, and veteran's

organizations, civic and service clubs, and other public-spirited organizations." On March 14, 1979 I sent a letter to the Senate and House requesting timely consideration of important legislation so that I would be able to consider it while the Legislature was in session. Notwithstanding this request, both of these bills were passed in the closing days of the session and were not messaged to me before the Legislature adjourned sine die.

I have permitted House Bill 1215 to become law without my signature to indicate my disapproval of expanding gambling under the authority approved by the people in 1976. I do not believe that when the people of our state approved the constitutional amendment granting legislative authority to enact charitable gambling in North Dakota that they intended each succeeding legislature to increase and expand the scope and nature of gambling. Yet this is exactly the pattern that is developing. While I did not sign the original gambling bill (House Bill 1264) passed by the 1977 Legislature, neither did I veto it. I refrained from exercising my personal opposition to gambling in recognition of the approval by a vote of the people which authorized the Legislature to enact charitable gambling.

Senate Bill 2450 is an expansion of a type of gambling, better known as betting. It holds forth promise of getting more in return than one puts into the wager. This is a false hope that in the majority of cases does not materialize. Gambling is the hope of getting something for nothing.

Section 3 of Senate Bill 2450 states that one of the duties of the Racing Commission is:

"To promulgate rules and regulations for effectively preventing the use of any substance, compound items or combination thereof of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racing animal unless specifically authorized by the commission."

The very need to write into law regulatory requirements by the Commission to prevent illegal use of "any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racing animal..." demonstrates that the business of animal racing is fraught with innumerable illegal, inhumane and unethical manipulations. The placing of monetary bets on racing animals with benefits to certain winners only compounds the incentive to employ the aforementioned illicit acts recognized in the bill.

Section 11 of Senate Bill 2450 sets forth the bet payoff formulas including the following distribution of revenue:

"Two and one-half percent shall be deposited in a special racing commission fund from which the moneys shall be distributed to the school districts of the state by the state

treasurer, as prescribed by commission rule, in the same proportion as state foundation program payments are made."

I find this proposal very objectionable. To dedicate proceeds of this kind of gambling for the support of our most important public obligation, the education of our children from kindergarten through high school somehow suggests that the end justifies the means. Should this kind of educational support become established, we would run the risk of compromising our educational values which must never be dependent upon special interests.

An additional factor reinforcing my opposition to Senate Bill 2450 is an initiated constitutional amendment permitting parimutuel betting on horses and dogs was defeated in the primary election of 1964 by a vote of 41,871 in favor and 76,198 opposed.

For all the reasons aforementioned, I veto Senate Bill 2450.

Sincerely yours,

ARTHUR A. LINK
Governor

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

SECTION 1. DEFINITIONS.) As used in this chapter:

1. "Charitable organization" means any nonprofit organization operated for the relief of poverty, distress, or other condition of public concern within this state, which has been so engaged within this state for two years.
2. "Civic and service club" means any branch, lodge, or chapter of a nonprofit national or state organization which is authorized by its written constitution, charter, articles of incorporation, or bylaws to engage in a civic or service purpose within this state, which shall have existed in this state for two years. "Civic and service club" shall also mean a similar local nonprofit organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the governing body of the city in which the organization conducts its principal activities, or by the governing body of a county if such organization conducts its principal activities outside the limits of a city but within a county. Such club shall have existed in this state for two years.
3. "Commission" means the North Dakota racing commission.

4. "Director" means the director of the North Dakota racing commission.
5. "Fraternal organization" means a nonprofit organization within this state, except for college and high school fraternities, which is a branch or lodge or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. Such organization shall have existed within this state for two years.
6. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of a city or county by resolution as public-spirited and eligible under this Act.
7. "Racing" means horse racing under the certificate system.
8. "Religious organization" means any nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances which has been so gathered or united in this state for two years.
9. "Veterans' organization" means any congressionally chartered organization within this state, or any branch or lodge or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States. Such organization shall have been in existence in this state for two years.

SECTION 2. ORGANIZATIONS ELIGIBLE TO CONDUCT RACING.)
Nonprofit charitable, fraternal, religious, and veterans' organizations, civic and service clubs, and other public-spirited organizations, as defined by this Act, shall be eligible to conduct racing pursuant to this Act.

SECTION 3. RACING COMMISSION CREATED - MEMBERS - APPOINTMENT - TERMS - QUALIFICATIONS - COMPENSATION - RULEMAKING.)

1. A North Dakota racing commission under the secretary of state is hereby created. The commission shall consist of five members appointed by the governor, with the consent of the senate, for five-year terms or until a successor is appointed and qualified. Any member appointed to fill a vacancy arising from other than the natural expiration of a term shall serve only for the unexpired portion of the term. The terms of the commissioners shall be staggered so that one term shall expire each July first. A new commission member shall be appointed at the expiration of the five-year term of each incumbent member of the commission. No more than three members of the commission

- shall be of the same political party. Not more than three members of the commission shall be appointed from either east or west of the Missouri River.
2. No person may be eligible for appointment to the commission who shall not have been a resident of this state for at least two years prior to the date of appointment and is not of such character and reputation as to promote public confidence in the administration of racing within the state. No person who has a financial interest in racing may be a member of the commission or employed by the commission. Failure to maintain compliance with the provisions of this subsection shall be grounds for removal from the commission or from employment with the commission.
 3. The commission members shall receive forty dollars per diem compensation and such allowable mileage and expense reimbursement as received by other state officials.
 4. The commission members shall annually elect a chairman from among their number. Three members of the commission shall constitute a quorum with authority to act. The commission's hearings and rulemaking procedures shall be pursuant to chapter 28-32.

SECTION 4. APPOINTMENT OF DIRECTOR OF RACING - QUALIFICATIONS - SALARY - DUTIES - OTHER PERSONNEL - ADMINISTRATIVE FUNCTIONS.)

1. The racing commission shall appoint a director of racing who shall have such qualifications as the commission may determine. The commission shall establish the director's salary.
2. The director shall devote his full time to the duties of the office. The director shall be the executive officer of the commission, and shall enforce the rules, regulations, and orders of the commission. The director shall perform such other duties as the commission prescribes.
3. The commission may employ such other persons as it deems necessary.
4. Administrative functions of the commission, except personnel matters, shall be housed in the office of the secretary of state under the secretary of state's general supervision.

SECTION 5. RACING COMMISSION POWERS AND DUTIES.) The commission shall have the following powers and duties:

1. To provide for racing under the certificate system.

2. To set racing dates.
3. To promulgate rules and regulations for effectively preventing the use of any substance, compound items or combination thereof of any medicine, narcotic, stimulant, depressant, or anesthetic which could alter the normal performance of a racing animal unless specifically authorized by the commission.
4. To supervise and check the making of parimutuel pools, parimutuel machines and equipment at all races held under the certificate system.
5. To make rules governing, restricting, or regulating bids on licensees' concessions and leases on equipment.
6. To approve all proposed extensions, additions, or improvements to the buildings, stables, or tracks upon property owned or leased by a licensee.
7. To exclude from race courses any person who violates the racing laws or any rule, regulation, or order of the commission or any law of the United States or this state.
8. To compel the production of all documents showing the receipts and disbursements of any licensee and determine the manner in which such financial records shall be kept.
9. To investigate the operations of any licensee and cause the various places where race meets are held under the certificate system to be visited and inspected at reasonable intervals for the purpose of satisfying itself that the rules and regulations are strictly complied with.
10. To request appropriate state officials to perform inspections necessary for the health and safety of spectators, employees, participants, and animals that are lawfully on the race track.
11. To license all participants in the racing industry and to require and obtain such information as the commission deems necessary from licensed applicants.
12. To prescribe and enforce additional rules, regulations, and conditions under which all horse races shall be conducted.

SECTION 6. ISSUANCE OF LICENSES - APPLICATIONS.)

1. The commission may permit and authorize the racing of horses under the certificate system. Upon compliance by an applicant with this Act, the commission may issue a license to conduct races.

2. An application for a license to conduct a racing meet shall be signed under oath and filed with the commission as prescribed by rule and this Act. The application shall contain the following:
 - a. The name and post-office address of the applicant.
 - b. The location of the racetrack and whether it is owned or leased. If leased, a copy of the rental agreement shall be included.
 - c. A statement of the applicant's previous history and association sufficient to establish that the applicant is an eligible organization.
 - d. The time, place, and number of days such racing meet is proposed to be conducted.
 - e. The type of racing to be conducted.
 - f. Such other information as the commission may require.

SECTION 7. LICENSE AUTHORIZATION AND FEES - REVOCATION AUTHORITY.)

1. Each license issued under the certificate system shall describe the place and track or racecourse at which the licensee may hold such races. The authority conferred in any one license shall be limited to the calendar year for which it is issued. Every license shall specify the number of days the licensed races shall continue, the hours during which racing is to be conducted, and the number of races to be held per day. Races authorized under this Act may be held only between the hours of nine a.m. and twelve midnight.
2. The commission may charge a license fee for horse racing commensurate with the size and attendance of the race meet, but no charge less than ten dollars nor in excess of one hundred dollars per day shall be made. The license fees shall be remitted to the state treasurer and placed in a special racing fund to be used to pay for the operation and salaries of the commission and its employees.
3. Every club or organization applying for a license under the certificate system shall give bond payable to the state of North Dakota with good security to be approved by the commission. The bond shall be the amount the commission determines will adequately protect the amount normally due and owing to the state in a regular payment period or, in the case of new or altered conditions, based on the projected revenues.

4. The commission may grant, refuse, suspend, or withdraw licenses to horse owners, jockeys, riders, agents, trainers, grooms, stable foremen, exercise boys, veterinarians, valets, and concessionaires. No license issued pursuant to this Act is valid for more than one calendar year, but a license issued pursuant to this Act shall be valid at all race meetings conducted by the licensee during the one-year period. License fees shall be as established by the commission.
5. The commission, upon proof of violation of any provision of this Act or any rule or regulation adopted by the commission, may fine, suspend, or revoke any license granted pursuant to this Act.

SECTION 8. ALLOTMENT OF RACING DAYS TO APPLICANTS.) If an applicant is eligible to receive a license under this Act, the commission shall fix the racing days that shall be allotted to an applicant and issue a license for the holding of such racing meets. Any eligible organization or club which has adopted and used regular or approximate regular dates for their events for the past two years shall be allotted those dates if requested.

SECTION 9. LICENSE REQUIRED - PENALTY FOR VIOLATION.) No person shall hold any racing meet under the certificate system without having first obtained and having in full force and effect a license issued by the commission. Any person who violates the provisions of this section shall be guilty of a class A misdemeanor.

SECTION 10. BETS AND CERTIFICATES - RULEMAKING.)

1. The certificate system shall allow a licensee to receive money from any person present at a race who desires to bet on any horse entered. A person betting on a horse to win shall acquire an interest in the total money bet on all horses in the race in proportion to the amount of money bet by the person under rules and regulations established by the commission. The licensee shall receive such bets and issue certificates to the bettors on which shall be shown the number of the race, the amount bet, and the number or name of the horse selected by a person as the winner. The commission may also establish rules and regulations for place, show, quinella, combination, or other type betting usually connected with horse racing.

SECTION 11. BET PAYOFF FORMULAS - SPECIAL FUND - PAYMENTS TO SCHOOL DISTRICTS.)

1. For each racing meet where the average daily amount bet on the total races held exceeds fifty thousand dollars, the licensee shall deduct eighteen and one-quarter percent of the total parimutuel pool bet on each individual race. Of this amount, fourteen and one-quarter percent of the amount deducted shall be retained by the licensee to cover

expenses, and the remaining four percent shall be remitted to the state treasury, as prescribed by the racing commission. Three percent shall be deposited in a special racing fund from which the moneys shall be distributed to the school districts of the state by the state treasurer, as prescribed by commission rule, in the same proportion as state foundation program payments are made. The remaining one percent shall be placed in a special racing commission operating fund from which all salaries and expenses of the racing commission and its employees shall be paid. All other moneys shall be retained in the parimutuel pool to be paid out to bettors holding winning tickets, as provided by racing commission rule.

2. For each racing meet where the average daily amount bet on the total races held is less than fifty thousand dollars, the licensee shall deduct eighteen and one-quarter percent of the total parimutuel pool bet on each individual race. Of this amount, fifteen and one-quarter percent of the amount deducted shall be retained by the licensee to cover expenses, and the remaining three percent shall be remitted to the state treasury, as provided by racing commission rule. Two and one-half percent shall be deposited in a special racing commission fund from which the moneys shall be distributed to the school districts of the state by the state treasurer, as prescribed by commission rule, in the same proportion as state foundation program payments are made. The remaining one-half percent shall be placed in a special racing commission fund from which all salaries and expenses of the racing commission and its employees shall be paid. All other moneys shall be retained in the parimutuel pool to be paid out to bettors holding winning tickets as provided by racing commission rule.
3. All moneys deposited pursuant to this section for the benefit of the commission or the foundation program are hereby appropriated.

SECTION 12. AUDITS AND INVESTIGATIONS BY STATE AUDITOR.) The state auditor when requested by the commission, the governor, or the attorney general, shall conduct audits and investigate the operations of any licensee. The commission shall reimburse the state auditor for all services rendered.

SECTION 13. REFUSAL, SUSPENSION, AND REVOCATION OF LICENSES - REASONS.) The commission may refuse, suspend, or revoke licenses under the certificate system and privileges granted by it or terminate racing privileges for just cause. Reasons constituting just cause include:

1. Any action or attempted action by a person contrary to the provisions of this Act or other statute.

2. Corrupt practices which include, but are not limited to:
 - a. Prearranging or attempting to prearrange the order of finish of a race.
 - b. Failing to properly pay the winnings to a bettor or to properly return change to a bettor upon purchasing a ticket.
 - c. Falsifying or manipulating the odds on any entrant in a race.
3. Any violation of the rules of racing adopted by the commission.
4. Willful falsification or misstatement of fact in an application for racing privileges.
5. Material false statement to a racing official or to the commission.
6. Willful disobedience of a commission order or of a lawful order of a racing official other than a commissioner.
7. Continued failure or inability to meet financial obligations connected with racing meets.
8. Failure or inability to properly maintain a race track.

SECTION 14. ATTORNEY GENERAL TO REPRESENT COMMISSION IN HEARINGS - RULE PROMULGATION.) The attorney general shall represent the state in all hearings before the commission and shall prosecute all criminal proceedings arising from violations of this Act. The commission shall reimburse the attorney general for the cost of all services rendered. The commission may employ private counsel for rule promulgation and to ensure that all its hearings are conducted fairly.

SECTION 15. REVOCATION, SUSPENSION, OR FINE - PROCEDURE.) The commission, upon proof of violation by a licensee, its agents or employees of any provision of this Act or any rule or regulation promulgated by the commission may, on reasonable notice to the licensee and after giving such licensee an opportunity to be heard, fine the licensee or revoke or suspend its license. In the event of revocation, the licensee shall not be eligible to receive another license within twelve months from the date of revocation. Every decision or order of the commission shall be made in writing and filed with the director for preservation as a permanent record of the commission. Such decision shall be signed by the chairman, attested by the director, and dated. All hearings and appeals shall be conducted in accordance with chapter 28-32.

Disapproved April 12, 1979

Filed April 13, 1979

CHAPTER 685

SENATE BILL NO. 2460
(Melland, Goodman)

LIEUTENANT GOVERNOR AS FEDERAL AID COORDINATOR

AN ACT to establish the office of federal aid coordinator and to provide for the powers and duties of that office and the assumption of the responsibilities of the division of economic opportunity, the state planning division, the office of energy management, and the special projects coordinator; to amend and reenact subsection 3 of section 20.1-02-17.1, and sections 20.1-02-18.1, 23-11-30, 23-18.2-27, 54-01-05.4, 54-01.1-08, 54-40.1-01, subsection 2 of section 54-40.1-02, and subsection 6 of section 54-40.1-04 of the North Dakota Century Code, relating to various responsibilities of the federal aid coordinator office; and to repeal sections 54-07-06, 54-34.1-01, 54-34.1-02, 54-34.1-03, 54-34.1-04, 54-34.1-05, 54-34.1-08, 54-34.1-09, and 54-34.1-15 of the North Dakota Century Code, relating to the division of economic opportunity and the state planning division; to require the legislative council to review the effect of consolidation of offices into the office of federal aid coordinator; and to provide an appropriation for the federal aid coordinator office and the natural resources council.

VETO

April 12, 1979

The Honorable Ben Meier
Secretary of State
State Capitol
Bismarck, North Dakota 58505

Dear Mr. Meier:

Senate Bill 2460 repeals the enabling legislation for three agencies within the executive branch of state government: the State Planning Division, the Office of Economic Opportunity, and the Office of Energy Management. The bill establishes the Office of the Federal Aid Coordinator to carry on the operations of the three agencies.

Section 1 of the bill states that the Federal Aid Coordinator Office is created in the Office of the Lieutenant Governor and that the Lieutenant Governor is the coordinator.

I object to Section 1 of Senate Bill 2460 because, by its provisions, the Legislative Assembly is assigning duties to the Lieutenant Governor.

Section 77 of the North Dakota Constitution states that the Lieutenant Governor serves as President of the Senate and that "Additional duties shall be prescribed by the governor."

Section 71 of the North Dakota Constitution vests the Governor with executive power. The Legislative Assembly does not share executive power with the Governor. I believe that the power to assign the duties of the Lieutenant Governor is an executive power which rests solely in the Governor.

When I acceded to this office, I solemnly swore to uphold the Constitution and the laws of the state of North Dakota. I will not endorse any legislative act that encroaches on the executive power which the Constitution intended the Governor to preserve.

In vetoing Section 1 of Senate Bill 2460, my intent is to preserve in the Office of the Governor the authority to properly administer the executive branch of government.

In Section 1 of Senate Bill 2460, the Legislature is exercising authority vested in the Governor by Section 77 of the Constitution of this state.

Therefore, I hereby veto Section 1 of Senate Bill 2460.

Sincerely yours,

ARTHUR A. LINK
Governor

Disapproved April 12, 1979

Filed April 13, 1979

NOTE: For the full text of Senate Bill No. 2460 containing section 1, see chapter 553.

MEASURES APPROVED OVER GOVERNOR'S VETO

- House Bill No. 1075 Chapter 368, 1979 S.L.
- House Bill No. 1138 Chapter 271, 1979 S.L.
- House Bill No. 1352 Chapter 420, 1979 S.L.
- Senate Bill No. 2052 Chapter 287, 1979 S.L.
- Senate Bill No. 2151 Chapter 557, 1979 S.L.
- Senate Bill No. 2340 Chapter 276, 1979 S.L.

INITIATED MEASURES, APPROVED

CHAPTER 686

STATE REVENUE SHARING

An initiated measure for an Act to provide for the sharing of the general fund revenues of the state of North Dakota with counties, cities, city park districts, and townships.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. INTENT.) It is the intent of the electors that the government of the state of North Dakota share a percentage of the funds derived from state sales, use, and income taxes with counties, cities, city park districts and townships for the purpose of maintaining quality local governmental services and stabilizing the local property tax burden.

SECTION 2. STATE REVENUE SHARING FUND.) Commencing July 1, 1979, and on July 1 of each successive year, there is hereby created in the office of the state treasurer a state revenue sharing fund which shall be administered by the state treasurer. An amount equal to five percent of the net proceeds of the state income taxes for the year prior to the current fiscal year and five percent of the net proceeds of the state sales and use tax for the year prior to the current fiscal year shall be paid over by the state tax commissioner to the state treasurer who shall credit the same to the fund and allocate and transfer such funds on a quarterly basis to cities and county governments in the manner provided by this Act.

SECTION 3. DISTRIBUTION FORMULA.)

1. Half of the amount in the fund shall be allocated in the following manner:
 - a. Each county shall share in the fund in the proportion that the population of each bears to the population of all based on the most recent federal census, either regular or special.
 - b. Each city shall share in the funds allocated to each county in the proportion that the population of each bears to the population of the county in which it is

located based on the most recent federal census, either regular or special.

2. The remainder shall be allocated in the following manner:
 - a. Such money shall be allocated to all countywide areas so that each countywide area shall receive an amount which bears the same ratio as the real property tax levy in dollars of all political subdivisions within the countywide area bears to the sum of the products. For the purposes of this Act, countywide area shall be the geographic area of a county.
 - b. The county government and all cities within the countywide area shall be allocated that portion of the amount allocated to the countywide area pursuant to subdivision a which bears the same ratio to such amount as each such county or city's real property tax levy in dollars bear to the sum of the real property tax levy in dollars of all cities and county government within that countywide area.
3. If within any city there shall be located a park district created pursuant to chapter 40-49, such city's share of revenue sharing funds shall be divided between the city and the park district in proportion to their total respective mill levies. The distribution shall be made by the city auditor.
4. If within any county there shall be located townships created pursuant to chapter 58-02, such county's share of revenue sharing funds shall be divided between the county and such townships. The townships shall receive ten percent of the allocations made to such county in the proportion that the population of each township within the countywide area bears to the population of all townships within the countywide area. If the countywide area is not fully organized into townships, the allocation to townships shall be divided between the county government and the townships within the countywide area, in the proportion that the population of the townships bear to the population of the countywide area, and the allocation of the township's share shall be distributed among the townships within the countywide area in the manner otherwise provided by in this section. The county treasurer shall transfer the township share of such revenue sharing funds to the respective township or townships. The remainder shall be allocated to the county government, and thereafter shall be considered a part of the initial allocation of the county government.

SECTION 4. DISBURSEMENT OF LOCAL FUNDS - REPORTS.) Cities, city park districts, county governments, and townships may receive and expend payments made pursuant to this Act and such payments

shall be considered an appropriation in the budget of the local unit of government, which, upon the order of the governing body may be disbursed in the manner other disbursements are made. The state revenue sharing moneys so received shall be treated as a part of the local tax effort of each local unit of government receiving such funds. The state treasurer may require local units of government receiving state revenue sharing funds to provide such information or copies of reports as may be necessary to administer the Act.

Approved November 7, 1978

146,187 to 56,761

NOTE: This was initiated measure No. 1 on the general election ballot.

CHAPTER 687

INCOME TAX REDUCTION

An initiated measure for an Act amending the income tax rates on individuals and corporations.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1.) That section 57-38-29, Rate of tax on individuals, be amended and reenacted by deleting the overstruck material and substituting therefor the underlined material, as follows:

57-38-29. Rate of tax on individuals. A tax is hereby imposed upon every individual, to be levied, collected, and paid annually with respect to the taxable income of such individual as defined in this chapter, computed at the following rates:

1. On taxable income not in excess of ~~one~~ three thousand dollars, a tax of one percent.
2. On taxable income in excess of ~~one~~ three thousand dollars and not in excess of ~~three~~ five thousand dollars, a tax of two percent.
3. On taxable income in excess of ~~three~~ five thousand dollars and not in excess of ~~five~~ eight thousand dollars, a tax of three percent.
4. On taxable income in excess of ~~five~~ eight thousand dollars and not in excess of ~~six~~ twelve thousand dollars, a tax of ~~five~~ four percent.
5. On taxable income in excess of ~~six~~ twelve thousand dollars and not in excess of ~~eight~~ thirty thousand dollars, a tax of ~~seven-and-one-half~~ five percent.
6. On taxable income in excess of ~~eight~~ thirty thousand dollars, a tax of ~~ten~~ seven and one-half percent.

SECTION 2.) That section 57-38-30, Rate of tax on corporations, be amended and reenacted to delete the overstruck material and substitute therefor that which is underlined to make such section read as follows:

57-38-30. Rate of tax on corporations. A tax is hereby imposed upon the taxable income of every domestic and foreign corporation received from the sources described in sections 57-38-12, 57-38-13, and 57-38-14, which shall be levied, collected, and paid annually as in this chapter provided, and which shall be computed at the following rates:

1. For the first three thousand dollars of taxable income, at the rate of three percent.
2. On all taxable income above three thousand dollars and not in excess of eight thousand dollars, at the rate of four percent.
3. On all taxable income above eight thousand dollars and not in excess of fifteen thousand dollars, at the rate of five percent.
4. On all taxable income above fifteen thousand dollars, and not in excess of twenty-five thousand dollars, at the rate of six percent.
5. On all taxable income above twenty-five thousand dollars, at the rate of eight and one-half percent.

SECTION 3. EFFECTIVE DATE.) These amendments shall be effective for all taxable years beginning on or after January 1, 1978.

Approved November 7, 1978

127,280 to 68,215

NOTE: This was initiated measure No. 2 on the general election ballot.

CHAPTER 688

GAME AND FISH FUND USE

An initiated measure for an Act to provide that all income of the state game and fish department and interest on said income be used only by the state game and fish department.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. USE OF FUNDS.) All income of the state game and fish department, deposited by the state game and fish commissioner with the state treasurer shall be credited to the state game and fish fund and said fund shall be used only by the state game and fish department; and all money derived from the investment of said fund or portions thereof shall be credited to said fund.

SECTION 2. EFFECTIVE DATE.) This Act shall become effective January 1, 1979.

Approved November 7, 1978

138,500 to 65,638

NOTE: This was initiated measure No. 3. on the general election ballot.

INITIATED MEASURES, DISAPPROVED

CHAPTER 689

HEALTH CARE COST CONTROL

Disapproval of an initiated measure to provide for the people's control of health costs and the health department and to authorize a study of health care in North Dakota.

Disapproved November 7, 1978

54,060 to 169,823

NOTE: This was initiated measure No. 4 on the general election ballot.

REFERRED MEASURES, APPROVED

CHAPTER 690

DICKINSON EXPERIMENT STATION LAND TRANSFERS

Approval by referendum of Senate Bill No. 2384 of the Forty-fifth Legislative Assembly which authorized the state board of higher education to sell certain land presently used by the Dickinson experiment station, provided for the use of the proceeds of the sale of the land, provided for the purchase of replacement land for the use of the Dickinson experiment station, authorized a loan from the Bank of North Dakota, and declared an emergency.

Approved September 5, 1978

41,368 to 32,498

NOTE: This was referred measure No. 1 on the primary election ballot.

CONSTITUTIONAL AMENDMENTS, APPROVED

CHAPTER 691

ORIGINAL STATE APPORTIONMENT AND TRANSITION SCHEDULE

Senate Concurrent Resolution No. 4009, chapter 607, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the repeal of section 214 and sections 1 through 25 of the transition schedule of the Constitution of the State of North Dakota, relating to the original congressional and legislative apportionment of the state and to the transition of governmental functions from territorial government to state government, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Section 214 and sections 1 through 25 of the transition schedule of the Constitution of the State of North Dakota are hereby repealed.

Approved September 5, 1978

37,307 to 34,598

NOTE: This was constitutional measure No. 2 on the primary election ballot.

CHAPTER 692

POWERS AND DUTIES OF LIEUTENANT
GOVERNOR

Senate Concurrent Resolution No. 4075, chapter 610, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the amendment of sections 65 and 77 of the Constitution of the State of North Dakota, relating to the lieutenant governor voting in the state senate, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 65 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 65. No bill shall become a law: except by a vote of a majority of all the members-elect in the house of representatives, and a vote of the majority of the members-elect in the senate, however the lieutenant governor may vote as provided in section 77 in the event the senate is equally divided, nor unless, on its final passage, the vote be taken by yeas and nays, and the names of those voting be entered on the journal.

SECTION 2. AMENDMENT.) Section 77 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 77. The powers and duties of the lieutenant governor shall be to serve as president of the senate, and he may, when the senate is equally divided, vote on procedural matters, and on substantive matters if his vote would be decisive. Additional duties shall be prescribed by the governor. If, during the vacancy in the office of governor, the lieutenant governor shall be impeached, displaced, resign, or die, or from mental or physical disease, or otherwise become incapable of performing the duties of his office, the secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

Approved September 5, 1978

46,442 to 29,960

NOTE: This was constitutional measure No. 5 on the primary election ballot.

CHAPTER 693

VETERAN BONUS BONDS AND CONSTITUTIONAL
CONVENTION

House Concurrent Resolution No. 3004, chapter 603, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the repeal of articles 59, 65, 87, and 88 of the amendments to the Constitution of the State of North Dakota, relating to bonds for bonuses to veterans of World War II, the Korean conflict, and the Vietnam conflict, and to the calling of a constitutional convention, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Articles 59, 65, 87, and 88 of the amendments to the Constitution of the State of North Dakota are hereby repealed.

Approved September 5, 1978

41,379 to 32,613

NOTE: This was constitutional measure No. 6 on the primary election ballot.

CHAPTER 694

OPEN RECORDS

Senate Concurrent Resolution No. 4024, chapter 612, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for a constitutional amendment requiring the records of all governmental bodies to be open to the public unless otherwise provided by law, 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:

Unless otherwise provided by law, all records of public or governmental bodies, boards, bureaus, commissions, or agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours.

Approved November 7, 1978

172,125 to 33,965

NOTE: This was constitutional measure No. 1 on the general election ballot.

CHAPTER 695

ELECTIVE FRANCHISE

House Concurrent Resolution No. 3014, chapter 611, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for a new Article V of the North Dakota Constitution, relating to the elective franchise, and to repeal Article V, consisting of sections 121 through 129 of the North Dakota Constitution, relating to the elective franchise, and articles 36 and 40 of the amendments to the North Dakota Constitution, relating to residency for voting purposes, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1.) Article V of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

Section 121. The general election of the state shall be held biennially as provided by law.

Every citizen of the United States, who has attained the age of eighteen years and who is a North Dakota resident, shall be a qualified elector. When an elector moves within the state he shall be entitled to vote in the precinct from which he moves until he establishes voting residence in another precinct. The legislative assembly shall provide by law for the determination of residence for voting eligibility, other than physical presence. No elector shall lose his residency for voting eligibility solely by reason of his absence from the state.

The legislative assembly shall provide by law for secrecy in voting, for absentee voting, for administration of elections and for the nomination of candidates.

Section 122. No person who has been declared mentally incompetent by order of a court or other authority having jurisdiction, which order has not been rescinded, shall be qualified to vote. No person convicted of a felony shall be qualified to vote until his or her civil rights are restored.

SECTION 2. REPEAL.) Article V, consisting of sections 121 through 129, and articles 36 and 40 of the amendments, of the Constitution of the State of North Dakota are hereby repealed.

Approved November 7, 1978

124,519 to 61,224

NOTE: This was constitutional measure No. 2 on the general election ballot.

CHAPTER 696

INITIATIVE, REFERENDUM, AND RECALL

House Concurrent Resolution No. 3088, chapter 613, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the creation of a new article to the Constitution of the State of North Dakota, relating to the power of initiative, referendum, and recall; to amend section 202 of the Constitution of the State of North Dakota, relating to constitutional amendment; and to repeal section 25 of the Constitution of the State of North Dakota, relating to legislative power and the powers of initiative and referendum, and article 33 of the amendments to the Constitution of the State of North Dakota, relating to recall; and providing an effective date, to read as follows:

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1.) A new article of the Constitution of the State of North Dakota is hereby created to read as follows:

INITIATIVE, REFERENDUM, AND RECALL

Section 1. While the legislative power of this state shall be vested in a legislative assembly consisting of a Senate and a House of Representatives, the people reserve the power to propose and enact laws by the initiative, including the call for a constitutional convention; to approve or reject legislative acts, or parts thereof, by the referendum; to propose and adopt constitutional amendments by the initiative; and to recall certain elected officials. This article is self-executing and all of its provisions are mandatory. Laws may be enacted to facilitate and safeguard, but not to hamper, restrict, or impair these powers.

Section 2. A petition to initiate or to refer a measure shall be presented to the secretary of state for approval as to form. A request for approval shall be presented over the names and signatures of twenty-five or more electors as sponsors, one of whom shall be designated as chairman of the sponsoring committee. The secretary of state shall approve the petition for circulation if it

is in proper form and contains the names and addresses of the sponsors and the full text of the measure.

Section 3. The petition shall be circulated only by electors. They shall swear thereon that the electors who have signed the petition did so in their presence. Each elector signing a petition shall also write in the date of signing and his post-office address. No law shall be enacted limiting the number of copies of a petition. The copies shall become part of the original petition when filed.

Section 4. The petition may be submitted to the secretary of state if signed by electors equal in number to two percent of the resident population of the state at the last federal decennial census.

Section 5. An initiative petition shall be submitted not less than ninety days before the statewide election at which the measure is to be voted upon. A referendum petition may be submitted only within ninety days after the filing of the measure with the secretary of state. The submission of a petition shall suspend the operation of any measure enacted by the legislative assembly except emergency measures and appropriation measures for the support and maintenance of state departments and institutions. The submission of a petition against one or more items or parts of any measure shall not prevent the remainder from going into effect. A referred measure may be voted upon at a statewide election or at a special election called by the governor.

Section 6. The secretary of state shall pass upon each petition, and if he finds it insufficient, he shall notify the "Committee for the Petitioners" and allow twenty days for correction or amendment. All decisions of the secretary of state in regard to any such petition shall be subject to review by the supreme court. But if the sufficiency of such petition is being reviewed at the time the ballot is prepared, the secretary of state shall place the measure on the ballot and no subsequent decision shall invalidate such measure if it is at such election approved by a majority of the votes cast thereon. If proceedings are brought against any petition upon any ground, the burden of proof shall be upon the party attacking it.

Section 7. All decisions of the secretary of state in the petition process are subject to review by the supreme court in the exercise of original jurisdiction. If his decision is being reviewed at the time the ballot is prepared, he shall place the measure on the ballot and no court action shall invalidate the measure if it is approved at the election by a majority of the votes cast thereon.

Section 8. If a majority of votes cast upon an initiated or a referred measure are affirmative, it shall be deemed enacted. An initiated or referred measure which is approved shall become law thirty days after the election, and a referred measure which is rejected shall be void immediately. If conflicting measures are

approved, the one receiving the highest number of affirmative votes shall be law. A measure approved by the electors may not be repealed or amended by the legislative assembly for seven years from its effective date, except by a two-thirds vote of the members elected to each house.

Section 9. A constitutional amendment may be proposed by initiative petition. If signed by electors equal in number to four percent of the resident population of the state at the last federal decennial census, the petition may be submitted to the secretary of state. All other provisions relating to initiative measures apply hereto.

Section 10. Any elected official of the state, of any county or of any legislative or county commissioner district shall be subject to recall by petition of electors equal in number to twenty-five percent of those who voted at the preceding general election for the office of governor in the state, county, or district in which the official is to be recalled.

The petition shall be filed with the official with whom a petition for nomination to the office in question is filed, who shall call a special election if he finds the petition valid and sufficient. No elector may remove his name from a recall petition.

The name of the official to be recalled shall be placed on the ballot unless he resigns within ten days after the filing of the petition. Other candidates for the office may be nominated in a manner provided by law. When the election results have been officially declared, the candidate receiving the highest number of votes shall be deemed elected for the remainder of the term. No official shall be subject twice to recall during the term for which he was elected.

SECTION 2. AMENDMENT.) Section 202 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 202. Any amendment or amendments to the Constitution of the state may be proposed in either house of the legislature, and if the same shall be agreed to upon roll call by a majority of the members elected to each house, it shall be submitted to the electors and if a majority of the votes cast thereon are affirmative, such amendment shall be a part of this Constitution.

SECTION 3. REPEALS.) Section 25 and article 33 of the Amendments to the Constitution of the State of North Dakota are hereby repealed.

SECTION 4. EFFECTIVE DATE.) The provisions of this resolution, if approved by the people, shall take effect on January 1, 1979.

Approved November 7, 1978

102,182 to 75,413

NOTE: This was constitutional measure No. 3 on the general election ballot.

CONSTITUTIONAL AMENDMENTS, DISAPPROVED

CHAPTER 697

LEGISLATIVE PROCEDURE AND AUTHORITY

Senate Concurrent Resolution No. 4004, chapter 606, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the repeal of sections 60, 62, 180, and 181 of the Constitution of the State of North Dakota, relating to deadlines for the introduction of bills in the legislature and the contents of the general appropriation bill, the levy and collection of a poll tax, and the general powers of the legislature regarding tax matters.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Sections 60, 62, 180, and 181 of the Constitution of the State of North Dakota are hereby repealed.

Disapproved September 5, 1978

35,313 to 38,512

NOTE: This was constitutional measure No. 1 on the primary election ballot.

CHAPTER 698

STATE REVENUE LIMITATION

Senate Concurrent Resolution No. 4012, chapter 608, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the amendment of section 174 of the Constitution of the State of North Dakota, relating to the raising of revenue on an ad valorem basis.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 174 of the Constitution of the State of North Dakota is hereby amended and reeacted to read as follows:

Section 174. The legislative assembly shall provide for raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year when raising revenues based upon an ad valorem tax on property, four mills on the dollar of the valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt.

Disapproved September 5, 1978

18,110 to 56,755

NOTE: This was constitutional measure No. 3 on the primary election ballot.

CHAPTER 699

POLITICAL SUBDIVISION BONDING LIMITS

Senate Concurrent Resolution No. 4013, chapter 609, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the amendment of section 183 of the Constitution of the State of North Dakota, relating to bonding limitations of political subdivisions.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

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, town, school district, or any other political subdivision, shall never exceed eight percent upon the assessed value of the taxable property therein, except any incorporated city may, by a two-thirds vote, increase such indebtedness three percent on such assessed value beyond said eight percent limit, and a school district, by a majority vote may increase such indebtedness five percent on such assessed value beyond said eight percent limit. 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, except any incorporated city may become indebted in any amount not exceeding four percent 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, town, school district, or any other political subdivision shall be void.

Disapproved September 5, 1978

24,459 to 48,974

NOTE: This was constitutional measure No. 4 on the primary election ballot.

CHAPTER 700

CORPORATE AUTHORITY

House Concurrent Resolution No. 3006, chapter 604, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the repeal of sections 132, 133, 137, 138, 140, 141, 143, 144, and 145 of the Constitution of the State of North Dakota, relating to the charters of corporations in existence at the time the Constitution took effect, the authorized business of a corporation, the issuance of stocks and bonds by a corporation, the operating conditions for railroad corporations, the definition of a corporation, and notes and bills circulated by banks.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. REPEAL.) Sections 132, 133, 137, 138, 140, 141, 143, 144, and 145 of the Constitution of the State of North Dakota are hereby repealed.

Disapproved September 5, 1978

27,933 to 43,985

NOTE: This was constitutional measure No. 7 on the primary election ballot.

CHAPTER 701

SALARIES OF PUBLIC OFFICERS

House Concurrent Resolution No. 3015, chapter 605, 1977 Session Laws, proposed by the Forty-fifth Legislative Assembly of the State of North Dakota, providing for the amendment of section 84 of the North Dakota Constitution, relating to the salaries of public officers.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 84 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 84. Salaries of public officers shall be as prescribed by law, but the salaries of any of the said officers shall not be diminished during the period for which they shall have been elected. All fees and profits arising from any of the said offices shall be deposited in the state treasury.

Disapproved September 5, 1978

34,185 to 41,539

NOTE: This was constitutional measure No. 8 on the primary election ballot.

CONSTITUTIONAL AMENDMENTS, PROPOSED

CHAPTER 702

SENATE CONCURRENT RESOLUTION NO. 4042
(Wenstrom)

SALARIES OF PUBLIC OFFICERS

A concurrent resolution for the amendment of section 84 of the North Dakota Constitution, relating to the salaries of public officers.

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 84 of the North Dakota Constitution 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 accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) Section 84 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 84. Salaries of public officers shall be as prescribed by law, but the salaries of any of the said officers shall not be ~~increased--or~~ diminished during the period for which they shall have been elected, ~~and all~~. All fees and profits arising from any of the said offices shall be ~~covered into~~ deposited in the state treasury.

Filed March 7, 1979

CHAPTER 703

HOUSE CONCURRENT RESOLUTION NO. 3009
(Kingsbury, A. Hausauer)

STATE PROPERTY TAX AUTHORITY

A concurrent resolution to amend and reenact section 174 of the Constitution of the State of North Dakota, relating to legislative authority to provide a four-mill property tax levy to defray the expenses of the state, and providing that the legislative assembly may not raise revenue for the state through a property tax.

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 174 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 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) Section 174 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 174. The legislative assembly shall ~~provide for~~ be prohibited from raising revenue sufficient to defray the expenses of the state for each year, not to exceed in any one year four (4) mills on the dollar of the assessed valuation of all taxable property in the state, to be ascertained by the last assessment made for state and county purposes, and also a sufficient sum to pay the interest on the state debt through the levying of a tax on the assessed value of real or personal property.

Filed March 22, 1979

CHAPTER 704

HOUSE CONCURRENT RESOLUTION NO. 3011
(Kingsbury, A. Hausauer)

STATE MEDICAL CENTER MILL LEVY

A concurrent resolution to repeal article 60 of the amendments to the Constitution of the State of North Dakota, relating to a one-mill levy on all taxable property within the State of North Dakota for the North Dakota state medical center at 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 repeal of article 60 of the amendments to 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 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. REPEAL.) Article 60 of the amendments to the Constitution of the State of North Dakota is hereby repealed.

Filed March 22, 1979

CHAPTER 705

HOUSE CONCURRENT RESOLUTION NO. 3062
(Backes, Strinden)

TAXATION OF PROPERTY

A concurrent resolution for the amendment of section 176 of the Constitution of the State of North Dakota, relating to the taxation of property.

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 176 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 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) Section 176 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 176. Taxes shall be uniform upon the same class of property including franchises within the territorial limits of the authority levying the tax. ~~The legislature~~ legislative assembly may by law exempt any or all classes of personal property from taxation and within the meaning of this section, fixtures, buildings and improvements of every character, whatsoever, upon land shall be deemed personal property. The property of the United States, except as the Congress of the United States shall authorize taxation of it, and of the state, county and municipal corporations and property used exclusively for schools, religious, cemetery, charitable or other public purposes shall be exempt from taxation. ~~Except as restricted by this Article, the legislature~~ The legislative assembly may provide for raising revenue and fixing the situs of all property for the purpose of taxation. ~~Provided that all taxes and exemptions in force when this amendment is adopted shall remain in force until otherwise provided by statute.~~

Filed March 22, 1979

CHAPTER 706

SENATE CONCURRENT RESOLUTION NO. 4006
(Legislative Council)
(Interim Committee on Judicial System)

JUDICIAL OFFICERS

A concurrent resolution for the amendment of section 173 of the Constitution of the State of North Dakota, relating to the election of certain county officials; for the repeal of subsection 6 of section 69 of the Constitution of the State of North Dakota, relating to the jurisdiction of police magistrates, constables, and justices of the peace; and providing an effective date.

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 173 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 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) Section 173 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

SECTION 173. There shall be elected in each county, organized under the provisions of section 172 of the Constitution of the State of North Dakota, a register of deeds, county auditor, treasurer, sheriff, state's attorney, ~~county judge~~ and a clerk of the district court, who shall be electors in the county in which they are elected and who shall hold their office for a term of four years and until their successors are elected and qualified; ~~provided in counties having fifteen thousand population or less, the county judge shall also be clerk of the district court,~~ provided further that in counties having population of six thousand or less the register of deeds shall also be clerk of the district court ~~and county judge. This amendment shall be construed as applying to the officers elected at the general election in 1962.~~ This amendment shall be self-executing, but legislation may be enacted to facilitate its operation.

SECTION 2. REPEAL.) Subsection 6 of section 69 of the Constitution of the State of North Dakota is hereby repealed.

SECTION 3. ELECTION OF CLERK OF THE DISTRICT COURT AND EFFECTIVE DATE.) In counties having populations of fifteen thousand or less but more than six thousand, a clerk of the district court shall be elected at the general election in 1982. The provisions of section 1 of this resolution, if approved by the people, shall take effect on January 1, 1983. The provisions of sections 2 and 3 of this resolution, if approved by the people, shall take effect thirty days after certification of approval. This section need not be printed as part of the permanent codification of the Constitution of the State of North Dakota.

Filed March 26, 1979

CHAPTER 707

SENATE CONCURRENT RESOLUTION NO. 4061
(Melland)

EMOLUMENTS OF OFFICE

A concurrent resolution to repeal section 39 of the Constitution of the State of North Dakota, relating to the appointment or election of members of the Legislative Assembly to other offices, the emoluments of which have been increased during those legislators' terms of office.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following proposed repeal of section 39 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 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. REPEAL.) Section 39 of the Constitution of the State of North Dakota is hereby repealed.

Filed March 26, 1979

CHAPTER 708

SENATE CONCURRENT RESOLUTION NO. 4004
(Legislative Council)
(Interim Committee on Constitutional Revision)

STATE BOND SECURITY

A concurrent resolution to amend section 182 of the Constitution of the State of North Dakota, relating to the security of bonds issued or guaranteed by the state.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the following amendment of section 182 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 general election to be held in 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) Section 182 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

Section 182. The state may issue or guarantee the payment of bonds, provided that all bonds in excess of two million dollars shall be secured by first mortgage upon real estate in amounts not to exceed ~~one-half~~ sixty-five percent of its value; or upon real and personal property of state-owned utilities, enterprises, or industries, in amounts not exceeding its value, and provided further, that the state shall not issue or guarantee bonds upon property of state-owned utilities, enterprises, or industries in excess of ten million dollars.

No further indebtedness shall be incurred by the state unless evidenced by a bond issue, which shall be authorized by law for certain purposes to be clearly defined. Every law authorizing a bond issue shall provide for levying an annual tax, or make other provision, sufficient to pay the interest semiannually, and the principal within thirty years from the date of the issue of such bonds and shall specially appropriate the proceeds of such tax, or of such other provisions to the payment of said principal and interest, and such appropriation shall not be repealed nor the tax or other provisions discontinued until such debt, both principal and interest, shall have been paid. No debt in excess of the limit named herein shall be incurred except for the purpose of repelling invasion, suppressing insurrection, defending the state in time of war or to provide for the public defense in case of threatened hostilities.

Filed March 7, 1979

CHAPTER 709

HOUSE CONCURRENT RESOLUTION NO. 3002
(Legislative Council)
(Interim Committee on Constitutional Revision)

LEGISLATIVE COMPENSATION

A concurrent resolution to create a new section of the Constitution of the State of North Dakota relating to legislative reimbursement; to repeal section 45 of the Constitution of the State of North Dakota, relating to legislative salaries and mileage; and providing an effective date.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed creation of a new section of the Constitution of the State of North Dakota, and the repeal of section 45 of the Constitution of the State of North Dakota, are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the November 1980 general election, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1.) A new section of the Constitution of the State of North Dakota is hereby created to read as follows:

Each member of the legislative assembly shall receive a salary and expense allowance as provided by law.

SECTION 2. REPEAL.) Section 45 of the Constitution of the State of North Dakota is hereby repealed.

SECTION 3. EFFECTIVE DATE.) If approved by the voters, this measure shall be effective December 1, 1982.

Filed March 22, 1979

CHAPTER 710

HOUSE CONCURRENT RESOLUTION NO. 3001
(Legislative Council)
(Interim Committee on Constitutional Revision)

LEGISLATIVE ARTICLE

A concurrent resolution to create a new article II of the Constitution of the State of North Dakota, relating to the legislative assembly; to repeal sections 26 through 44 and sections 46 through 70 of the present article II of the Constitution of the State of North Dakota, relating to the legislative assembly; and providing an effective date.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed creation of a new article II and the repeal of sections 26 through 44 and sections 46 through 70 of the present article II of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the November 1980 general election, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1.) A new article II of the Constitution of the State of North Dakota is hereby created to read as follows:

ARTICLE II
LEGISLATIVE ASSEMBLY

Section 1. The senate shall be composed of not less than thirty nor more than fifty-two members, and the house of representatives shall be composed of not less than sixty nor more than one hundred four members, which jointly are designated as the legislative assembly of the State of North Dakota.

Section 2. Senators shall be elected for terms of four years, and representatives for terms of two years.

Section 3. Each person elected to the legislative assembly must be, on the day of his election, a qualified elector in the district from which he is chosen and have been a resident of the state for one year next preceding his election.

Section 4. While serving in the legislative assembly, no member may hold any full-time elective state or political subdivision office nor any full-time appointive state office established by this Constitution or designated by law. During the term for which he was elected, no legislator shall be appointed to any full-time office which has been created, or for which the compensation has been increased, by the legislative assembly during that term.

Section 5. The legislative assembly shall fix the number of senators and representatives and divide the state into as many senatorial districts of compact and contiguous territory as there are senators. The districts as thus ascertained and determined after the 1980 federal decennial census shall continue until the adjournment of the first regular session after each federal decennial census, or until changed by law.

The legislative assembly shall guarantee, as nearly as practicable, that every person is equal to every other person in the state in the casting of ballots for legislative candidates. One senator and at least two representatives shall be apportioned to each senatorial district and be elected at large or from subdistricts thereof. The legislative assembly may combine two senatorial districts only when a single-member senatorial district includes a federal facility or federal installation, containing over three-fourths of the population of a single-member senatorial district, and may provide for the election of senators at large and representatives at large or from subdistricts thereof.

Section 6. The legislative assembly shall establish by law a procedure whereby one-half of the members of the senate, as nearly as practicable, are elected biennially.

Section 7. The terms of legislators shall begin on the first day of December following their election.

The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes as provided by law and shall thereafter recess until twelve noon on the first Tuesday after the third day in January or at such other time as may be prescribed by law but not later than the eleventh day of January.

Each regular session of the legislative assembly shall not exceed eighty natural days during the biennium. The organizational meeting of the legislative assembly shall not be counted as part of such eighty natural days, nor shall days spent in session at the call of the governor or while engaged in impeachment proceedings, be counted. Days spent in regular session need not be consecutive, and the legislative assembly may authorize its committees to meet at any time during the biennium. As used in this section, a "natural day" means a period of twenty-four consecutive hours.

Neither house may recess or adjourn for more than three days without consent of the other.

Section 8. The house of representatives shall elect one of its members presiding officer at the beginning of each organizational session.

A majority of the members elected to each house shall constitute a quorum. A smaller number may adjourn from day to day and may compel attendance of absent members in a manner, and under a penalty, as may be provided by law.

Each house is the judge of the qualifications of its members, but election contests shall be subject exclusively to judicial review as provided by law. If two or more candidates for the same office receive an equal and highest number of votes, the secretary of state shall choose one of them by lot.

Each house shall determine its rules of procedure, and may punish its members or other persons for contempt or disorderly behavior in its presence. With the concurrence of two-thirds of its elected members, either house may expel a member.

Section 9. Each house shall keep a journal of its proceedings, and a recorded vote on any question shall be taken at the request of one-sixth of those present. No bill shall become law except by a recorded vote of a majority of the members elected to each house, and the lieutenant governor shall be considered a member-elect of the senate when he votes.

No law shall be enacted except by a bill passed by both houses, and no bill shall be so amended on its passage through either house as to change its general subject matter. No bill shall embrace more than one subject, which shall be expressed in its title; but a law violating this provision shall be invalidated only to the extent the subject is not so expressed.

Every bill shall be read on two separate natural days, and the readings may be by title only unless a reading at length is demanded by one-fifth of the members present.

No bill shall be amended, extended, or incorporated in any other bill by reference to its title only, except in the case of definitions and procedural provisions.

The presiding officer of each house shall sign all bills passed and resolutions adopted by the legislative assembly, and the fact of signing shall be entered at once on the journal.

Every law enacted by the legislative assembly shall take effect on July first after its filing with the secretary of state or ninety days after its filing, whichever comes later, or on a subsequent date if specified in the law unless, by a separate vote of two-thirds of the members elected to each house, the legislative

assembly declares it an emergency measure and includes the declaration in the act. An emergency measure shall take effect upon its filing with the secretary of state or on a date specified in the measure. Every law enacted by a special session of the legislative assembly shall take effect on a date specified in the act.

The legislative assembly shall enact all laws necessary to carry into effect the provisions of this Constitution. Except as otherwise provided in this Constitution, no local or special laws shall be enacted, nor shall the legislative assembly indirectly enact special or local laws by the partial repeal of a general law, but laws repealing local or special laws may be enacted.

Section 10. All sessions of the legislative assembly, including the committee of the whole and meetings of legislative committees, shall be open and public.

Section 11. Members of the legislative assembly shall be immune from arrest during their attendance at the sessions, and in going to or returning from the same, except in cases of felony or breach of the peace. For words used in any speech or debate in legislative proceedings, they shall not be questioned in any other place.

Section 12. The legislative assembly may by law submit to the electors the question: "Shall a constitutional convention be called?" If the question has not been submitted once in any thirty-year period, the secretary of state shall place it on the ballot at the next general election. If a majority of votes cast thereon are affirmative, the legislative assembly shall provide for the election of delegates and the holding of the convention.

Section 13. The legislative assembly shall provide for the appointment of an auditor general. He shall audit the receipt, expenditure, and use of public funds, as provided by law, and shall be responsible to the legislative assembly in the performance of those duties.

SECTION 2. REPEAL.) Sections 26 through 44 and sections 46 through 70 of the Constitution of the State of North Dakota are hereby repealed.

SECTION 3. EFFECTIVE DATE.) If approved by the voters, this measure shall be effective December 1, 1982.

Filed March 26, 1979

CHAPTER 711

HOUSE CONCURRENT RESOLUTION NO. 3005
(Legislative Council)
(Interim Committee on Constitutional Revision)

EXECUTIVE ARTICLE

A concurrent resolution creating a new article III of the Constitution of the State of North Dakota, relating to the executive branch of government, to the election, qualification, and compensation of executive officials, to executive branch organization, to the powers and duties of the governor, and to gubernatorial succession; to repeal article III, consisting of sections 71 through 84, of the Constitution of the State of North Dakota, relating to the executive branch of government, to the election, qualification, and compensation of executive officials, to the powers and duties of the governor, and to gubernatorial succession; and providing an effective date.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed creation of a new article III and the following proposed repeal of the present article III of the Constitution of the State of North Dakota are agreed to and shall be submitted to the qualified electors of the State of North Dakota at the general election to be held in 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1.) Article III of the Constitution of the State of North Dakota is hereby created and enacted to read as follows:

Section 71. There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, an attorney general, a commissioner of agriculture, a commissioner of labor, a tax commissioner, and three public service commissioners.

The tax commissioner and the superintendent of public instruction shall be elected on a no-party ballot in a manner provided by law.

The powers and duties of the secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, public service commissioners, attorney general, and commissioners of agriculture and labor shall be prescribed by law.

Section 72. The governor and lieutenant governor shall be elected on a joint ballot. Each vote cast for a candidate for governor shall be deemed cast also for the candidate for lieutenant governor nominated jointly with the candidate for governor. The joint candidates having the highest number of votes shall be declared elected, but if two or more joint candidates shall have an equal and highest number of votes for governor and lieutenant governor, the legislative assembly at its next regular session shall in joint session choose one pair of such joint candidates for the offices. The returns of the election for governor and lieutenant governor shall be made in such manner as shall be prescribed by law.

The chief executives of the principal departments, other than those elected or those chosen in a manner otherwise provided for in this Constitution, shall be appointed by the governor and shall serve at the governor's pleasure. They shall be confirmed or rejected by the senate upon a recorded vote of a majority of the members elected. Any nomination not confirmed or rejected by the senate within twenty legislative days after being received shall be deemed confirmed.

The legislative assembly may periodically review the principal executive departments and may by law change and prescribe the manner of selecting those chief executive officers appointed by the governor under the provisions of this article.

Section 73. The elected state officials shall be chosen by the electors at a time designated by the legislative assembly, and shall serve until their successors are duly qualified. Terms of office shall be four years, except that terms of the public service commissioners shall be six years, so arranged that one of them is elected every two years.

If two or more candidates for any executive office receive an equal and highest number of votes, the legislative assembly in joint session shall choose one of them for the office.

Section 74. To be eligible to hold an elective office established by this article, a person must be a qualified elector of this state and must have been a resident of this state for the two years preceding election to office. The attorney general must be licensed to practice law in this state.

Section 75. The compensation of elected officials shall be as provided by law, but shall not be diminished during the term for which they were elected.

Section 76. Elected state officials and the chief executive officers of the principal departments shall hold office at the seat of government.

Section 77. The legislative assembly shall allocate the executive power among not more than fifteen principal state departments, which shall be organized along broad functional lines. The executive power of each department shall be vested in one person unless otherwise provided by this Constitution or by law. The legislative assembly shall prescribe the duties of and periodically reorganize the executive departments, provided any reorganization or change in duties shall not affect the organization and powers granted to any boards of education named in this Constitution.

The governor may, for more effective administration, make changes in the statutory allocation of functions, powers, and duties among and within the executive departments, other than those headed by constitutionally designated elective officials. Any change shall be set forth in an executive order and submitted to both houses of the legislative assembly on the same day. The legislative assembly shall have thirty legislative days to disapprove the order. If not disapproved by a majority of the members elected to either house, the order shall have the force of law when filed with the secretary of state or on a later date specified therein.

Section 78. The chief executives of the principal state departments shall constitute the state planning council. The governor shall be chairman of the council and the lieutenant governor shall be a vice chairman. The council shall prepare a comprehensive state plan based on the comprehensive plan for each department.

Section 79. The governor is the chief executive of the state. The governor shall have the responsibility to see that the state's business is well administered, and that its laws are faithfully executed.

The governor shall present the comprehensive state plan, and the governor's own recommendations, to the legislative assembly at the beginning of each session and at any other time the governor chooses.

The governor may call special sessions of the legislative assembly.

The governor may require information in writing from all executive officials and officers concerning the performance of their respective duties.

The governor shall prescribe the duties of the lieutenant governor in addition to those prescribed in section 82 of this article.

The governor is commander-in-chief of the state's military forces, except when they are called into the service of the United States, and the governor may mobilize them to execute the laws and to maintain order.

The governor may grant reprieves, commutations, and pardons. The governor may delegate this power in a manner provided by law.

The governor may supervise business with the United States and other states.

Section 80. Every bill passed by the legislative assembly shall be presented to the governor for the governor's signature. If the governor signs the bill, it shall become law.

The governor may veto a bill passed by the legislative assembly. The governor may veto items in an appropriation bill. Portions of the bill not vetoed shall become law.

The governor shall return for reconsideration any vetoed item or bill, with a written statement of the governor's objections, to the house in which it originated. That house shall immediately enter the governor's objections upon its journal. If, by a recorded vote, two-thirds of the members elected to that house pass a vetoed item or bill, it, along with the statement of the governor's objections, shall immediately be delivered to the other house. If, by a recorded vote, two-thirds of the members elected to the other house also pass it, the vetoed item or bill shall become law.

While the legislative assembly is in session, a bill shall become law if the governor neither signs nor vetoes it within three days, Saturdays and Sundays excepted, after its delivery to the governor. If the legislative assembly is not in session, a bill shall become law if the governor neither signs nor vetoes it within fifteen days, Saturdays and Sundays excepted, after its delivery to the governor.

Section 81. The governor may fill a vacancy in any office by appointment if no other method is provided by this Constitution or by law. If, while the senate is recessed or adjourned, a vacancy occurs in any office which is filled by appointment with senate confirmation, the governor shall make a temporary appointment to the office. When the senate reconvenes the governor shall make a nomination to fill the office. Except on request of the senate, no nominee rejected by the senate shall again be nominated for that office at the same session, nor shall the nominee be appointed to that office during a recess or adjournment of the senate.

Section 82. The lieutenant governor shall serve as president of the senate, and may, if the senate is equally divided on a question, vote on both procedural and substantive matters. If, during a vacancy in the office of governor, the lieutenant governor is unable to serve because of death, impeachment, resignation, failure to qualify, removal from office, or disability, the

secretary of state shall act as governor until the vacancy shall be filled or the disability removed.

SECTION 2. REPEAL.) Article III, consisting of sections 71 through 84 of the Constitution of the State of North Dakota, is hereby repealed.

SECTION 3. EFFECTIVE DATE.) The provisions of this resolution, if approved by the people, shall take effect on July 1, 1981. The legislative assembly shall provide by law for continuity in the transition from the system of executive government in operation prior to adoption of this article to that prescribed by this article in a way which will assure orderliness and an effective program of executive organization under the terms of this article.

Filed April 3, 1979

CHAPTER 712

HOUSE CONCURRENT RESOLUTION NO. 3088
(Kingsbury, Freborg)
(Approved by Committee on Delayed Bills)

COAL DEVELOPMENT IMPACT TRUST FUND

A concurrent resolution for a constitutional amendment providing for the creation of a coal development impact trust fund; and providing an effective date.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following proposed amendment to 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 general election to be held in November 1980, in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

SECTION 1. AMENDMENT.) The Constitution of the State of North Dakota shall be amended by adding thereto the following article:

Not less than fifteen percent of the tax imposed for severing coal shall be placed into a permanent trust fund in the state treasury to be held in trust and administered by the board of university and school lands, which shall have full authority to invest said trust funds as provided by law, and may loan moneys from the fund to political subdivisions as provided by law. The interest earned on the moneys in said trust fund shall be used first to replace uncollectable loans made from the fund, and the balance shall be credited to the general fund of the state.

SECTION 2. EFFECTIVE DATE.) The provisions of this resolution, if approved by the people, shall take effect on January 1, 1981.

Filed April 3, 1979

HOUSE CONCURRENT RESOLUTIONS

HOUSE CONCURRENT RESOLUTION NO. 3007
(Legislative Council)
(Interim Committee on Retirement)

POST-RETIREMENT ADJUSTMENT PROGRAM STUDY

A concurrent resolution directing an interim study by the Legislative Council of the feasibility and desirability of providing for comprehensive post-retirement adjustment programs for the Public Employees Retirement System, Teachers' Fund for Retirement, and Highway Patrol retirement program.

WHEREAS, the maintenance of the Public Employees Retirement System, the Teachers' Fund for Retirement, and the Highway Patrol retirement program is the responsibility of the state; and

WHEREAS, the benefits earned by retirees of these pension plans are fixed at the date of retirement; and

WHEREAS, the inflationary trends which characterize the nation's economy deteriorate the purchasing power of these benefits; and

WHEREAS, the Teachers' Fund for Retirement, the Public Employees Retirement System, and the Highway Patrol retirement program do not provide for comprehensive post-retirement adjustments; and

WHEREAS, there appears to be a need to provide retirees dependent upon fixed annuities with a means to protect the purchasing power of benefits received; and

WHEREAS, it is necessary to study and evaluate the need to provide for post-retirement adjustment programs;

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 need and development of comprehensive post-retirement adjustment programs for the Public Employees Retirement System, the Teachers' Fund for Retirement, and the Highway Patrol retirement program; and

BE IT FURTHER RESOLVED, that the study shall include an investigation, measurement, and analysis of the effects inflation has on these public retirement programs' annuity payments, examination of alternatives which address needs for post-retirement adjustments, and consideration of alternative methods to fund programs deemed necessary and appropriate; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, accompanied by any necessary legislation to implement such recommendations, to the Forty-seventh Legislative Assembly.

Filed March 5, 1979

HOUSE CONCURRENT RESOLUTION NO. 3008
(Kretschmar)

LEGISLATIVE APPORTIONMENT STUDY

A concurrent resolution directing the Legislative Council to study legislative apportionment.

WHEREAS, the results of the 1980 federal decennial census will be available to state legislatures for apportionment purposes in late 1980; and

WHEREAS, legislative apportionment is a function of the Legislative Assembly; and

WHEREAS, after the 1960 federal census the Legislative Assembly passed legislative apportionment acts in 1963 and 1965, and after the 1970 federal census the Legislative Assembly passed legislative apportionment acts in 1973 and 1975; and

WHEREAS, past actions by the Legislative Assembly with respect to legislative apportionment were nullified by court action or voter rejection; and

WHEREAS, the federal courts have consistently invaded the area of legislative apportionment in North Dakota through court ordered legislative apportionment plans in 1965, 1972, 1974, and 1975; and

WHEREAS, substantial study is required to develop a legislative apportionment plan within constitutional guidelines and without court interference;

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 to conduct a study of the results of the 1980 federal decennial census for the purpose of recommending a legislative apportionment plan. The study should take into account existing legislative apportionment, constitutionally mandated reapportionment guidelines, and the legislative apportionment factors expressed in North Dakota Century Code Section 54-03-01.5; and

BE IT FURTHER RESOLVED, that the Legislative Council report its recommendations, along with any legislation required to carry out its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 9, 1979

HOUSE CONCURRENT RESOLUTION NO. 3010
(Knudson, Martin)**NATIONAL GUARD CAREER EDUCATION
PROGRAM COOPERATION URGED**

A concurrent resolution urging school boards to cooperate with the North Dakota National Guard for the Guard Career Education Program.

WHEREAS, North Dakota is the only state which has maintained its personnel strength above 100 percent for its National Guard; and

WHEREAS, the primary responsibility for recruiting and retention of the National Guard is with the respective states and the communities in which units are located; and

WHEREAS, the Legislative Assembly has led the nation by enacting the National Guard Tuition Waiver Act, developing a career education program, and by appropriating funds necessary for a viable recruiting program; and

WHEREAS, the Tuition Waiver Act is an integral part of the comprehensive Guard Career Education Program primarily directed to young men and women who are high school seniors;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges all school boards in the State of North Dakota to cooperate with the North Dakota National Guard in the Guard Career Education Program; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Superintendent of Public Instruction and to the chairman of each school board within the State of North Dakota.

Filed March 2, 1979

HOUSE CONCURRENT RESOLUTION NO. 3012
(Representative Nicholas)

**AGRICULTURAL ADJUSTMENT ACT
IMPLEMENTATION URGED**

A concurrent resolution requesting full implementation of the Agricultural Adjustment Act of 1949, as amended in 1977, which includes ninety percent of parity loan rates on the major agricultural commodities.

WHEREAS, agriculture is the largest industry in this state and the nation, and the economy of this state and the nation depends on the new wealth provided by the agricultural industry; and

WHEREAS, continued low prices for agricultural commodities have caused farmers to substitute borrowed money for real income, thereby contributing to the high interest rates adversely affecting all the citizens of the United States; and

WHEREAS, selling agricultural commodities overseas at low prices leads to devaluation of the United States dollar because of increasing balance of payment deficits and causes further inflation; and

WHEREAS, when farmers last received prices for their agricultural commodities at or near parity prices, unemployment was low, the inflation rate was low, and the American dollar was sound; and

WHEREAS, the Secretary of Agriculture has discretionary authority to increase price support payments;

WHEREAS, the provision for calling in crops at one hundred ten percent of parity, which is included in the federal loan program, is, in effect, a built-in safeguard for the consumer's protection;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the President of the United States and the Secretary of Agriculture to fully implement price supports for agricultural commodities as authorized by the Agricultural Act of 1949, as amended September 29, 1977,

[Pub. L. 95-113, 91 Stat. 940, 7 U.S.C. 1441], which includes ninety percent of parity loan rates on the major agricultural commodities; and

BE IT FURTHER RESOLVED, that the United States trade negotiators insist on minimum commodity prices as a part of the international grains agreement being negotiated in Geneva beginning January 22, 1979; and

BE IT FURTHER RESOLVED, that if the efforts in Geneva are not successful, the United States government negotiate separate minimum selling price agreements with other wheat exporting countries.

Filed February 7, 1979

HOUSE CONCURRENT RESOLUTION NO. 3013
(Peltier)

INCOME TAX COMPUTATION STUDY

A concurrent resolution directing the Legislative Council to study the feasibility and desirability of adopting a method of computing state income tax liability by taking a percentage of a taxpayer's federal income tax liability.

WHEREAS, it was the legislative intent to simplify the state income tax laws by adopting the federal definition of taxable income as the starting point for the computation of state income tax by all taxpayers; and

WHEREAS, this attempt at federalizing has become increasingly complicated and burdensome to all taxpayers in the preparation of their state income tax returns because of the continuing enactment of deductions, exemptions, exclusions and adjustments; and

WHEREAS, an effective state income tax law should be clear and simple so as to facilitate administration and competent understanding on the part of all taxpayers; and

WHEREAS, the income tax laws of the state constitute a major source of revenue to the general fund and should stay attuned to the economic and social conditions prevailing at any given time; and

WHEREAS, while the recent enactment of an initiated measure did make adjustments to the income tax rates, it did not address itself to many other inequities existing in the state income tax law;

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 to study the feasibility and desirability of adopting a method of computing state income tax liability by taking a percentage of a taxpayer's federal income tax liability; and

BE IT FURTHER RESOLVED, that the various agencies and departments of the state government are requested and directed to provide such aid, information, and assistance as the Council, in conducting this study, may reasonably request, and that the Council shall make its report and recommendations, accompanied by any legislation necessary to carry out such recommendations to the Forty-seventh Legislative Assembly.

Filed March 14, 1979

HOUSE CONCURRENT RESOLUTION NO. 3014
(Committee on Employment)

LEGISLATIVE EMPLOYEES

A concurrent resolution providing and designating House and Senate employees and fixing their compensation.

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

SECTION 1.) That for and during the Forty-sixth Legislative Assembly the following named persons are employed and appointed as employees of the House and Senate and shall be paid the daily wages opposite their respective names in accordance with their positions as shown below:

	<u>HOUSE</u>	
Roy Gilbreath, Chief Clerk		\$70.00
Barbara King, Desk Reporter		65.00
Robert Kniefel, Sergeant-at-Arms		52.50
Del Wawers, Assistant Chief Clerk		57.50
Gladys Derrick, Bill Clerk		52.50
Theola Stetson, Chief Stenographer and Payroll Clerk		52.50
Betty Perkins, Appropriations Committee Clerk		52.50
Kathleen Steidler, Assistant Appropriations Committee Clerk		45.00
Lela Knudsen, Chief Committee Clerk		52.50
Janice Thon, Committee Clerk		47.50
Roberta Rose, Committee Clerk		47.50
Dorothy Johnson, Committee Clerk		47.50
Helen Soma, Committee Clerk		47.50
Roberta Nelson, Committee Clerk		47.50
Mary LaDuke, Committee Clerk		47.50
Barbara Middaugh, Committee Clerk		47.50
Amy Morris, Committee Clerk		47.50
Fran Gronberg, Committee Clerk		47.50
Maude Grambs, Assistant Committee Clerk		45.00
Betty Lou Mitzel, Assistant Committee Clerk		45.00
Craig Sinclair, Calendar Clerk		45.00
Gerry Patchen, Chief Page and Bill Book Clerk		45.00
Janna Tjaden, Desk Page		40.00
Becky Huelskamp, Desk Page		40.00

Dotty Neils, Secretary to the Speaker	52.50
Mavis Patchen, Secretary to the Majority Floor Leader	52.50
Arlene Haunson, Secretary to the Minority Floor Leader	52.50
Jack Whereatt, Deputy Sergeant-at-Arms	42.50
Phyllis Connolly, Assistant Sergeant-at-Arms	40.00
Tim Dwyer, Assistant Sergeant-at-Arms	40.00
Edgar Beyers, Assistant Sergeant-at-Arms	40.00
David Hillesland, Assistant Sergeant-at-Arms	40.00
Mark Zimmerman, Assistant Sergeant-at-Arms	40.00
Eunice Anderson, Information Desk Attendant	40.00
Al Larson, Chief Journal and Bill Room Clerk	47.50
Evelyn Sholts, Bill Room Clerk	40.00
Hazel Ludeman, Bill Room Clerk	40.00
Selmer Severinson, Bill Room Clerk	40.00
Vida Mae Petersen, Bill Room Clerk	40.00
Neal Schlosser, Journal Room Clerk	40.00
Chuck Zander, Journal Room Clerk	40.00
Sue Mollison, Telephone Page	40.00
Julie Stromberg, Telephone Attendant	40.00
Susie Thompson, Telephone Attendant	40.00
Pat Ness, Telephone Attendant	40.00
Earl Boyd, Parking Lot Attendant	40.00
Sue Feland, Stenographer	42.50
Myrtle Sloan, Stenographer	42.50
Ardith Lippert, Stenographer	42.50
Barb Stickland, Stenographer	42.50
Nancy Turnbow, Stenographer	42.50
Judy Hoffman, Typist	42.50
Alma Opp, Typist	42.50
Renaë Doan, Page and Bill Book Clerk	40.00
Laurie Jensen, Page and Bill Book Clerk	40.00
Sandy Gehrke, Page and Bill Book Clerk	40.00
Kristi Rud, Page and Bill Book Clerk	40.00
Debra Rude, Page and Bill Book Clerk	40.00
Cindy Wright, Page and Bill Book Clerk	40.00
Dorothy Duhr, Page and Bill Book Clerk	40.00
Steve Weiler, Page and Bill Book Clerk	40.00
Marsha Huffman, Page and Bill Book Clerk	40.00
Lance Hagen, Page and Bill Book Clerk	40.00
Dennis Bier, Page and Bill Book Clerk	40.00
Brad Scott, Page and Bill Book Clerk	40.00
Rita Wolberg, Page and Bill Book Clerk	40.00
Georgia Seil, Page and Bill Book Clerk	40.00
Dave Harter, Page and Bill Book Clerk	40.00
Hilda Knittel, Journal Proofreader	42.50
Jon Nelson, Journal Proofreader	42.50
Gene Reynolds, Janitor (partial pay only)	28.00
Arnold Schmitt, Janitor (partial pay only)	28.00
Wayne LaCoe, Janitor (partial pay only)	28.00
Melvin Nelson, Janitor (partial pay only)	28.00

<u>SENATE</u>	
Leo Leidholm, Secretary of the Senate	70.00
Doris McMahon, Desk Reporter	65.00
Olgar Sandven, Sergeant-at-Arms	52.50
J. Vernon Asheim, Assistant Secretary of the Senate	57.50
Sandra Boehler, Bill Clerk	52.50
Mary Alice Simonson, Chief Stenographer and Payroll Clerk	52.50
Lyla Flagg, Chief Committee Clerk	52.50
Kari Schultz, Appropriations Committee Clerk	52.50
Debbie Akovenko, Assistant Appropriations Committee Clerk	45.00
Mary Kay Eckroth, Committee Clerk	47.50
Charlotte Kamins, Committee Clerk	47.50
Arlene Reich, Committee Clerk	47.50
Christine Hill, Committee Clerk	47.50
Lorraine Moos, Committee Clerk	47.50
Adeline Montague, Committee Clerk	47.50
Barbara Klein, Committee Clerk	47.50
Alice Mehrer, Committee Clerk	47.50
Pearl Berget, Committee Clerk	47.50
Sharon Giese, Assistant to Committee Clerks	45.00
Stephen Lee, Calendar Clerk	45.00
Ruby Stadick, Chief Page and Bill Book Clerk	45.00
Gina Smith, Chief Desk Page	40.00
Eileen Gerl, Secretary to the President	52.50
Lois Scherr, Secretary to the Majority Floor Leader	52.50
Kathy L. Richau, Secretary to the Minority Floor Leader	52.50
Carl Bjerke, Deputy Sergeant-at-Arms	42.50
Sewall Peterson, Assistant Sergeant-at-Arms	40.00
J. R. Raile, Assistant Sergeant-at-Arms	40.00
O. J. Fuglie, Assistant Sergeant-at-Arms	40.00
Bradley P. Edin, Assistant Sergeant-at-Arms	40.00
Stan Schultz, Assistant Sergeant-at-Arms	40.00
Leatrice Miller, Bill Room Clerk	40.00
Ledores Robey, Bill Room Clerk	40.00
Karla Stanley, Journal Room Clerk	40.00
Skip Sjothun, Journal Room Clerk	40.00
Michelle Igoe, Stenographer	42.50
Melinda Wold, Stenographer	42.50
Mary Schmidt, Stenographer	42.50
Erma Hauglie, Stenographer	42.50
Cheryl Skjeret, Steno-typist	42.50
Esther Davis, Information Desk	40.00
Willa Carlson, Chief Telephone Attendant	42.50
Gayle Skaaden, Telephone Page	40.00
Jeri Kurle, Telephone Attendant	40.00
Mary Ann Brown, Telephone Attendant	40.00
Elaine Stern, Telephone Attendant	40.00
Kelly Whelan, Assistant Desk Page	40.00
John TeBeest, Parking Lot Attendant	40.00
Laurie Leingang, Page	40.00
Rosie Anderson, Page	40.00

Beth Erickson, Page	40.00
Tom Brigl, Page	40.00
Karla Huesers, Page	40.00
Roy Paton, Bill Book Clerk	40.00
Robert Evanenko, Bill Book Clerk	40.00
Barry Streigl, Bill Book Clerk	40.00
Jill Schwede, Journal Proofreader	42.50
Kris Neumann, Journal Proofreader	42.50
Lucas Giesinger, Janitor (partial pay only)	28.00
George Heid, Janitor (partial pay only)	28.00
Steve Larson, Janitor (partial pay only)	28.00
Edwin Keller, Janitor (partial pay only)	28.00

SECTION 2.) 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 January 29, 1979

HOUSE CONCURRENT RESOLUTION NO. 3015
(Unhjem, Eagles, Nicholas, Stenehjem, Swiontek)

HEALTH COST CONTAINMENT STUDY

A concurrent resolution directing the Legislative Council to study public and private cost containment procedures relating to hospitals, clinics, nursing homes, insurance companies providing health care coverage, physicians, dentists, optometrists, podiatrists, and others providing health care services.

WHEREAS, the cost of health services affects the well-being of every person in North Dakota; and

WHEREAS, the manner of controlling the cost of health services in North Dakota has been the subject of substantial debate; and

WHEREAS, a careful study of the desirability and necessity of controls on the costs of health services is a prerequisite to making an informed decision on possible health cost controls;

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 and authorized to study the history of the cost of health services in North Dakota and the United States to determine if state controls are necessary; and if controls on health service costs are found necessary, to study the options available for cost containment procedures, both public and private, relating to hospitals, clinics, nursing homes, insurance companies providing health care coverage, including nonprofit hospital, medical, dental, and vision service corporations, physicians, dentists, optometrists, podiatrists, and others providing health care services; and

BE IT FURTHER RESOLVED, that the Legislative Council shall submit its report and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 6, 1979

HOUSE CONCURRENT RESOLUTION NO. 3016
(Committee on Natural Resources)
(At the request of the Water Commission)

FLOODPLAIN MANAGEMENT STUDY

A concurrent resolution directing the Legislative Council to study floodplain management, including the construction of dikes and other devices for flood control regulation.

WHEREAS, recurrent flooding of a portion of the state's land resources causes loss of life, damage to property, disruption of commerce and governmental services, and unsanitary conditions, all of which are detrimental to the health, safety, welfare, and property of the occupants of flooded lands and the people of this state; and

WHEREAS, the public interest necessitates management of floodways in a manner consistent with sound land and water use management practices which will prevent and alleviate flooding threats to life and health, and reduce private and public economic losses; and

WHEREAS, the United States Congress has enacted the National Flood Insurance Act of 1968 [Pub. L. 90-448] and the Flood Disaster Protection Act of 1973 [Pub. L. 93-234], which makes available to flood prone communities and other governmental subdivisions subsidized flood insurance, to provide protection against economic loss caused by flooding, on the condition that certain requirements are satisfied to alleviate the potential for flood damages; and

WHEREAS, the Governor of North Dakota has designated the state water commission as the coordinator to assist local communities and other governmental subdivisions in complying with the above-described federal Acts; and

WHEREAS, failure of a community or other governmental subdivisions to comply with the provisions of the above-described Acts prohibits any individual living therein to secure federal loans or loan guarantees of any kind, construction and development in a floodplain; and

WHEREAS, substantial study is necessary to ensure that floodplain areas are managed in the best interests of floodplain

residents to alleviate the negative effects of flooding to the greatest extent possible.

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 to conduct a study of the development of a floodway and floodplain management program, taking into account current requirements of related federal legislation; and

BE IT FURTHER RESOLVED, that the Legislative Council report its recommendations, along with any legislation required to carry out its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 7, 1979

HOUSE CONCURRENT RESOLUTION NO. 3017
(Solberg, Wagner)

NATIONAL COMMANDER OF THE VETERANS OF
WWI WELCOMED

A concurrent resolution congratulating Floyd E. Henderson on his election as National Commander of the Veterans of World War I of the U.S.A. and welcoming his visit to North Dakota.

WHEREAS, the North Dakota Legislative Assembly is honored by the visit of Floyd E. Henderson, National Commander of the Veterans of World War I of the U.S.A.; and

WHEREAS, his election as National Commander of the Veterans of World War I coincides with the fiftieth anniversary of his election to the North Dakota Legislative Assembly in 1929 as a Representative from Lawton in Ramsey County; and

WHEREAS, Mr. Henderson's election as National Commander is an honor not only for Mr. Henderson but for the State of North Dakota and the North Dakota Legislative Assembly where he formerly served;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly congratulates Floyd E. Henderson on his election as National Commander of the Veterans of World War I of the U.S.A. and welcomes his return visit to North Dakota and the North Dakota Legislative Assembly; and

BE IT FURTHER RESOLVED, that the Chief Clerk of the House of Representatives present a copy of this resolution to Mr. Floyd E. Henderson.

Filed January 12, 1979

HOUSE CONCURRENT RESOLUTION NO. 3018
(Wentz, Kermott)PARAPROFESSIONAL MEDICAL PERSONNEL
USE STUDY

A concurrent resolution directing a Legislative Council study of the desirability and feasibility of increased use of paraprofessional medical personnel as a means of lowering the high costs of medical care in North Dakota.

WHEREAS, dramatic and continuing increases are occurring in the cost of North Dakota health care which affect every North Dakota family through increased health insurance rates; and

WHEREAS, hospital costs in particular are rising at an alarming rate; and

WHEREAS, small community hospitals find it difficult to remain in operation due to the high cost of providing medical care; and

WHEREAS, labor costs account for approximately half the expense of operating a hospital; and

WHEREAS, North Dakota is experiencing a shortage of doctors in rural areas of the 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 hereby directed to conduct a study of all present laws which restrict the use of paraprofessional medical personnel and the desirability and feasibility of the increased use of paraprofessional medical personnel as a means of lowering the high costs of medical care in North Dakota; and

BE IT FURTHER RESOLVED, that the Legislative Council submit its report and recommendations, together with any legislation required to carry out its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 13, 1979

HOUSE CONCURRENT RESOLUTION NO. 3019
(Conmy, Black, Koski, Martinson)

MOBILE HOME PROPERTY LAW STUDY

A concurrent resolution directing a Legislative Council study of the real property laws of North Dakota, particularly with respect to those laws affecting mobile home ownership, and the laws relating to the taxation of mobile homes.

WHEREAS, mobile home owners pay sales tax on the labor costs of a mobile home as contrasted with the conventional site-built homeowner who does not pay sales tax on labor costs attributable to site-built housing; and

WHEREAS, the real property laws of this state apply to a large range of real property interests, both ownership and leasehold; and

WHEREAS, mobile homes are becoming increasingly popular as housing for North Dakotans; and

WHEREAS, many aspects of mobile home ownership may differ substantially from the ownership of other types of real property, especially with regard to landlord-tenant-relationships; and

WHEREAS, it appears that many aspects of mobile home ownership may not be properly addressed by present laws; and

WHEREAS, it appears that a thorough study is needed to determine the needs of mobile home owners and whether these needs are presently being met by North Dakota's real property and tax laws;

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 conduct a study of the real property and tax laws of this state to determine whether these laws meet the needs of mobile home owners; and

BE IT FURTHER RESOLVED, that the Legislative Council submit its report and recommendations, together with any legislation required to implement such recommendations to the forty-seventh legislative assembly.

Filed March 9, 1979

HOUSE CONCURRENT RESOLUTION NO. 3020
(Richard, Fleming, R. Hausauer, Timm, Winkjer)

65 MILES PER HOUR SPEED LIMIT URGED

A concurrent resolution urging the United States Congress to allow speed limits greater than 55 miles per hour in sparsely populated areas.

WHEREAS, a 55 mile per hour speed limit improves the chances of highway hypnosis; and

WHEREAS, it is a hardship for those traveling long distances to be restricted to a 55 mile per hour speed limit; and

WHEREAS, the 55 mile per hour speed limit does not provide for significant fuel savings; and

WHEREAS, lower speed limits can be provided for those portions of highways which are unsafe, thereby minimizing the unsafe aspects of increased speed limits;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth North Dakota Legislative Assembly urge the Congress of the United States to take immediate action to amend the Emergency Highway Energy Conservation Act [Pub. L. 93-643, 23 U.S.C. 154] to allow states with population densities of under 60 people per square mile to set speed limits at a maximum of 65 miles per hour; and

BE IT FURTHER RESOLVED, that copies of the resolution be forwarded by the Secretary of State to the North Dakota Congressional Delegation, the United States Secretary of Transportation, and to the Speaker of the House of each state of the United States which has a population density of under 60 people per square mile; and

BE IT FURTHER RESOLVED, that these states are urged to adopt similar resolutions and to send copies to their respective congressional delegations.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3021
(A. Hausauer)

HEALTH CARE SERVICES STUDY

A concurrent resolution directing the Legislative Council to study the provision of health care services in North Dakota.

WHEREAS, the citizens of North Dakota have demonstrated concern over the provision of health care services in this state; and

WHEREAS, much of this concern is directed at the increasing costs of health care services; and

WHEREAS, citizens of North Dakota have indicated a desire for quality health care; and

WHEREAS, it appears that a combined effort by government, health care providers, and the insurance industry may be necessary to continue to provide the people of North Dakota with quality health care at affordable prices; and

WHEREAS, it appears that a thorough study of the provision of health care services would define existing problems and offer potential solutions;

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 to conduct a study of the provision of health care services in North Dakota; and

BE IT FURTHER RESOLVED, that the study shall include consideration of the following:

1. The development of incentives for the medical care industry which will allow it flexibility in continuing to deliver quality medical care while at the same time effectively addressing issues of total cost containment;
2. Maximization of local control within health care facilities, giving hospital and long-term care

administrators and medical staffs the broadest possible scope of action within a framework that makes them conscious of cost;

3. Continuation and expansion of capital expenditure and service controls under the state certificate of need law;
4. Continuation and possible expansion of medical care facilities costs and quality assurance reviews;
5. "Medicare" and "medicaid" reimbursement mechanisms as they relate to hospitals and long-term care facilities;
6. Uniform accounting and reporting principles;
7. Prospective budget and rate review; and
8. Collection of appropriate utilization statistics; and

BE IT FURTHER RESOLVED, that the Legislative Council may appoint citizen members who may be health care providers to the interim committee assigned to conduct the study; and

BE IT FURTHER RESOLVED, that the Legislative Council may utilize consulting services in conducting the study; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, together with any legislation necessary to implement such recommendations, to the Forty-seventh Legislative Assembly.

Filed March 20, 1979

HOUSE CONCURRENT RESOLUTION NO. 3022
(Representatives Berg, Weber, Wessman)
(Senators Thane, Fritzell, Nelson)

WATER MANAGEMENT STUDY

A concurrent resolution directing the Legislative Council to study and review the powers, duties, and jurisdictional boundaries of water management districts and legal drain boards.

WHEREAS, the Legislative Assembly has adopted the policy that extensive water management powers and responsibilities at the local level are necessary ingredients in providing for effective and efficient management of the water resources of the State of North Dakota; and

WHEREAS, this legislative policy has been given effect by the creation of water management districts, pursuant to chapter 61-16 of the North Dakota Century Code, and the creation of legal drain boards, pursuant to chapter 61-21 of the North Dakota Century Code. Water management districts have been vested with extensive authority for the development, control, and regulation of the water resources of this state. Legal drain boards have been vested with extensive authority to construct drainage projects; and

WHEREAS, the jurisdictional boundaries of water management districts and legal drain boards are generally established along artificial county lines; and

WHEREAS, water management problems totally ignore artificially established boundaries, and water-related activities which have a benefit in one water management district may have adverse impacts in another water management district; and

WHEREAS, water management districts and legal drain boards are vested with certain similar powers and authorities within the same jurisdictional area, resulting in duplication and uncoordinated efforts in addressing water management problems; and

WHEREAS, these factors tend to inhibit the coordinated and most effective solutions to water management problems;

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 and authorized to conduct an interim study on the powers, duties, and jurisdictional boundaries of water management districts and legal drain boards. The objective of such study shall be to determine the most effective and efficient method to provide for the management of the water resources of this state at the local level; and

BE IT FURTHER RESOLVED, that the Legislative Council shall conduct the study with the cooperation and assistance of the State Water Commission, the State Engineer, the North Dakota Water Management Districts Association, the Red River Valley Joint Board, and any other federal, state, or local entity which may provide assistance; 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-seventh Legislative Assembly.

Filed March 8, 1979

HOUSE CONCURRENT RESOLUTION NO. 3023
(Peltier, Koski)

EMERGENCY VEHICLE EQUIPMENT STUDY

A concurrent resolution directing the Legislative Council to study the appropriate sections of the North Dakota Century Code which relate to the operation of emergency vehicles, and lighting systems and other equipment emergency vehicles are authorized to use, with emphasis on the assignment of the responsibility for adopting rules, and requiring specific training and equipment, for safe operation of emergency vehicles.

WHEREAS, there exists a continual demand for the use of emergency vehicles and equipment which makes them different from other motor vehicles; and

WHEREAS, emergency vehicles are needed to serve the citizens of this state; and

WHEREAS, the responsibility for adopting rules and requiring specific training and equipment for the safe operation of emergency vehicles is not presently provided for, and a need exists to assign the responsibility;

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 to study the equipment, operation, and regulation of motor vehicles and the appropriate sections of the North Dakota Century Code relating to the operation of emergency vehicles, and the lighting systems and other equipment emergency vehicles are authorized to use, with emphasis on the assignment of the responsibility for adopting rules, and requiring specific training and equipment, for the safe operation of emergency vehicles; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement such recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3024
(Representatives Strinden, Martinson)
(Senator Tennesfos)

REPUBLIC OF CHINA DIPLOMATIC RELATIONS URGED

A concurrent resolution urging the President and Congress to maintain diplomatic relations and uphold treaty obligations with the Republic of China - Taiwan.

WHEREAS, the Republic of China - Taiwan was a founding member of the United Nations and has always been a law-abiding member of the community of nations; and

WHEREAS, the Republic of China - Taiwan has been a friend and ally of the United States through the years; and

WHEREAS, the Republic of China - Taiwan is of great strategic importance in the defense of East Asia and the Pacific and has always utilized its military power in the interests of the free world; and

WHEREAS, the people of the Republic of China - Taiwan have built a successful, prosperous, and free economy and serve as an important trading partner of the American people; and

WHEREAS, the Republic of China - Taiwan is important to the economy of the United States and the State of North Dakota as indicated by its Third Special Procurement Mission to North Dakota which resulted in the direct purchase of 150,000 metric tons of spring wheat and 52,000 metric tons of feed barley;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the President and Congress to maintain diplomatic relations with the Republic of China - Taiwan and to uphold the Mutual Defense Treaty with the Republic of China - Taiwan; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the President, the Secretary of State of the United States, the Consul General of the Republic of China in Kansas City, Missouri, and to each member of the North Dakota Congressional Delegation.

Filed March 6, 1979

HOUSE CONCURRENT RESOLUTION NO. 3027
(Representative Peltier)
(Senator Jones)

AGRICULTURAL PROMOTION ENTITIES STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the membership of agricultural product promotion entities in North Dakota.

WHEREAS, the production, development, marketing, and promotion of agricultural products in the state is important to the general welfare of the people of the state; and

WHEREAS, there are at least eight separate agricultural product promotion entities established by state law; and

WHEREAS, these entities include elected state officials, divisions within the departments of elected state officials, elected agricultural product promotion boards, and appointed agricultural product promotion boards; and

WHEREAS, such fragmentation in determining the entities responsible for agricultural product promotion may result in duplicative election procedures and lack of adequate input in appointment procedures; and

WHEREAS, the membership of agricultural product promotion councils and commissions should be reviewed to determine whether coordination of election or appointment procedures among those groups is feasible; and

WHEREAS, the membership of agricultural product promotion councils and commissions should be reviewed to determine if membership reflects the segment of the agricultural economy which is represented by that entity;

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 to conduct a study of the state established entities promoting agricultural products. The study should include consideration of the methods of election and appointment to the entities responsible for agricultural product

promotion, consideration of the feasibility of coordinating elections among the agricultural product promotion entities, consideration of whether the governing bodies of agricultural product promotion entities reflect the segment of the agricultural economy being promoted, consideration of whether any agricultural product promotion council or commission should be expanded to include other segments of the economy not now represented on or promoted by the council or commission, and consideration of the terms of office of the members of the councils and commissions, and consideration of how best to provide for those producers who do not wish to participate; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3028
(Gackle)

FINANCIAL ASSOCIATION TAX LAW STUDY

A concurrent resolution directing the Legislative Council to study the tax laws of this state as they affect financial institutions such as banks and trust companies, building and loan associations, insurance companies, and credit unions.

WHEREAS, the tax laws of this state should be continuously reviewed and amended in order to stay attuned to the economic and social conditions prevailing at any given time; and

WHEREAS, the annual tax imposed on banks and trust companies pursuant to the provisions of chapter 57-35 of the North Dakota Century Code, has not been thoroughly analyzed since its enactment in 1941; and

WHEREAS, the annual tax imposed on building and loan associations pursuant to the provisions of chapter 57-35.1 of the North Dakota Century Code, has not been thoroughly analyzed since its enactment in 1961; and

WHEREAS, the annual tax imposed on banks, trust companies, and building and loan associations pursuant to the provisions of chapter 57-35.2 of the North Dakota Century Code, has not been thoroughly analyzed since its enactment in 1969; and

WHEREAS, the annual tax imposed on insurance companies pursuant to the provisions of chapter 26-01 of the North Dakota Century Code, has not been thoroughly analyzed since its enactment in 1897; and

WHEREAS, the exemption from taxation granted credit unions pursuant to the provisions of chapter 6-06 of the North Dakota Century Code, has not been thoroughly analyzed since its enactment in 1935; and

WHEREAS, the exemptions from income tax granted to certain financial institutions pursuant to the provisions of chapter 57-38 of the North Dakota Century Code, have not been thoroughly analyzed since their enactment in 1923; and

WHEREAS, the federal government and the revenue departments of several states in recent years have reexamined their positions and adopted new methods for taxation of financial institutions so as to more fairly and equitably tax such institutions in comparison to other taxpayers; and

WHEREAS, considerable time has elapsed since the legislature last addressed itself to the imposition of taxes on financial institutions as an industry;

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 to study the tax laws of the State of North Dakota as they apply to financial institutions, including banks and trust companies, building and loan associations, insurance companies and credit unions; and

BE IT FURTHER RESOLVED, that the state tax commissioner, the state insurance commissioner, the state banking board, the state examiner, and the state credit union board, and the persons in their employ, are requested and directed to provide such aid, information, and assistance as the Council, in conducting this study, may reasonably request, and the Council shall make its report and recommendations, accompanied by any legislation necessary to carry out such recommendations to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3030
(Vig, Reed)

UNIFORM DEFINITION OF VETERAN URGED

A concurrent resolution urging Congress to develop a uniform definition of the term "veteran" for all federal programs relating to veterans.

WHEREAS, Congress has provided many benefits for veterans of the military service; and

WHEREAS, these benefits are codified in various places in federal statutes, rules, and regulations; and

WHEREAS, the term "veteran" is defined differently for purposes of qualifying for many of these benefits; and

WHEREAS, this multiplicity of definitions causes problems both for those administering and for those attempting to qualify for these benefits; and

WHEREAS, much of the confusion could be alleviated by the use of a single definition for the term "veteran";

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 adopt a single, uniform, definition of the term "veteran" as follows:

A person who served in the active military, naval, or air service, for a period of more than 180 days, and who was discharged or released therefrom with other than a dishonorable discharge, or a person who served in the active military, naval, or air service for a period of less than 181 days, who was discharged as a result of a reduction of staffing in the military forces, or was discharged due to a disability resulting from a disease or injury incurred or aggravated in line of active duty, or during a period of inactive duty, as shown on Form DD-214 or other official document.

BE IT FURTHER RESOLVED, that this definition of the term "veteran" be used to determine those who qualify for all benefits provided by the federal government based upon past military service; and

BE IT FURTHER RESOLVED, that copies of this resolution be transmitted by the Secretary of State to the Chairmen of the United States Senate and House Committees on Veterans Affairs, and the North Dakota Congressional Delegation.

Filed March 5, 1979

HOUSE CONCURRENT RESOLUTION NO. 3031
(Representatives Crabtree, Erickson)
(Senator Smykowski)

RAILROAD ASSISTANCE URGED

A concurrent resolution urging the President and Congress to provide assistance to railroads linking agricultural areas and urban market areas of the nation.

WHEREAS, Congress has enacted the Regional Rail Reorganization Act of 1973 and the Railroad Revitalization and Regulatory Reform Act of 1976; and

WHEREAS, the Regional Rail Reorganization Act of 1973 completely failed to address the rail service problems of the great plains states; and

WHEREAS, the Railroad Revitalization and Regulatory Reform Act of 1976 has failed to adequately deal with the problem of railroad line abandonment, especially in those places where rail service is vital to the delivery of fuel for energy generation;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the President of the United States and the United States Congress to provide appropriate assistance to those railroads serving as a vital link between agricultural areas in the great plains states and the urban marketplaces; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly urges the President of the United States and the United States Congress to provide assistance to railroads to preclude further abandonment of branch rail lines, especially in those areas where such rail service is vital to the delivering of fuel for energy generation; 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 President of the United States Senate, the Speaker of the United States House of Representatives, the Interstate Commerce Commission, the North Dakota Public Service Commission, and each member of the North Dakota Congressional Delegation.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3032
(Martinson, Kermott, Lee, Pomeroy)

JUDICIAL RETIREMENT STUDY

A concurrent resolution directing a study by the Legislative Council to review the equity and adequacy of retirement provisions for supreme court and district court judges.

WHEREAS, equity is an essential characteristic of a retirement program for all categories of public officials; and

WHEREAS, judges constitute a unique resource to North Dakota public service to which service the public seeks to attract the highest quality judicial personnel; and

WHEREAS, there has been substantial discussion concerning the adequacy and equity of the present retirement provision for supreme court and district court judges and the impact of these provisions on the future quality of judicial personnel; and

WHEREAS, a thorough study should be made of the adequacy and equity in the present retirement provisions for supreme court 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 and equity of the present statutes, funding, and benefits provided by the present retirement provisions for supreme court and district court judges, and to determine the desirability and feasibility of altering that system, and to make such other recommendations as the results of the study may indicate are necessary. In conducting this study, the Council shall include on its committee one person representing the general public, and one person representing the judiciary. 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-seventh Legislative Assembly.

Filed March 12, 1979

HOUSE CONCURRENT RESOLUTION NO. 3033
(Strinden, Backes, Kretschmar, Mushik)

NORTHERN TIER PIPELINE SUPPORTED

A concurrent resolution in support of Northern Tier Pipeline.

WHEREAS, the various crude oil refineries in the Northern Tier States of Washington, Oregon, Idaho, Montana, North Dakota, Minnesota, Michigan, Wisconsin, Illinois, Indiana, and Ohio are at a critical need for further supplies of crude oil in order to provide petroleum products for the people of the Northern Tier States, and in particular for the use in agricultural production in these states; and

WHEREAS, recent Canadian and foreign developments have disrupted and reduced normal supplies of crude oil in said Northern Tier States; and

WHEREAS, the Congress of the United States by Public Law 93-154 dated November 16, 1973, has declared that the crude oil on the North Slope of Alaska is an important part of the nation's oil resources, and that the benefits of such crude oil should be equitably shared, directly or indirectly, by all regions of the country;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the North Dakota Public Service Commission and all other state agencies and political subdivisions with statutory responsibility pertinent thereto, to expedite to the fullest practicable extent all applications and requests for action made with respect to the oil delivery system embodied in the plans of Northern Tier Pipeline Company.

Filed March 8, 1979

HOUSE CONCURRENT RESOLUTION NO. 3035
(Representative Strinden)
(Senator Nething)

INDIAN TRIBAL AND STATE GOVERNMENT RELATIONSHIP STUDY

A concurrent resolution directing a Legislative Council study of the relationship between American Indian tribal governments and North Dakota state government.

WHEREAS, American Indians have a special relationship with the states under the United States Constitution and treaties which have been concluded between the Indian tribes and the federal government; and

WHEREAS, the interrelationships between tribal, state, and federal governments are unique in the federal system; and

WHEREAS, there are unanswered questions concerning the jurisdiction of the State of North Dakota as concerns the residents of Indian reservations within this state and the provision of state services on the reservations; and

WHEREAS, although there have been studies of specific problems, the last comprehensive legislative study concerning the relationships between the State of North Dakota and its Indian citizens was conducted during the 1961-63 interim;

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 comprehensive study of the role of the Legislative Assembly in relation to the economic and social aspects of Indian intergovernmental matters, and the relationships between the American Indian tribal governments and the State of North Dakota, including questions of the jurisdictional authority of the state on Indian reservations and the role of the state in providing services to the Indian people. The study shall also include a review of the role of the federal government in these relationships and services, the role of the Indian Affairs Commission in state government and in providing services to the tribal governments and to the Indian people, and a review of the potential for economic development and job creation on Indian reservations and for Indian people. In

conducting this study, the Council shall include in its study two North Dakota citizens of Indian descent; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, accompanied by any necessary legislation to implement such recommendations, to the Forty-seventh Legislative Assembly.

Filed March 12, 1979

HOUSE CONCURRENT RESOLUTION NO. 3038
(Olson, Solberg, Unhjem)

**FORGOTTEN CRIME VICTIMS WEEK
PROCLAMATION URGED**

A concurrent resolution urging North Dakota Governor Arthur A. Link to proclaim a "North Dakota Forgotten Victims of Crime Week".

WHEREAS, there has been insufficient attention to the rights of victims and witnesses in our society; and

WHEREAS, it is the duty of all citizens and institutions to play positive roles in improving the plight of victims of violent crime and their survivors and to restore effectiveness to the administration of criminal justice; and

WHEREAS, better reporting of crime and greater willingness of persons to testify are essential to the control of crime and the improvement of justice; and

WHEREAS, creating a better understanding of the rights of victims and witnesses and the nature of our criminal justice system will help to achieve the goals of crime reduction, and the restoration of fairness and effectiveness to the administration of criminal justice;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the Honorable Arthur A. Link, governor of the State of North Dakota, to officially proclaim a "North Dakota Forgotten Victims of Crime Week"; and

BE IT FURTHER RESOLVED, that the Honorable Allen I. Olson, attorney general of the State of North Dakota, in cooperation with the state's attorneys of the State of North Dakota, be encouraged to observe "North Dakota Forgotten Victims of Crime Week" with public education programs to develop dialogue, promote understanding, and create an environment in which crime victims and witnesses may again receive the justice and fair play to which they are entitled.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3042
(Representatives Richard, A. Hausauer, Solberg, Winkjer)
(Senator Krauter)

SEVERED MINERAL INTEREST STUDY

A concurrent resolution directing the Legislative Council to conduct a study of severed mineral interests in North Dakota.

WHEREAS, severance of mineral and surface estates has become a widespread practice in North Dakota; and

WHEREAS, the ownership of many mineral estates is becoming more obscure and fractionalized with the passage of time; and

WHEREAS, the development of mineral interests is impaired because of this fractionalization; and

WHEREAS, mineral interests, although not exempt from taxation, are rarely assessed for tax purposes because the cost to the county of determining ownership appears to be prohibitive; and

WHEREAS, the owner of the surface estate often must update the mineral estate abstract at substantial cost if he wishes to update the surface estate abstract; and

WHEREAS, no method presently exists whereby severed mineral interests may be readily identified for purposes of development and taxation;

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 ownership, transfer, and taxation of severed mineral interests in North Dakota, and the construction and improvement of real estate interests from which the subsurface has been severed and security interests relative thereto; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 9, 1979

HOUSE CONCURRENT RESOLUTION NO. 3043
(Lardy, R. Hausauer, Solberg)

STATE COMPUTER USE STUDY

A concurrent resolution directing the Legislative Council to study state agency and department use of computers.

WHEREAS, it has been over 10 years since the North Dakota Legislative Assembly created the Department of Central Data Processing within the Department of Accounts and Purchases; and

WHEREAS, the initial appropriation to establish the Central Data Processing Department for the 1969-71 biennium was \$1.9 million compared to a request of \$7.9 million for the operation of the department for the next biennium; and

WHEREAS, computer science today reflects a changing technology, including use of microprocessors and advanced data storage and data transmission capabilities; and

WHEREAS, hardware costs are decreasing and personnel and communications costs are increasing; and

WHEREAS, present law which requires the centralization of personnel and equipment within one Central Data Processing Department may no longer be the most economical and efficient way to provide data processing services to state departments and agencies;

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 and authorized to conduct a comprehensive study of the Central Data Processing Department to determine whether it is providing data processing services to state agencies and departments in the most effective and efficient manner possible; and

BE IT FURTHER RESOLVED, that the Legislative Council review the law relating to state data processing services to determine whether changes are necessary to provide needed data processing services in the most effective and efficient manner possible to state departments and agencies; and

BE IT FURTHER RESOLVED, that the Legislative Council contract for professional services from a firm recognized for its experience and capability in reviewing and making recommendations regarding large data processing systems; and

BE IT FURTHER RESOLVED, that all state agencies and departments shall provide such information and services as may be requested by the Legislative Council while conducting this study; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 12, 1979

HOUSE CONCURRENT RESOLUTION NO. 3044
(Mertens)**PHYSICALLY HANDICAPPED CARE STUDY**

A concurrent resolution directing the Legislative Council to study the adequacy of community-based residential facilities and care for physically handicapped young adults in North Dakota and to clarify the respective responsibilities of state and local agencies involved in the provision of residential care, treatment, supervision, and related services, and, when necessary, protection to physically handicapped young adults.

WHEREAS, it is the intent of the Legislative Assembly that insofar as is possible North Dakota's handicapped young adults not be forced to leave their home state and the close proximity they have with their families in order to find the necessary care for their bodily and emotional needs; and

WHEREAS, care and services should be provided within the state under the least restrictive conditions necessary to achieve a high level of treatment and rehabilitation for the physical, mental, and emotional needs of handicapped young adults; and

WHEREAS, many handicapped young adults remain in their homes with aging parents because no other adequate facilities are available to them in this state; and

WHEREAS, many handicapped young adults are forced to enter long-term care facilities, primarily designed for the elderly, where many times they are not wanted and the programs implemented are for the aged and not the handicapped young adult; and

WHEREAS, the unique and distinct needs of physically handicapped young adults coupled with the lack of adequate facilities available to them often results in multiple placements within very short periods of time; and

WHEREAS, the state and local agencies involved in residential and community programs for physically handicapped young adults, including the Department of Social Service, Vocational Rehabilitation Division, the Department of Public Instruction, Vocational Education Division, the Division of Mental Health and

Retardation, and many other charitable groups, agencies, and associations, do not function under an adequate comprehensive multidisciplinary plan or approach in the provision of the necessary care and services for physically handicapped young adults 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 to conduct a comprehensive study of the needs of physically handicapped young adults in this state, to include the transitional needs of individuals leaving protective environments, the residential needs of the physically handicapped vocationally educable young adult, the residential needs for persons attending sheltered workshops, transportation needs for college and vocationally able physically handicapped young adults, recognition of the psychological and emotional needs of physically handicapped young adults and how they differ from other segments of the population, architectural barriers to free physical environments, and clarification of the respective responsibilities of the various state and local agencies involved in the provision of residential care, treatment, supervision, related services, and, when necessary, protection to physically handicapped young adults; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3045
(Representatives Unhjem, Hoffner, Stenehjerm)
(Senator Peterson)

HEALTH INSURANCE STUDY

A concurrent resolution directing the Legislative Council to study catastrophic illness programs, minimum benefits in health insurance, and the uninsurable pooled risks concept.

WHEREAS, the quality and cost of health services affects the well-being of every person in North Dakota; and

WHEREAS, the manner of controlling the quality and cost of health services in North Dakota has been the subject of substantial debate; and

WHEREAS, there is a potential for catastrophic illness programs, a minimum benefits law, and an uninsurable pooled risks group program to provide more adequate health care to the citizens of North Dakota; and

WHEREAS, a careful study of the desirability and necessity of catastrophic illness programs, minimum benefits in health insurance, and an uninsurable pooled risks group program would assist in making informed decisions on the quality and costs of health care;

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 and authorized to study the desirability and necessity of implementing catastrophic illness programs, a minimum benefits law, and an uninsurable pooled risks group program; and

BE IT FURTHER RESOLVED, that the Legislative Council shall submit its report and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 13, 1979

HOUSE CONCURRENT RESOLUTION NO. 3046
(Strinden)

STATE EMPLOYEE SICK LEAVE STUDY

A concurrent resolution directing a Legislative Council study of the alternatives available for the accumulation of sick leave by state employees.

WHEREAS, state employees are currently allowed to accumulate sick leave during the term of their employment with the state; and

WHEREAS, upon termination of such employment, the employee must either use this accumulated leave or lose it under the current policy; and

WHEREAS, this policy might lead some employees to improperly use this leave to the ultimate detriment of the state; and

WHEREAS, many states either have or are studying alternatives to this type of policy;

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 a study of the feasibility of adopting alternative methods of treating the accumulated sick leave of state employees; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 12, 1979

HOUSE CONCURRENT RESOLUTION NO. 3048
(Strinden)

**MENTAL HEALTH AND SOCIAL SERVICE CENTER
COLLOCATION STUDY**

A concurrent resolution directing a Legislative Council study to monitor the collocation of comprehensive mental health and area social service centers.

WHEREAS, the Legislative Assembly has directed the Social Service Board and State Department of Health to collocate area social service centers and comprehensive mental health centers in each region by July 1, 1981; and

WHEREAS, the collocation of area social service and comprehensive mental health centers in one location will improve human services to North Dakotans needing help; and

WHEREAS, to the extent possible the bringing together under one roof of the various center components will substantially improve the human service delivery system in North Dakota; and

WHEREAS, the Legislative Assembly has encouraged the development of human service centers and the collocation of human service activities because of Legislative Council study recommendations during the last decade; and

WHEREAS, the Legislative Council can encourage and advise the state departments and centers as they begin the collocation process;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council, through its Budget Section or other budget-related committee, monitor the efforts of the State Social Service Board, the State Department of Health, area social service centers, and comprehensive mental health centers during the 1979-81 biennium as they and other human service agencies undertake the process of collocation as directed by the Forty-sixth Legislative Assembly; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 20, 1979

HOUSE CONCURRENT RESOLUTION NO. 3050
(Kingsbury)

FIRE INSURANCE PREMIUM TAX STUDY

A concurrent resolution directing a Legislative Council study of the fire insurance premium tax.

WHEREAS, a fire insurance premium tax is levied based upon the amount of all premiums paid in the state for fire, allied lines, homeowner's multiple peril, and commercial multiple peril insurance; and

WHEREAS, a continuing appropriation of such tax funds is made each year to cities, townships, and fire protection districts under Chapter 18-04 of the North Dakota Century Code; and

WHEREAS, a supplemental appropriation had to be requested by the Insurance Department to complete the amount for the current biennium; and

WHEREAS, a city not within the boundaries of a fire protection district receives a yearly sum equal to two and one-quarter percent of the premiums on property in that city plus an additional one hundred dollars for performing services outside its incorporated limits; and

WHEREAS, a city auditor in a city having a paid fire department and a firemen's relief association apportions one-half of the funds received to maintaining the fire department and one-half to the firemen's relief association; and

WHEREAS, a city auditor in a city not having a paid fire department pays over the entire sum to the fire department; and

WHEREAS, the present allocation formula should be improved to reflect current fire department needs in North Dakota; and

WHEREAS, the present formula may require unnecessary reporting procedures on the part of insurance companies; and

WHEREAS, the amount allocated in accordance with the present formula may be inadequate when compared to the local needs for fire protection assistance;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Legislative Council, through the Budget Section or one of its committees, is authorized and directed to conduct a study of the fire insurance premium tax distribution to the political subdivisions, the desirability of improvements in the distribution formula, and whether the distribution should be pursuant to a specific general fund appropriation or a special fund distribution; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3051
(Representatives Kretschmar, Vander Vorst)
(Senator Naaden)

FARMERS HOME ADMINISTRATION COUNTY OFFICES URGED

A concurrent resolution urging Congress to maintain Farmers Home Administration county offices in North Dakota.

WHEREAS, the Farmers Home Administration (FmHA) has provided and continues to provide credit and services to North Dakota's agricultural community, especially young farmers and those unable to obtain credit through other lending institutions; and

WHEREAS, total FmHA loans in North Dakota for fiscal year 1978 were \$325 million of which \$249 million was loaned for rural farm programs; and

WHEREAS, local services provided by the FmHA and contact with present and potential borrowers should be maintained; and

WHEREAS, the FmHA county offices may be transferred to a new Department of Development Assistance proposed by White House planners; and

WHEREAS, transfer of the administration's county offices could make the agency less responsive to the needs 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-sixth Legislative Assembly urges the United States Congress to maintain Farmers Home Administration county offices in North Dakota; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Secretary of the Department of Agriculture and to the North Dakota Congressional Delegation.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3052
(Representatives Rued, A. Hausauer)
(Senator Lips)

COMPARATIVE NEGLIGENCE STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the doctrine of comparative negligence and other related areas.

WHEREAS, in 1973 the Forty-third Legislative Assembly statutorily adopted the doctrine of comparative negligence, as found in Section 9-10-07 of the North Dakota Century Code; and

WHEREAS, the adoption of the doctrine of comparative negligence has abrogated the affirmative defenses of contributory negligence and assumption of risk and has affected a number of other principles of tort law, including contribution among joint tortfeasors and the doctrine of last clear chance; and

WHEREAS, the Supreme Court of North Dakota has held that the enactment of Section 9-10-07 has impliedly repealed several other provisions of law; and

WHEREAS, these changes have had and will continue to have a great impact on a large number of civil actions based on the theory of negligence;

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 a study of the doctrine of comparative negligence as adopted by the Forty-third Legislative Assembly, to include the effect the doctrine has had in its application by the courts, and the possibility of modifying or repealing the doctrine; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, accompanied by any necessary legislation to implement such recommendations, to the Forty-seventh Legislative Assembly.

Filed March 13, 1979

HOUSE CONCURRENT RESOLUTION NO. 3054
(Berg, Nicholas)

WATER SALE TAXATION STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the taxation of sales of water in North Dakota.

WHEREAS, water is necessary to sustain not only commercial, industrial, and agricultural activities, but also life itself; and

WHEREAS, presently sales of water for commercial, industrial, and residential purposes are taxed; and

WHEREAS, sales of water by rural water systems are presently taxed; and

WHEREAS, sales of bottled water, whether or not prescribed by physician, are presently taxed; and

WHEREAS, water obtained from private wells is not taxed; and

WHEREAS, a thorough study is necessary to determine the effect of taxation on sales of water and on water use;

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 to study taxation, and the effects of taxation, of sales of water, including the question of whether any particular exemptions are appropriate; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3055
(Representatives Nicholas, Meyer, Rued)
(Senators Peterson, Reiten)

NONPROFIT HEALTH SERVICE BOARDS MEMBERSHIP STUDY

A concurrent resolution directing the Legislative Council to study the provisions relating to the membership of the boards of directors of nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations and nonprofit vision service corporations.

WHEREAS, the State of North Dakota through its Legislative Assembly has demonstrated an interest in the makeup of the membership of various boards of directors of all types of corporations, both public and private, profit and nonprofit; and

WHEREAS, much of this interest is directed at the makeup of said membership as it relates to the qualifications of said members; and

WHEREAS, the State of North Dakota on behalf of its citizens has consistently indicated a desire for top quality health care and insurance coverage relating thereto; and

WHEREAS, it appears that a combined effort by state government, health care providers and the health care insurance industry may be necessary to continue to provide the people of North Dakota with top quality health care and insurance coverage relating thereto; and

WHEREAS, it would appear that a study relating to the membership of the boards of directors of nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations and nonprofit vision service corporations would be in the public interest;

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 and equity of the present statutes as they relate to membership of the boards of directors of nonprofit

hospital service corporations, nonprofit medical service corporations, nonprofit dental service corporations and nonprofit vision service corporations, and to determine the desirability and feasibility of altering the present system, and to make such other recommendations as the results of the study may indicate are necessary; and

BE IT FURTHER RESOLVED, that Blue Cross and Blue Shield of North Dakota, their subscribers and employees are requested and directed to provide such aid, information, and assistance as the council, in conducting this study, may reasonably request, and the council shall make its findings and recommendations, if any, and be accompanied by legislation, if any, necessary to carry out such recommendations to the Forty-seventh Legislative Assembly.

Filed March 14, 1979

HOUSE CONCURRENT RESOLUTION NO. 3057
(Winkjer, Berg, Dick)

GAME AND FISH LICENSE ISSUANCE STUDY

A concurrent resolution directing the Legislative Council to study the issuance of game and fish licenses, particularly with respect to the role of county auditors in such issuance.

WHEREAS, county auditors are presently directed to issue game and fish licenses; and

WHEREAS, county auditors retain a small portion of license fees to meet administrative costs; and

WHEREAS, county auditors may designate agents to issue game and fish licenses; and

WHEREAS, each county auditor is personally liable for the receipts from each game and fish license issued in that county; and

WHEREAS, a thorough study is necessary to determine the proper role of county auditors in the issuance of game and fish licenses;

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 issuance of game and fish licenses, particularly with respect to the role of county auditors in such issuance; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3058
(Swiontek, Berger, Knudson, Schindler)

EDUCATION FINANCE STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the financing of elementary and secondary schools in the continuing effort toward the goal of providing the best possible education for the students of North Dakota.

WHEREAS, inflation, declining enrollments, and other factors continue to cause increased unit costs for schools and to complicate the delivery of educational services; and

WHEREAS, court decisions and federal legislation have focused attention on the fact that the state has an obligation to provide an equal educational opportunity for all students; and

WHEREAS, changing times have resulted in changes in educational programs and curriculums, with increased emphasis on transportation and special programs having placed a greater burden on the educational dollar; and

WHEREAS, there is a need to study the financial effect on school districts of large industrial plants, both those subject to property taxes and those subject to taxes in lieu of property taxes, including a study of deductions from foundation program payments for taxes received from such plants and other sources of tax revenue; and

WHEREAS, changes in school districts and programs in recent years, together with the fact that expenditures for schools continue to accelerate, call attention to the need for a continuing study of educational finance in North Dakota in order to assure the citizens of this state the maximum return on their investment for education;

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 assistance of the Superintendent of Public Instruction, is hereby directed to study the entire field of the financing of elementary and secondary schools in North Dakota, with emphasis on the foundation program,

the costs and distribution formulas for education and transportation, the effect of various tax sources on school districts, school construction costs and debt capacities, and the problems of financing special and vocational education; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3059
(Representatives Martin, Knudson, Nicholas)
(Senator Krauter)

NOXIOUS WEEDS STUDY

A concurrent resolution directing the Legislative Council to study alternative methods of providing equitable and effective means of financing eradication and control of leafy spurge, Canada thistle, and other noxious weeds.

WHEREAS, the presence of leafy spurge, Canada thistle, and other noxious weeds on extensive areas of private and governmental land in this state presents an almost insurmountable financial burden for private individuals, local political subdivisions, and the state to accomplish eradication and control; and

WHEREAS, an incentive or revenue sharing program with proper financing for eradication and control of some of the noxious weeds on private and public land would encourage landowners and local political subdivisions to eliminate the remaining noxious weeds; and

WHEREAS, there are presently no funds appropriated for statewide noxious weed control, for funding of programs for local political subdivisions, or for funding incentive programs for private landowners; and

WHEREAS, the weed control statute, Chapter 63-01.1, can provide a mechanism necessary for statewide and local eradication and control of noxious weeds in the state if proper funding is provided;

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 to conduct a study of alternative methods of providing equitable and efficient means of eradicating and controlling leafy spurge, Canada thistle, and other noxious weeds in this state, with specific emphasis on the economic costs of eradicating and controlling noxious weeds statewide and the economic costs of providing incentive programs or revenue sharing programs to provide funds to local political subdivisions to encourage local eradication and control and to encourage private landowners to eliminate noxious weeds. The study should consider

long-range programs necessary to eradicate and control noxious weeds. The Legislative Council shall seek the aid and assistance of federal research and land management agencies, the North Dakota Department of Agriculture, counties, other state and local governmental officials and employees, and other persons who may be of assistance in this study; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 26, 1979

HOUSE CONCURRENT RESOLUTION NO. 3060
(Representative Reed)
(Senator Vosper)
(Approved by Committee on Delayed Bills)

OFFICIAL PHOTOGRAPHER APPOINTED

A concurrent resolution to appoint an official photographer for the Forty-sixth Legislative Assembly, to set forth the photography order, and to authorize payment.

WHEREAS, for historical purposes it has been the custom of all North Dakota Legislative Assemblies to have composite group pictures made for all members of such assemblies; and

WHEREAS, Roland V. Dinger, Inc., offers to take six color proof photographs of each Senator, each Representative, the Lieutenant Governor, the Secretary of the Senate, the Assistant Secretary of the Senate, the Senate Desk Reporter, the Senate Sergeant-at-Arms, the Senate Bill Clerk, the Chief Clerk of the House, the Assistant Chief Clerk of the House, the House Desk Reporter, the House Sergeant-at-Arms, and the House Bill Clerk, and to retouch the final prints to compile a composite color picture of all Senate members and named employees, and all House members and named employees, framed and ready to hang, and individual composite photographs to be furnished to each member; all of the foregoing at a total cost of \$2,817.50;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That Roland V. Dinger, Inc., of Bismarck, North Dakota, be and is hereby appointed official photographer for the Forty-sixth Legislative Assembly of the State of North Dakota; and

BE IT FURTHER RESOLVED, that Roland V. Dinger, Inc., of Bismarck, North Dakota, is hereby awarded the sole privilege of photographing members of the Senate and the House of Representatives, the Lieutenant Governor, and the above-mentioned legislative employees of the Forty-sixth Legislative Assembly, at the total cost of \$2,817.50 to be charged as a legislative expense; and

BE IT FURTHER RESOLVED, that the photographs shall be delivered pursuant to a contract entered into between Roland V. Dinger, Inc., and the two photography committees of the Senate and House of Representatives.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3061
(Representative Unhjem)
(Senator Lips)

DEINSTITUTIONALIZATION PROGRAMS STUDY

A concurrent resolution directing the Legislative Council to conduct a study of deinstitutionalization programs for residents of the State Hospital, Grafton State School, and San Haven State Hospital.

WHEREAS, North Dakota lacks a coordinated system of public, private, and voluntary agencies to provide a full range of institutional and community services to individuals who are developmentally disabled in North Dakota; and

WHEREAS, a study should be made of present programs intended to return institutional residents to the community after the residents have been prepared through programs of rehabilitation and training to function adequately in appropriate local settings; and

WHEREAS, a review should be made of services to persons with developmental disabilities in settings as close to the individual's home community as practical within the constraints of quality of care and efficiency and economy of program operation; and

WHEREAS, constraints should be removed and incentives should be provided to encourage the development of programs and services within the institutional and community setting for return of persons with developmental disabilities to an appropriate community setting; and

WHEREAS, a review should be made of procedures to ensure continuity of care, transfer of necessary information among individual service providers, and followup of individuals with developmental disabilities moving from the institutional to the community setting;

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 to conduct a study of programs for deinstitutionalization of residents of the State Hospital, Grafton State School, and San Haven State Hospital. The

study is to include a review of available facilities, any requirements of licensure, problems related to federal requirements, any need for group homes, the ramification of deinstitutionalization on residents, and the impact of the lack of or provision for deinstitutionalization on the State Department of Health, Director of Institutions, and Social Service Board of North Dakota; and

BE IT FURTHER RESOLVED, that the Legislative Council consider appointing citizen members to any committee designated to conduct this study; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3064
(Wentz, Gerl, Meiers, Wessman)

OCCUPATIONAL BOARD MEMBERSHIP STUDY

A concurrent resolution directing the Legislative Council to study the membership of occupational and professional regulatory agencies, boards, and commissions.

WHEREAS, under North Dakota Century Code Title 43 over 38 occupations and professions are regulated by various state agencies, boards, and commissions; and

WHEREAS, under North Dakota Century Code Title 43 at least 25 separate licensing boards are statutorily authorized to regulate, in varying degrees, the occupations and professions under their jurisdiction; and

WHEREAS, at least four state agencies are involved in administering occupational and professional licensing statutes; and

WHEREAS, occupational and professional regulation may range from collection of minimal license fees to stringent control of entry into the regulated occupations and professions; and

WHEREAS, the occupational and professional regulatory boards, including state agencies which license occupational and professional activities, should consider the effects of their regulation on the public, as well as on the regulated individuals;

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 to conduct a study of the membership of occupational and professional licensing boards, including any advisory committees to state agencies licensing occupational and professional activities. The study should include only consideration of whether the regulatory bodies should have representatives of the public-at-large as members or as advisory entities in the case of regulation by state agencies; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to carry out its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 14, 1979

HOUSE CONCURRENT RESOLUTION NO. 3068
(Strinden)

ENERGY TAX STRUCTURE STUDY

A concurrent resolution directing the Legislative Council to study the energy tax structure of the state.

WHEREAS, new technologies and new energy sources are playing and will continue to play an increasingly important role in determining the economic feasibility of the use of North Dakota's lignite coal and other natural resources; and

WHEREAS, the severance tax on coal was first enacted in 1975 on a temporary basis and was reenacted with some changes in 1977 but again on a temporary basis; and

WHEREAS, the severance tax laws which have been enacted have provided for allocations of revenue to alleviate local impact costs, to reimburse state government for additional costs incurred, and to deposit a portion in a permanent trust fund as a means to compensate for the loss of an irreplaceable resource; and

WHEREAS, the level and method of energy taxation play an important role in determining the economic feasibility of certain industries, and the tax structure can have the effect of either encouraging or discouraging certain uses of natural resources; and

WHEREAS, there is a need to determine the best energy tax structure in light of the fact that some proposed energy-related plants may not be constructed, which would materially affect long-range impacts on state and local governments; and

WHEREAS, the Legislative Assembly is in need of more information to determine the proper method of imposition and level of the coal severance tax, the coal conversion tax, and other energy-related taxes, and to determine the proper method of distributing the revenues from these taxes;

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 to conduct a study of the energy tax structure of the state, including the effect on the economic feasibility of certain taxes on new industries and new technologies, the proper methods of allocating revenues derived from energy taxes, the long-range impacts of energy taxation on energy production and on state and local units of government; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3071
(Strinden)

GOVERNMENT ENERGY DEVELOPMENT EFFECTS STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the effects of energy development on state and local government.

WHEREAS, the development and production of energy from oil, gas, and lignite in western North Dakota has been of increasing importance to the people of North Dakota; and

WHEREAS, there now exists several years of experience which can be relied on for evaluation of the effect of development on the state of North Dakota and the political subdivisions directly affected; and

WHEREAS, changes in the balance between severance and conversion taxes may be desirable; and

WHEREAS, there is a need to monitor the application of the distribution formula of tax revenue between the state and local units of government; and

WHEREAS, the above can best be ascertained through a comprehensive interim study;

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:

1. The impact of energy-related revenues on state and local government.
2. The needs of local government resulting from energy development.
3. A method to project revenue needs of local government.

4. The distribution of energy development taxes during the 1979-81 biennium.

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed April 3, 1979

HOUSE CONCURRENT RESOLUTION NO. 3072
(Mushik, Koski)

**STATE EMPLOYEE BENEFITS AND
POLICIES STUDY**

A concurrent resolution directing the Legislative Council to conduct a study of the compensation and fringe benefits currently made available to state employees and the personnel policies currently governing state employees.

WHEREAS, changes in fringe benefits and compensation available to state employees will make employment with this state more attractive to persons who might otherwise seek employment with other states or with the private sector; and

WHEREAS, uniformity in the fringe benefits available to employees of all state agencies and in the personnel policies governing employees of all state agencies would facilitate the transfer of employees between different agencies, which would reduce some of the costs caused by the rapid turnover of state employees; and

WHEREAS, Governor Link called for an interim study to review such inequities in fringe benefits in different state agencies in his State of the State address to the legislature;

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 authorized and directed to conduct a study of the compensation and fringe benefits currently made available to state employees, including any discrepancies between the fringe benefits and personnel policies of the various agencies, to determine if any changes or adjustments therein are desirable or necessary to make employment with the state competitive with employment in the private sector and to promote uniformity among all state employees; and

BE IT FURTHER RESOLVED, that the study include an investigation of the possibility of placing all state employees under the Central Personnel Division; and

BE IT FURTHER RESOLVED, that in conducting the study the Council may consult with the State Central Personnel Division of the Department of Accounts and Purchases, the State Public Employees Retirement Board, and all recognized state employee associations; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 26, 1979

HOUSE CONCURRENT RESOLUTION NO. 3075
(Unhjem, Mushik)

**PRIVATE HIGHER EDUCATION INSTITUTION
ASSISTANCE STUDY**

A concurrent resolution directing a Legislative Council study of methods of providing assistance to private institutions of higher education in North Dakota.

WHEREAS, the private colleges in North Dakota provide educational opportunities for several hundred students; and

WHEREAS, the education of these students in private institutions serves to provide a substantial savings to the taxpayers of this state; and

WHEREAS, inflation and declining enrollments have placed severe financial strains on all institutions of higher education and particularly on private institutions; and

WHEREAS, it is in the best interests of the citizens of North Dakota to support and strengthen the private institutions of higher education in 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 to study methods of providing support for the private institutions of higher education within the state, including some means of providing financial assistance such as a tuition equalization program, student grants, or tax incentives; and

BE IT FURTHER RESOLVED, that the Legislative Council reports its findings and recommendations, together with any legislation necessary to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3076
(Hoffner, Meiers, Richie, Stenehjem, Swiontek)

DWI PROBLEMS STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the problems related to persons driving while under the influence of alcohol or drugs.

WHEREAS, the abuse of alcohol and drugs contributes significantly to the number of North Dakota highway accidents and fatalities each year; and

WHEREAS, those persons who abuse alcohol or drugs and continue to drive are likely in need of medical treatment; and

WHEREAS, there is a problem under present law of consistently getting persons with alcohol and drug abuse problems from the courtroom to treatment facilities or programs where they may be helped; and

WHEREAS, a first-time offense for driving while under the influence of alcohol or drugs should require some driver education concerning the dangers involved and referral to a more extensive program if necessary, and studies have shown that nearly half of those convicted of a second offense and a large majority of those convicted of a third offense are alcohol or drug abusers and thus in need of individual evaluation and treatment; and

WHEREAS, intervention by the courts in requiring such persons to receive treatment for alcohol or drug-related problems would be an effective method by which the courts could aid in lessening an increasingly serious problem; and

WHEREAS, present practices and penalties for driving while under the influence of alcohol or drugs vary considerably from court to court; and

WHEREAS, there is likely no single solution to the problems, thus making input from the various members of the concerned public helpful to the study; and

WHEREAS, education, including early education, may be a factor in preventing alcohol and drug abuse and related traffic problems;

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 authorized and directed to conduct a study of the problems related to persons driving while under the influence of alcohol or drugs; the desirability and feasibility of more uniform court intervention in requiring such persons to receive evaluation and treatment through programs and facilities; the desirability and feasibility of changing the legal penalties for committing such driving offenses and the procedures for referring persons for treatment; the penalties which may be imposed for selling alcoholic beverages to minors or to obviously intoxicated persons who are then injured or injure others; and the desirability and feasibility of expanding educational efforts concerning alcohol and drug abuse through the educational system or by other means; and

BE IT FURTHER RESOLVED, that in conducting this study, the Council shall include on its committee representatives from the Department of Public Instruction, the Traffic Safety Programs Division of the North Dakota Highway Department, the Division of Alcohol and Drug Abuse, the North Dakota Beverage Dealers Association, the Supreme Court Administrator, and the State Alcohol and Drug Advisory Council; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3077
(Mushik, Gerl, Rued)

WORKMEN'S COMPENSATION SUPPLEMENTARY BENEFITS STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the feasibility and desirability of providing supplementary benefits to workmen's compensation claimants.

WHEREAS, workmen's compensation benefits remain fixed at the level established at the time of disability; and

WHEREAS, state law presently provides no procedure to increase benefits to reflect the rising cost of living or increases in benefits paid to recently injured employees; and

WHEREAS, the 1975, 1977, and 1979 legislative sessions have considered several proposals with respect to providing supplementary benefits to claimants injured under previous benefit levels; and

WHEREAS, legislative proposals have taken various approaches to funding the supplementary benefits, including an additional premium tax on employers, a general fund appropriation, and use of reserve funds of the Workmen's Compensation Bureau; and

WHEREAS, the level of any supplementary benefits would seriously affect previously injured employees and the method of funding supplementary benefits may concern present employers;

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 to conduct a study of the feasibility and desirability of providing supplementary workmen's compensation benefits. The study should include the effect various supplementary benefit levels would have on claimants and the effect various methods of funding would have on present employers, the reserves of the workmen's compensation fund, or any other source of providing supplementary benefits; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 14, 1979

HOUSE CONCURRENT RESOLUTION NO. 3078
(Representatives Murphy, A. Hausauer, Maixner)
(Senators Jacobson, Redlin, Roen)

SURFACE AND MINERAL OWNERS' RIGHTS STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the relative rights of the owners of the surface and mineral estates.

WHEREAS, traditionally the mineral estate has been the dominant estate, entitling its owner to use of the surface estate if such use is necessary to develop the minerals underlying the surface; and

WHEREAS, the owner of the surface estate traditionally has borne many of the burdens but received few of the benefits associated with development of the mineral estate; and

WHEREAS, a thorough study is necessary to determine if the laws governing the relative rights of surface and mineral owners represent contemporary public policy; and

WHEREAS, a thorough study is necessary to determine whether mineral development can be accomplished with little or no harm to the surface estate; and

WHEREAS, a thorough study is necessary to determine whether the owner of the surface estate should be compensated for harm to the surface occasioned by mineral development;

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 relative rights of the owners of surface and mineral estates as those rights relate to mineral development; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, along with any legislation necessary to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3080
(Pomeroy)**RENTER INCOME TAX CREDIT STUDY**

A concurrent resolution directing the Legislative Council to study the feasibility and desirability of the North Dakota Legislative Assembly enacting legislation which would provide renters on fixed or low income an income tax credit for that portion of a renter's rent which represents real property taxes paid by the owner of the property, if the renter does not otherwise qualify for the renter's refund as provided by subsection 2 of section 57-02-08.1 of the North Dakota Century Code.

WHEREAS, the Legislative Assembly recognizes that, although inflation is a hardship on all members of society, it is particularly devastating for those members who are living on fixed or severely limited incomes; and

WHEREAS, a significant portion of rents, generally about 20 percent, are used by owners of rental property to pay for property taxes; and

WHEREAS, inflation is year after year increasing not only the value of rental property, but also the property taxes on that property and the rents increase accordingly; and

WHEREAS, in North Dakota there are many renters who are living on fixed or severely limited incomes which do not increase at a rate sufficient to match the rate of increase in that portion of their rent which represents the property taxes which have increased due to inflation; and

WHEREAS, homeowners who are not living on fixed or limited incomes generally pay about four percent or less of their income in property taxes; and

WHEREAS, a careful study should be conducted to determine the feasibility and desirability of providing an income tax credit for qualifying renters;

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 to conduct a study of the feasibility and desirability of the state enacting legislation which would provide a renter with an income tax credit equal to that part of the twenty percent of the renter's annual rent which exceeds four percent of the annual income of the renter multiplied by the national percentage rate of inflation as determined by the United States Department of Labor, provided that renter does not otherwise qualify for the renter's refund provisions of subsection 2 of section 57-02-08.1 of the North Dakota Century Code; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3081
(Swiontek, Berger, Black, Knudson, Mattson)

TEACHER'S ROLE IN EDUCATION STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the education and role of the teacher.

WHEREAS, there is growing state and national concern about the quality of education received by the youth of the country; and

WHEREAS, this concern extends beyond the current "back-to-basics" movement in education; and

WHEREAS, many teachers are electing to leave the field of education; and

WHEREAS, it is felt that with proper training and support, the teachers will be encouraged to remain in the profession and will be able to provide the quality education which people have come to expect;

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 to study the role of the teacher in the field of education with emphasis upon the student/teacher ratio, the qualifications, certification, and continued evaluation of teachers, in-service education of teachers, and the retention of teachers; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3082
(Meiers, Boyum, Maixner, Stenehjem)

GOVERNMENT OFFICER PERSONAL LIABILITY STUDY

A concurrent resolution directing the Legislative Council to study the personal liability of officers and members of boards and commissions of the state and political subdivisions.

WHEREAS, the potential personal liability of officers and members of boards and commissions of the state and all political subdivisions resulting from their official actions has dramatically increased in recent years, due to the creation of new causes of action by the legislature and Congress and the expansion of existing causes of action by the courts; and

WHEREAS, due to the fear of personal financial loss, many otherwise eligible and well-qualified individuals are not willing to serve in these important positions; and

WHEREAS, the efficient administration of government at both the state and local level requires the active participation of the most highly qualified citizens, who should be encouraged to serve their government without the threat of personal loss;

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 authorized and directed to conduct an interim study of the personal liability of officers and members of boards and commissions at both the state and local level, including the costs of defending any actions brought against such persons for their official actions, and to determine what changes are necessary and desirable to reduce potential personal liability; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation necessary to implement its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3083
(Strinden)
(Approved by the Committee on Delayed Bills)

OLD WEST REGIONAL COMMISSION ACTIVITY STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the Old West Regional Commission's activities which impact North Dakota.

WHEREAS, the Old West Regional Commission is established under authority of federal law; and

WHEREAS, federal law authorizes the Old West Regional Commission to enter into contracts, leases, cooperative agreements, and other transactions necessary to carry out its functions with any state or political subdivision, agency, or instrumentality thereof; and

WHEREAS, the Old West Regional Commission implements economic development programs for the five-state region with respect to health services, transportation, natural resources development, and other areas of common economic concern; and

WHEREAS, North Dakota funding of the Old West Regional Commission has steadily increased since creation of the commission in 1972;

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 to conduct a study of the Old West Regional Commission's activities which impact North Dakota, including a study of the effect of the commission's spending in North Dakota, the extent of that spending, and the extent of North Dakota's involvement, including financial involvement, with the commission; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3085
(Strinden)
(Approved by Committee on Delayed Bills)

FOUR-YEAR MEDICAL PROGRAM STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the four-year medical program of the University of North Dakota Medical School.

WHEREAS, as the result of a 1971-73 Legislative Council study the University of North Dakota Medical School's medical program was extended from a two-year to a four-year program; and

WHEREAS, the four-year medical program operated by the University of North Dakota Medical School is a 2-1-1 medical education program; and

WHEREAS, under the 2-1-1 medical education program, the third year of education is provided by the University of Minnesota Medical School and the fourth year is provided in four area health education centers located in Grand Forks, Fargo, Minot, and Bismarck; and

WHEREAS, the 1977 Legislative Assembly expressed its intent that the medical education program be financed in conjunction with the private sector, including area health education centers, private clinics and hospitals, federal health care facilities, grants, individual physicians and surgeons, and other health care and allied health care institutions; and

WHEREAS, a legislative review should be conducted to determine the efficacy of the four-year medical program;

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 to conduct a study of the four-year medical program of the University of North Dakota Medical School. The study should include a review of the operation of the program and the program's efficacy in addressing problems sought to be answered by the original four-year medical school concept; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3086
(Representatives Erickson, Rued, Scofield)
(Senator Solberg)
(Approved by Committee on Delayed Bills)

CONTROLLED VISUAL FLIGHT RULES ABANDONMENT URGED

A concurrent resolution urging the Federal Aviation Administration to abandon the proposed "controlled visual flight" rules.

WHEREAS, the Federal Aviation Administration has announced an extensive program designed to provide increased air traffic control (ATC) separation protection for air carrier, commuter airlines, and general aviation passengers which would include lowering the "floor" of the continental positive control area (PCA) from 18,000 feet to 10,000 feet east of the Mississippi River and over a portion of the state of California and 12,500 feet west of the Mississippi River and over the remaining portion of California; and

WHEREAS, this would require VFR pilots operating between this lowered floor and 18,000 feet to file flight plans, obtain authorization to enter the PCA, adhere to controller instructions, comply with ATC instructions and have the equipment now required for operation in a Group I TCA, including transponder and encoding altimeter, all of which would increase general aviation costs and which are not really needed; and

WHEREAS, the plan, if fully implemented, will radically restructure United States air space with the most massive and damaging shrinkage of uncontrolled VFR air space in the history of United States aviation effectively eliminating VFR pilot use in the area between 10,000/12,500 and 18,000 feet unless the new requirements are met; and

WHEREAS, this program will adversely affect general aviation and is being fostered in apparent disregard of the importance of general aviation to the national interest and the interest of the people of North Dakota; and

WHEREAS, general aviation plays a very important part in the total transportation picture of this state and of the United States;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Federal Aviation Administration abandon the program (proposed "controlled visual flight" rules, 44 Federal Register 1322-33, January 4, 1979) as being adverse to general aviation and to the national interest and the interest of the people of North Dakota; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Federal Aviation Administration for inclusion in the record of its proceedings relating to the proposed "controlled visual flight" rules, and to the North Dakota Congressional Delegation.

Filed March 5, 1979

HOUSE CONCURRENT RESOLUTION NO. 3087
(Tweten, Kingsbury, Murphy)
(Approved by Committee on Delayed Bills)

21-MILL COUNTY LEVY STUDY

A concurrent resolution directing a Legislative Council study of the feasibility of eliminating the 21-mill county levy for schools and substituting either a state-collected tax or any other suitable alternative.

WHEREAS, attention has been focused on the need for the Legislative Assembly to maintain a continuing study of the financing of elementary and secondary education; and

WHEREAS, there is concern about the fairness of the 21-mill county levy which is currently an integral part of the state foundation program for schools; and

WHEREAS, alternative methods of financing education might prove to be more equitable to the citizens of this state; and

WHEREAS, one such method might be the imposition of a state-collected tax to cover money lost by eliminating the 21-mill levy;

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 to study the feasibility of repealing the 21-mill county levy for schools and replacing it with a state-collected tax or any other suitable alternative; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 22, 1979

HOUSE CONCURRENT RESOLUTION NO. 3089
(Representatives F. Larson, Berge)
(Senator Strinden)
(Approved by Committee on Delayed Bills)

VALLEY CITY STATE COLLEGE ATHLETIC DIRECTOR CONGRATULATED

A concurrent resolution congratulating Willis "Bill" Osmon, the Valley City State College athletic director, on being named to the National Association of Intercollegiate Athletics Hall of Fame.

WHEREAS, he has coached at Valley City State College for 31 years; and

WHEREAS, he began as a basketball and track coach in 1947 and became athletic director in 1948, winning nine conference basketball championships, eleven golf titles, and two track titles; and

WHEREAS, he has been the National Association of Intercollegiate Athletics (NAIA) District 12 chairman for 20 years; and

WHEREAS, he has been selected to receive the Meritorious Service Award, being named to the NAIA Hall of Fame, and will be honored at an NAIA Hall of Fame luncheon on Thursday, March 15, 1979, in Kansas City, Missouri; and

WHEREAS, to date (since 1952) only 27 such awards have been given, and he is one of only six in the nation receiving this award in 1979; and

WHEREAS, March 15, 1979, has been declared Bill Osmon Day in his honor;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly extends its congratulations to Bill Osmon on being selected to receive the Meritorious Service Award and being named to the NAIA Hall of Fame; and

BE IT FURTHER RESOLVED, that enrolled copies of this resolution be sent to Bill Osmon and to Valley City State College.

Filed March 19, 1979

HOUSE CONCURRENT RESOLUTION NO. 3090
(Committee on Employment)
(Approved by Committee on Delayed Bills)

RETENTION OF LEGISLATIVE EMPLOYEES

A concurrent resolution authorizing the retention of certain employees of the House and Senate and providing supervisory authority, to allow for the completion of legislative work after the close of the Session.

WHEREAS, it is necessary to complete and close all legislative work; and

WHEREAS, in order to complete and close all current legislative work of the Forty-sixth Legislative Assembly, it is necessary to retain certain employees;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the following named positions may be retained by the House of Representatives and the Senate after the close of the Session:

HOUSE POSITIONS

Chief Clerk
Assistant Chief Clerk
Desk Reporter
Bill Clerk
Chief Stenographer and Payroll Clerk
Secretary to the Speaker
Secretary to the Majority Floor Leader
Secretary to the Minority Floor Leader
Sergeant-at-Arms
Deputy Sergeant-at-Arms
Assistant Sergeant-at-Arms
Appropriations Committee Clerk
Chief Committee Clerk
Committee Clerks
Chief Journal and Bill Room Clerk
Bill Room Clerk
Chief Page
Pages

Desk Pages
Journal Proofreaders

SENATE POSITIONS

Secretary to the Senate
Assistant Secretary to the Senate
Desk Reporter
Bill Clerk
Chief Stenographer and Payroll Clerk
Secretary to Majority Floor Leader
Secretary to Minority Floor Leader
Sergeant-at-Arms
Assistant Sergeant-at-Arms
Chief Telephone Clerk
Appropriations Committee Clerk
Assistant Appropriations Committee Clerk
Chief Committee Clerk
Committee Clerks
Journal Room Clerk
Chief Page
Pages
Desk Pages
Journal Proofreaders

BE IT FURTHER RESOLVED, that the above-listed House and Senate employees shall serve at the request of, and under the supervision of, the Chief Clerk of the House, and the Secretary of the Senate, and that all of the listed employees, including the Chief Clerk of the House, and the Secretary of the Senate, shall be employed for not more than 200 man-days in the aggregate. The Secretary of the Senate shall assign work among the available Senate employees in the appropriate manner. The Chief Clerk of the House shall assign work among the available House employees in the appropriate manner. It is the duty of the Chief Clerk of the House and the Secretary of the Senate to coordinate the work assignments in both houses in such a manner that the total number of man-days do not exceed the man-days limits herein. The Secretary of the Senate and the Chief Clerk of the House shall minimize the days allocated to the extent consistent with the completion of legislative work; and

BE IT FURTHER RESOLVED, that the employees in the above-named positions be paid their regular rates of pay as specified in House Concurrent Resolution No. 3014, and all of the above expenses are to be paid out of the appropriation to the Forty-sixth and Forty-seventh Legislative Assemblies and paid at the completion of said work providing that payment shall not be authorized for more than the 200 man-days in the aggregate.

Filed March 28, 1979

HOUSE CONCURRENT RESOLUTION NO. 3091
(Representatives Retzer, Strinden)
(Senator Nething)
(Approved by Committee on Delayed Bills)

LEGISLATIVE POLICY ON GARRISON DIVERSION

A concurrent resolution setting forth legislative policy that the use of federal appropriations for purposes of fish and wildlife land acquisitions in connection with the Garrison Diversion Unit should be limited to purchases from only willing sellers, urging the Secretary of the Interior to establish a policy of crediting existing federal and state-owned land toward fish and wildlife mitigation and enhancement requirements, supporting the Governor's wetland policy, and urging development by the Fish and Wildlife Service of a plan for acquisition of Garrison wildlife areas for purposes of mitigation and enhancement consistent with the policies established by the statutory and contract agreements between the United States and the State of North Dakota.

WHEREAS, the Congress of the United States authorized the dedication of 146,530 acres of private and public land for the mitigation and enhancement of fish and wildlife for purposes of the Garrison Diversion Unit; and

WHEREAS, the authorized plan and master contract of the Garrison Diversion Unit identify the land areas proposed for fish and wildlife development; and

WHEREAS, the State of North Dakota has dedicated approximately 84,000 acres of public land to the mitigation and enhancement of recreation, fish and wildlife for purposes of meeting obligations toward the construction of the Garrison Diversion Unit; and

WHEREAS, the authorized plan of the Garrison Diversion Unit recognizes and credits toward the mitigation and enhancement of fish and wildlife approximately 30,000 acres of principal supply works land area; and

WHEREAS, the Fish and Wildlife Service effectively controls by easement and fee title approximately five million acres of land in North Dakota; and

WHEREAS, the Fish and Wildlife Service has failed to present to the state a formal plan for the continuing development of these authorized and identified land areas; and

WHEREAS, the Fish and Wildlife Service has proposed a new "concept" of acquiring productive cropland, which includes the restoration of drained wetlands; and

WHEREAS, the present philosophy of the Fish and Wildlife Service is to exclude project supply works, Devils Lake bed area and other state and federal-owned lands from credit toward the 146,530 acre wildlife area requirement; and

WHEREAS, the present philosophy of the Fish and Wildlife Service would result in a total net gain in wildlife habitat in excess of that authorized by the Congress for purposes of the Garrison Diversion Unit; and

WHEREAS, productive agricultural lands are being rapidly depleted by nonagricultural land use development; and

WHEREAS, domestic and world food demands are increasing; and

WHEREAS, Article 22 of the Master Contract requires that the development of recreation, fish and wildlife areas shall proceed concurrently and at the same rate as irrigation development; and

WHEREAS, the Report of the International Joint Commission recommends that land acquisition for mitigation of wildlife habitat losses parallel development of the Garrison Diversion Unit; and

WHEREAS, the future construction schedule for completion of the Garrison Diversion Unit exceeds 20 years; and

WHEREAS, vague proposals and concepts publicized by the Fish and Wildlife Service have resulted in creating uncertainty and confusion among landowners; and

WHEREAS, federal appropriations should be used for remaining mitigation and enhancement acquisitions only from willing sellers and condemnation should not be used by the federal government; and

WHEREAS, Governor Arthur A. Link, on April 25, 1978, established a policy requiring that state approval of future federal easement and fee land acquisitions for waterfowl production and wildlife refuge purposes be conditioned upon full credit being given toward satisfaction of mitigation and enhancement requirements of the Garrison Diversion Unit and that title to all lands hereafter acquired with federal duck stamp funds be automatically transferred to the State of North Dakota if the Garrison Diversion Unit is not substantially constructed by a date certain; and

WHEREAS, the direct federal financial investment in the Garrison Diversion Unit presently exceeds \$170 million; and

WHEREAS, the direct state financial investment in the Garrison Diversion Unit presently exceeds \$13 million; and

WHEREAS, 85 percent of the state annual income is derived from the union of land and water resources resulting in agricultural production; and

WHEREAS, the annual agricultural economic loss due to Missouri River Flood Control Act reservoir construction in North Dakota exceeds \$93 million in gross business volume; and

WHEREAS, the annual economic agricultural loss caused by delay in the construction of the Garrison Diversion Unit exceeds \$81 million in gross business volume; and

WHEREAS, the Thirty-first Legislative Assembly in creating the Missouri-Souris Conservancy District (S.L. 1949, Chapter 347) declared that the establishment and construction of the Garrison Diversion Unit as approved by the Congress in 1944 is necessary for the future economic welfare and prosperity of the people of this state; and

WHEREAS, the Thirty-fourth Legislative Assembly in creating the Garrison Diversion Conservancy District (S.L. 1955, Chapter 348) reaffirmed the necessity of the Garrison Diversion Unit; and

WHEREAS, each succeeding Legislative Assembly by resolution has affirmed the necessity of the Garrison Diversion Unit;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That it is the policy of the Forty-sixth Legislative Assembly that federal congressional appropriations should be used for remaining mitigation and enhancement acquisition purchases for purposes of fish and wildlife only from willing sellers and that condemnation should not be used by the federal government; and

BE IT FURTHER RESOLVED, that it is the policy of the Forty-sixth Legislative Assembly that satisfaction of the authorized dedication of 146,530 acres to wildlife mitigation and enhancement is to be accomplished by the maximum acceptance and credit of existing federal and state-owned public lands, which includes project supply works right of way, dedicated Devils Lake bed area lands and other recreation, fish and wildlife areas; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly supports the wetland acquisition policy established by Governor Arthur A. Link effective since April 25, 1978; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly recognizes the Garrison Master Contract as a legally binding agreement between the State of North Dakota and the United States and urges the Secretary of the Interior to give respect to

its provisions regarding the acquisition of fish and wildlife areas; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly urges the Secretary of the Interior to direct the Fish and Wildlife Service to present to the board of directors of the Garrison Diversion Conservancy District for their review and approval as soon as possible a detailed formal plan for the continuing development, concurrent with irrigation development, of the fish and wildlife land areas identified in the Garrison Diversion Unit Plan (House Document 325, as supplemented February 1965) authorized and approved by the United States Congress (Pub. L. 89-108, August 5, 1965) and as further agreed to and required by the Master Contract (January 26, 1966); and

BE IT FURTHER RESOLVED, that if a detailed formal fish and wildlife mitigation and enhancement plan is not presented to the Garrison District board of directors within a reasonable period of time and is not presented in conformity with or as required by statutory authorization and the Master Contract, the Attorney General of the State of North Dakota is urged to obtain the formal fish and wildlife plan and all information relating to the development of such plan pursuant to the federal Freedom of Information Act, 5 U.S.C. 552 and any other appropriate legal remedy; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly urges the Secretary of the Interior to direct that the Fish and Wildlife Service identify by legal description the land now owned and controlled in North Dakota by means of federal easement, fee title, or otherwise for purposes of wildlife habitat, migratory waterfowl production, or other wildlife uses by giving total acreages in each county; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly urges the Secretary of the Interior to direct that the Fish and Wildlife Service identify the alternate land use capability of Fish and Wildlife Service lands owned and controlled in the state, all funds available for future acquisition of additional land for fish and wildlife purposes, the criteria used in identifying lands suitable for wildlife habitat by relating such criteria to current or potential agricultural use of the land and to identify the ultimate goal in acres that the Fish and Wildlife Service desires to acquire for purposes of wildlife habitat in the State of North Dakota; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly finds that resulting annual economic losses due to Missouri River reservoirs and construction delays in the Garrison Diversion Unit requires the continued development of the Garrison Diversion Unit for the beneficial use of the waters of this state for irrigation, domestic, municipal, industrial, recreation, fish and wildlife purposes; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly finds that the present philosophy of the Fish and Wildlife Service of purchasing highly productive agricultural land for purposes of wildlife habitat is contrary to the public interest of the citizens of this state; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly urges accommodation of wildlife needs and interests with human needs and interests by the continued development of land and water resources for the greatest beneficial use of mankind; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly requests the Secretary of State to forward copies of this resolution to President Jimmy Carter; Honorable Thomas P. O'Neill, Speaker, United States House of Representatives; Honorable Walter Mondale, President of the United States Senate; the North Dakota Congressional Delegation; Secretary of the Interior Cecil D. Andrus; and Governor Arthur A. Link.

Filed April 3, 1979

HOUSE CONCURRENT RESOLUTION NO. 3092
(Kelly, Conmy, Kretschmar, Wentz) -
(Approved by Committee on Delayed Bills)

PUBLIC FACILITY HANDICAPPED ACCESSIBILITY STUDY

A concurrent resolution directing an interim study by the Legislative Council of the implementation of laws requiring public buildings and facilities to be accessible and usable by the physically handicapped.

WHEREAS, Section 48-02-19 of the North Dakota Century Code requires all public buildings and facilities constructed, in whole or in part, from funds of the state or of political subdivisions to be accessible to, and usable by, the physically handicapped; and

WHEREAS, the costs for making public buildings and facilities accessible to the physically handicapped are substantial; and

WHEREAS, there is some question as to the necessity of making all public buildings and facilities accessible to, and usable by, the physically handicapped; and

WHEREAS, although the state has a substantial interest in making public buildings and facilities accessible to, and usable by, the physically handicapped, the costs and requirements involved demand that further consideration be given to the implementation of a program to accomplish this goal;

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 and authorized to conduct a study of the state and federal laws requiring public buildings and facilities to be accessible to, and usable by, the physically handicapped and the requirements for and costs of implementation of the laws requiring public buildings and facilities constructed, in whole or in part, from funds of the state or of its political subdivisions, to be accessible to, and usable by, the physically handicapped in accordance with state and federal laws; and

BE IT FURTHER RESOLVED, that the Legislative Council shall seek the aid and assistance of the state construction

superintendent, the state board of architecture, and other state and local government officials, employees, and other persons who may be of assistance in this study; and

BE IT FURTHER RESOLVED, that the Legislative Council shall report its findings and recommendations, together with any legislation required to carry out the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 28, 1979

HOUSE CONCURRENT RESOLUTION NO. 3093
(Peltier)
(Approved by Committee on Delayed Bills)

**OUTSTANDING YOUNG FARMER
CONGRATULATED**

A concurrent resolution congratulating Robert G. Thompson on being named one of the nation's four outstanding young farmers for 1978-79 by the United States Jaycees.

WHEREAS, he began farming in partnership with his brothers after earning his master's degree in agricultural economics and math from North Dakota State University and now farms 2,957 acres, sunflowers and corn being his primary crops; and

WHEREAS, pivotal irrigation systems, a crop expansion program, and conservation practices highlight his farm; and

WHEREAS, he was one of four men chosen from a field of 43 state winners and was honored at the 23rd Annual Outstanding Young Farmers Awards Congress, February 25, 1979, in Burlington, Vermont;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly of the State of North Dakota extends its very sincere and hearty congratulations to Robert G. Thompson, Page, North Dakota, on being named one of the nation's four outstanding young farmers for 1978-79 by the United States Jaycees; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to Robert G. Thompson and to the Page Jaycees.

Filed March 23, 1979

HOUSE CONCURRENT RESOLUTION NO. 3094
(Representatives Scofield, I. Jacobson, Winkjer)
(Senators Wenstrom, Rait)
(Approved by Committee on Delayed Bills)

UND-WILLISON WOMEN'S BASKETBALL TEAM CONGRATULATED

A concurrent resolution congratulating the UND-Williston women's basketball team and their coach, Ms. Penny Johnson, for placing third in the National Junior College women's basketball tournament.

WHEREAS, the UND-Williston women's basketball team, known as the Tetons, placed third in the National Junior College women's basketball tournament in Overland Park, Kansas, by defeating the Broward Junior College women's basketball team; and

WHEREAS, the Tetons ended their season with a 28-4 record and set a tournament scoring record with 414 points for the five games played; and

WHEREAS, two of the Teton's team members were named to the 10-member all tournament squad;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly extends sincere congratulations to the UND-Williston women's basketball team and its individual members; Jean Roise, Carol Gatzke, Sandra Gunlikson, Lori Sandaker, Shelly Hughes, Janet Thompson, Debby Syverson, Denise Forbregd, Debra Sax, Shirley Dreyer, Mary Anderson, and Laurel Forsberg, manager; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly also extends its sincere congratulations to the coach of the UND-Williston women's basketball team, Ms. Penny Johnson; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to the Tetons and their coach, in care of the Women's Athletic Department, UND-Williston, in Williston, North Dakota.

Filed March 29, 1979

HOUSE CONCURRENT RESOLUTION NO. 3095
(Langley)
(Approved by Committee on Delayed Bills)

FORT TOTTEN HISTORIC SITE DESIGNATION URGED

A concurrent resolution urging the United States Congress to designate Fort Totten as a national historic site.

WHEREAS, Fort Totten, which is located approximately 12 miles southwest of Devils Lake, North Dakota, on the south shore of Devils Lake on the Fort Totten Indian Reservation, was established by General Alfred H. Terry on July 17, 1867, to help protect an overland route extending from southwestern Minnesota to western Montana and served as a U.S. Army installation until it was abandoned on November 18, 1890; and

WHEREAS, the Fort Totten State Historic Site, administered by the State Historical Society of North Dakota, is one of the most well preserved military posts representing the period of the Indian wars west of the Mississippi River; and

WHEREAS, it is critical that renovation of the original buildings of Fort Totten be undertaken in the near future before any major building losses occur; and

WHEREAS, the renovation is a project that is currently beyond the financial resources of the State of North Dakota; and

WHEREAS, various subcommittees of the Budget Section of the Legislative Council, the North Dakota State Historical Society, and the Forty-fifth Legislative Assembly have all gone on record urging the federal government to provide funding for the Fort Totten Site;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly of North Dakota hereby urges the Congress of the United States to designate Fort Totten as a national historic site to be eligible to receive federal funding for purposes of renovation; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Secretary of the Interior, the director of the National Park Service, the chairmen of the Senate and House Committees on the Interior, and the North Dakota Congressional Delegation.

Filed March 28, 1979

HOUSE CONCURRENT RESOLUTION NO. 3096
(Representatives Strinden, Kuchera)
(Senator Goodman)
(Approved by Committee on Delayed Bills)

WORLD JUNIOR CURLING CHAMPIONSHIP RINK CONGRATULATED

A concurrent resolution congratulating the Barcome rink of Grand Forks on winning the World Junior Curling Championship.

WHEREAS, the Barcome rink made its second appearance in the World Junior Curling Championships at Moose Jaw, Saskatchewan; and

WHEREAS, the Barcome rink earlier won the United States curling title; and

WHEREAS, the Barcome rink reached the final round in the 10-nation tourney by compiling a 7-2 record in round robin competition leading to the finals; and

WHEREAS, the Barcome rink clinched the world championship with a 6-4 victory over Scotland in the title game at the Moose Jaw Civic Center;

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly extends its heartiest congratulations to the Barcome rink of Grand Forks, whose members are Don Barcome, Jr., Randy Darling, Bobbie Stalker, and Earl Barcome, and their coach Dr. Don Barcome, for winning the World Junior Curling Championships for the United States for the first time; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the members of the Barcome rink and their coach and to the mayor of the city of Grand Forks.

Filed March 28, 1979

HOUSE MEMORIAL RESOLUTIONS

HOUSE MEMORIAL RESOLUTION NO. A
(Committee on House Memorial Resolutions)
(Lipsiea, Hanson, Houmann)

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:

VERNON C. ANDERSON, who served in the Thirty-first through the Thirty-eighth Legislative Assemblies, from the twelfth district, died February 7, 1979.

EARL BASSINGTHWAITE, who served in the Forty-third Legislative Assembly, from the tenth district, died July 23, 1977.

JOSEPH D. BYRNE, who served in the Twenty-fifth and Twenty-sixth Legislative Assemblies, from the twenty-seventh district, died September 7, 1977.

C. D. DICKERSON, who served in the Twenty-first Legislative Assembly, from the forty-third district, died February 11, 1979.

HAAKON M. EKREN, who served in the Twenty-eighth through the Thirty-second Legislative Assemblies, from the twenty-third district, died June 21, 1977.

SIMEON GREINER, who served in the Twenty-ninth and Thirtieth Legislative Assemblies, from the nineteenth district, died August 4, 1978.

ORVILLE N. HAGEN, who served in the Thirty-seventh Legislative Assembly, from the third district, died May 18, 1977.

DON HALCROW, who served in the Thirty-fifth through the Thirty-eighth Legislative Assemblies, from the first district; and in the Fortieth through the Forty-second Legislative Assemblies, from the eleventh district, died December 7, 1977.

C. M. (Cordie) HELFERICH, who served in the Thirty-second Legislative Assembly, from the thirtieth district, died February 19, 1979.

KARL KLEPPE, who served in the Thirtieth through the Thirty-third Legislative Assemblies, from the twenty-sixth district, died February 12, 1977.

FRANK E. KLOSTER, who served in the Thirty-fourth Legislative Assembly, from the sixteenth district, died February 15, 1977.

HARVEY B. KNUDSON, who served in the Twenty-fifth Legislative Assembly, from the eighth district, died June 29, 1978.

CLIFFORD L. LINDBERG, who served in the Thirty-second through the Thirty-eighth Legislative Assemblies, from the twenty-third district, died January 30, 1979.

BYRON METCALF, who served in the Thirtieth Legislative Assembly, from the fifteenth district, died May 10, 1978.

JOSEPH N. MOLLET, who served in the Twenty-sixth through the Thirty-fourth Legislative Assemblies, from the forty-fourth district, died December 14, 1978.

KARSTEN (Kelly) O. NYGAARD, who served in the Thirty-seventh and Thirty-eighth Legislative Assemblies, from the thirteenth district, died January 10, 1979.

OSCAR OBERG, who served in the Seventeenth through the Twenty-first Legislative Assemblies, from the forty-sixth district, died March 8, 1979.

MATTHEW M. SCHMIDT, who served in the Twenty-ninth through the Thirty-sixth Legislative Assemblies, from the thirtieth district, died August 14, 1977.

IVER SOLBERG, who served in the Twenty-fifth and Twenty-sixth Legislative Assemblies, from the forty-fifth district; and the Fortieth and Forty-first Legislative Assemblies, from the second district, died December 30, 1978.

CARL G. TOLLEFSON, who served in the Thirty-fourth through the Thirty-sixth Legislative Assemblies, from the eighteenth district, died January 20, 1979.

HAROLD ZIEGLER, who served in the Thirty-fourth Legislative Assembly, from the forty-sixth district, died May 23, 1978.

WHEREAS, today, we, as members of the House of Representatives of the Forty-sixth Legislative Assembly of the State of North Dakota, pause to mourn the passing of our former colleagues, and to honor their memories; and

WHEREAS, these 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-SIXTH LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these, our former colleagues; 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 19, 1979

JOINT RESOLUTIONS

JOINT RESOLUTION NO. 1
(Representative Strinden)
(Senator Nething)

SENATOR YOUNG RECOGNIZED AND WELCOMED

A joint resolution welcoming the Honorable Milton R. Young to the Joint Session of the Forty-sixth Legislative Assembly, and recognizing his significant achievements.

WHEREAS, the Honorable Milton R. Young, United States Senator from the State of North Dakota, began his legislative career as a member of the North Dakota House of Representatives, representing District 24 during the Twenty-third Legislative Assembly (1933); and

WHEREAS, Senator Young then commenced, during the next biennium, a distinguished career in the North Dakota Senate, serving in that body from the Twenty-fourth Legislative Assembly (1935) through the Twenty-ninth Legislative Assembly (1945); and

WHEREAS, Senator Young has since that time made a biennial visit to each succeeding Legislative Assembly, this being his seventeenth appearance before the North Dakota Legislative Assembly; and

WHEREAS, Senator Young in his time as a state legislator and a national legislator has rendered outstanding service to the United States of America and the State of North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE FORTY-SIXTH LEGISLATIVE ASSEMBLY MEETING IN JOINT SESSION:

That the Forty-sixth Legislative Assembly is proud to welcome the Honorable Milton R. Young, United States Senator from North Dakota, to this Joint Session of the Forty-sixth Legislative Assembly held on Friday, January 26, 1979, and to commend and congratulate Senator Young on his most distinguished legislative career in service to North Dakota and the nation; and

BE IT FURTHER RESOLVED, that an enrolled copy of this resolution be presented to Senator Young.

Filed January 30, 1979

SENATE RESOLUTIONS

SENATE RESOLUTION NO. 1
(Nothing)

SENATORIAL ELECTION CONTEST

A resolution relating to the election contest in the Twenty-seventh Legislative District.

WHEREAS, Kenneth Morgan of Walcott in Richland County, Twenty-seventh Legislative District, has filed with the Secretary of State a contest challenging and contesting the election of James Dotzenrod of Wyndmere in the Twenty-seventh Legislative District; and

WHEREAS, such Notice of Contest has been served upon James Dotzenrod and other appropriate parties; and

WHEREAS, James Dotzenrod should have until December 11, 1978, to answer said notice; and

WHEREAS, such Notice of Contest has been brought to the attention of the Senate and a committee should be appointed to investigate the contested election; and

WHEREAS, the charges contained in said Notice of Contest should also be investigated by the Senate;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That a committee of six be appointed which 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;
8. To institute the necessary proceedings to make available to the committee election records, ballots, and other related material; and
9. To report to the Senate its recommendations for resolution of the contest by January 4, 1979.

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 the legislative appropriation, 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 April 12, 1979

SENATE RESOLUTION NO. 2
(Committee on Delayed Bills)

(At the request of Senators Solberg, Lips, Miller Heinrich, Naaden)

BISMARCK DEMONETTES DRILL TEAM CONGRATULATED

A resolution congratulating the Demonettes, the Bismarck High School girls' drill team, and their adviser Mrs. Linda Chesrown, on taking first place in the military precision competition in the Drill Team World-National Pageant, Santa Monica, California.

WHEREAS, the Demonettes performed their routines in front of 10,000 people at the Los Angeles Sports Arena; and

WHEREAS, the Demonettes competed against 27 schools in the small school division of the pageant; and

WHEREAS, the team that placed second had been the champion in military precision in California for the past 13 years; and

WHEREAS, the Demonettes placed first in their division in the military precision competition at the pageant;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA:

That the Senate of North Dakota's Forty-sixth Legislative Assembly extends sincere congratulations to the Demonettes for their accomplishment; and

BE IT FURTHER RESOLVED, that the Secretary of State forward a copy of this resolution to the Demonettes, in care of their adviser, Mrs. Linda Chesrown, at Bismarck High School.

Filed February 20, 1979

SENATE CONCURRENT RESOLUTIONS

SENATE CONCURRENT RESOLUTION NO. 4001
(Legislative Council)
(Interim Committee on Budget "B")

EXECUTIVE BRANCH REORGANIZATION STUDY

A concurrent resolution directing a Legislative Council study of the feasibility and benefits of reorganizing the executive branch of state government.

WHEREAS, there has not been an overall study of executive branch organization of North Dakota state government since the 1942 governmental survey commission study; and

WHEREAS, there have been changes in the economic and social conditions of the state which have affected the services and functions of state agencies and institutions; and

WHEREAS, government services, functions, and responsibilities have grown, resulting in additional independent agencies, boards, and commissions; and

WHEREAS, the state is receiving significantly increasing amounts of federal funds which affect the organizational structure of agencies and the services provided; and

WHEREAS, the organization of state government should encourage economical and efficient methods of providing services; and

WHEREAS, there may be similar programs offered by state agencies where services could be better coordinated;

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 and authorized to conduct a study of the feasibility and benefits of reorganizing the executive branch of state government. The Council shall evaluate the effectiveness of the present structure of the executive branch and review existing or potential deficiencies or excesses in state government services related to the present organizational structure. The Council shall review governmental structures in other states of similar size, and with similar economic and social characteristics as North Dakota to determine the results and

benefits of recent reorganization efforts in such states. The Council may invite officials from other states which have experienced government reorganization to present their views and observations. Also, the Council shall compare modern governmental management models to the present structure of North Dakota state government and review statutory changes necessary to organize the executive branch of North Dakota state government in accordance with such models and determine the benefits that would be achieved from such organizations. To assist in its study of modern governmental management models and techniques, the Council may procure the services of a management services firm having expertise in the area of government organizational structure. The Council shall extend an invitation to the governor and other elected and appointed officials in the executive branch of government to comment and make recommendations about desired organizational changes. In addition the Council shall consider citizen views of more efficient organization of the executive branch of state government and shall make arrangements for citizens knowledgeable in economics, business, management, law, and other occupations to be involved in the study; and

BE IT FURTHER RESOLVED, that all state agencies and institutions shall provide such aid and assistance as the Legislative Council may request in conducting this study; and

BE IT FURTHER RESOLVED, that the Legislative Council shall submit its report and recommendations, together with any legislation required to implement such recommendations to the Forty-seventh Legislative Assembly.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4005

(Legislative Council)

(At the request of the Garrison Diversion Overview Committee)

**GARRISON DIVERSION LEGISLATIVE OVERVIEW
COMMITTEE**

A concurrent resolution to recreate a special Garrison Diversion Legislative Overview Committee to review matters concerning Garrison diversion through the upcoming interim and the next legislative session and to represent legislative interests in the Garrison Diversion Project.

WHEREAS, the Garrison Diversion Project will continue to be of great importance to North Dakota; and

WHEREAS, there will continue to be a great deal of activity concerning the Garrison Diversion Project during the next interim; and

WHEREAS, there will be a need for North Dakota legislators to meet with legislators and other officials from neighboring states and Canada; and

WHEREAS, legislative contact with various federal officials will continue to be necessary during the upcoming interim;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the special Garrison Diversion Legislative Overview Committee be immediately recreated to consist of the floor leaders and their assistants from the House and Senate of the Forty-sixth Legislative Assembly; that the committee meet at the call of the Legislative Council Chairman and elect a chairman, and that the committee be charged with the responsibility of legislative overview of the Garrison Diversion Project through April 30, 1981.

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the North Dakota Congressional Delegation, Secretary of Interior Cecil Andrus, Bureau of Reclamation Project Director Darrell Krull in Bismarck, Governor Arthur A. Link, State Water Commission, Garrison Diversion Conservancy District, and Attorney General Allen I. Olson.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4010
(Strinden, Naaden, Tallackson)

NONMANDATORY METRIC CONVERSION URGED

A concurrent resolution urging the United States Congress not to pass any legislation mandating conversion to the metric system in the United States.

WHEREAS, the Metric Conversion Act of 1975 makes it the policy of the United States to coordinate and plan the increasing use of the metric system in the United States; and

WHEREAS, the Act established a United States Metric Board to coordinate the voluntary conversion to the metric system, but gives the board no compulsory powers to enforce conversion to the metric system; and

WHEREAS, Congress has given the Metric Board the power to recommend legislation or executive action needed to implement the programs of conversion; and

WHEREAS, opposition has grown throughout the United States to the implementation of the metric system because it is believed the metric system is not needed;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the United States Congress not to pass any legislation mandating conversion to the metric system in the United States; 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 President of the United States Senate; the Speaker of the United States House of Representatives; the Chairman of the Senate Commerce, Science, and Transportation Committee; the Chairman of the House Science and Technology Committee; and each member of the North Dakota Congressional Delegation.

Filed March 21, 1979

SENATE CONCURRENT RESOLUTION NO. 4012
(Committee on Natural Resources)
(At the request of the Water Commission)

WATER POLLUTION CONTROL ACT STUDY

A concurrent resolution directing the Legislative Council to study and review possible implementation of Section 404 of the Federal Water Pollution Control Act by the State of North Dakota through its State Water Commission as provided in the Clean Water Act of 1977.

WHEREAS, Section 404 of the Federal Water Pollution Control Act Amendments of 1972 [Pub. L. 92-500] requires that a permit be secured from the Corps of Engineers prior to the discharge of any dredged or fill material into the navigable waters; and

WHEREAS, the Clean Water Act of 1977 [Pub. L. 95-217] provides that the governor of any state desiring to administer its own individual and general permit programs for the discharge of dredged or fill material into the navigable waters may submit a proposed state program to the Environmental Protection Agency; and

WHEREAS, if the administrator of the EPA determines that sufficient authority exists for the state to administer and enforce the proposed state Section 404 program, then the proposed state program shall be approved; and

WHEREAS, it is the express policy of the Legislative Assembly that state and local governments are more responsive to the needs of the people, and that wherever possible state and local governments should exercise jurisdiction which would otherwise be exercised by the federal government; and

WHEREAS, existing statutory authority may not be sufficient for the State of North Dakota through its State Water Commission to administer and enforce a Section 404 program;

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 and authorized to conduct an interim study on the development of a state program to

administer and enforce Section 404 of the Clean Water Act, through its State Water Commission; and

BE IT FURTHER RESOLVED, that the Legislative Council shall conduct the study with the cooperation and assistance of the State Water Commission, and the State Engineer; 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-seventh Legislative Assembly.

Filed March 9, 1979

SENATE CONCURRENT RESOLUTION NO. 4013
(Orange, Vosper)

RATIONAL NUCLEAR POLICY URGED

A concurrent resolution urging Congress to formulate a single, rational policy for regulating nuclear materials and development.

WHEREAS, presently many federal agencies regulate various aspects of nuclear materials and development; and

WHEREAS, these federal agencies often appear to be at odds with one another; and

WHEREAS, nuclear development and the mining, milling, storage, and transportation of nuclear materials in one state may materially affect the health and safety of residents of other states; and

WHEREAS, the absence of a unified federal nuclear policy has forced many states to adopt their own policies, which may be dissimilar; and

WHEREAS, a single, rational nuclear policy by the federal government may better protect the health and safety of United States citizens without unduly retarding nuclear development;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the United States Congress to formulate a single, rational policy for nuclear materials and development throughout the nation; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Secretary of the Department of Interior, the chairmen of the House Committees on Interior and Insular Affairs and Science and Technology, the Chairman of the Senate Committee on Energy and Natural Resources, and the North Dakota Congressional Delegation.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4014
(Senators Nething, Hoffner)
(Representative Strinden)

GARRISON DIVERSION PROCESSION URGED

A concurrent resolution urging the Secretary of Interior to proceed with the design, planning and construction of the Garrison Diversion Project.

WHEREAS, the Garrison Diversion Unit was authorized by an Act of Congress in 1944, reauthorized in 1965, as a multipurpose project which includes irrigation for 250,000 acres and water for municipal and industrial use, recreation, fish and wildlife, lake restoration, stream improvement; and

WHEREAS, the official position of the State of North Dakota and the Garrison Diversion Conservancy District is that the Garrison Diversion Unit as authorized in 1965 should proceed with reasonable safeguards for the protection of health and property of all citizens; and

WHEREAS, Congress has supported the construction of the Garrison Diversion Unit with appropriations since 1968 including appropriations for Fiscal Year 1978 which included committee language which specifically states the project should proceed as authorized; and

WHEREAS, action by Congress has specifically directed the Secretary of Interior to spend the \$18.6 million funds appropriated for design and construction of those portions not affecting Canada; and

WHEREAS, the International Joint Commission calls only for a delay in the construction of that portion of the authorized project affecting Canada and gives recommendations for conditions under which that portion can proceed; and

WHEREAS, the Garrison Diversion Conservancy District has recommended to the Bureau of Reclamation that they proceed with the design, planning, and construction of the Lonetree Reservoir and Dams, New Rockford Canal, James River Feeder Canal, James River Modification, Oakes Pumping Plant, and the development of at least 5,000 acres of irrigation in the West Oakes Area; and

WHEREAS, the Garrison Diversion Conservancy District has recommended that a research and monitoring program be developed in the West Oakes Area to:

1. Monitor return flows and make verification of predictions as recommended by the International Joint Commission; and
2. Receive data which can be interpolated to irrigation areas in the Canadian system; and
3. Permit field testing of biota transfer, including the testing of the closed system concept; and
4. Permit a program of monitoring of the effects of irrigation systems on wetland and wildlife resources to adequately determine mitigation; and
5. Develop and implement a program of best management practices for irrigating agricultural lands in 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-sixth Legislative Assembly supports the authorized Garrison Diversion Unit and the position of the State of North Dakota and the Garrison Diversion Conservancy District, and asks the Secretary of Interior to proceed with design, planning, and construction of those portions not affecting Canada as outlined by the Garrison Diversion Conservancy District; 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, Secretary of Interior Cecil Andrus, Commissioner of Reclamation Keith Higginson, Bureau of Reclamation Project Director Darrel Krull, North Dakota Governor Arthur A. Link, North Dakota State Water Commission, Garrison Diversion Conservancy District, and North Dakota Attorney General Allen I. Olson.

Filed February 28, 1979

SENATE CONCURRENT RESOLUTION NO. 4015
(Naaden)

CONSTITUTIONAL AMENDMENT ON RIGHT TO LIFE REQUESTED

A concurrent resolution requesting the Congress of the United States to propose an amendment to the Constitution of the United States for ratification by the states to provide protection of the right to life of all human beings.

WHEREAS, the great preponderance of medical and scientific evidence clearly establishes that from the moment of conception a unique human being is formed in the womb with its own genetic life qualities distinctive from its host; and

WHEREAS, from the moment of its conception an unborn human being is a person entitled to constitutional safeguards, including equal protection of the laws; and

WHEREAS, the national public interest and general welfare requires that justice be provided to ensure the rights of life itself by preventing deprivation of life to unborn human beings through death by abortion; and

WHEREAS, immediate action should be taken by the Congress of the United States to stop the present deprivation of the constitutional and civil rights of an unborn human being from the moment of its conception;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly of the State of North Dakota hereby requests the Congress of the United States to propose an amendment to the Constitution of the United States for ratification by the states providing that neither the United States or any state shall deprive any human being, from the moment of fertilization, of the right to life without due process of law, nor shall the United States nor any state deny any human being, from the moment of fertilization, the equal protection of the laws; and

BE IT FURTHER RESOLVED, that the Secretary of State be directed to transmit copies of this resolution to the North Dakota Congressional Delegation, the Secretary of the Senate of the United States, Clerk of the House of Representatives of the United States, and the President of the United States.

Filed April 3, 1979

SENATE CONCURRENT RESOLUTION NO. 4016
(Jones)

MISSOURI RIVER BARGE TRAFFIC STUDY

A concurrent resolution directing the Legislative Council to study and review the possibility of barge traffic on the Missouri River above Sioux City, Iowa, with emphasis on alternative means and economic and logistical effects of such navigation, and routes to be taken by extension of the Missouri River Navigation Project from its present head at Sioux City, Iowa.

WHEREAS, the deterioration of other means of transportation in North Dakota requires inquiry into alternative means of transportation; and

WHEREAS, the efficiency of barge traffic has been sufficiently demonstrated on the Missouri River and other navigable rivers; and

WHEREAS, the State of South Dakota desires to secure both North Dakota and Montana coal for power plant and other use and has expressed an interest in participation in a Missouri River Navigation Project; and

WHEREAS, previous studies on the extension of the Missouri River Navigation Project concentrated on navigation by means of locks at the main stem dams;

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 and authorized to conduct an interim study on navigation of the Missouri River above Sioux City, Iowa, utilizing barge traffic, with special emphasis on alternative means and economic and logistical effects of such navigation, and routes to be taken by extension of the Missouri River Navigation Project from its present head at Sioux City; and

BE IT FURTHER RESOLVED, that the Legislative Council may conduct the study with the cooperation and assistance of South Dakota or any other state, any state agency, political subdivision, or any federal agency, and any individual or business entity

concerned with or having an interest in navigation of the Missouri River above Sioux City; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, together with any legislation required to carry out its recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4017
(Lashkowitz)

NORTH DAKOTA POETS LAUREATE DESIGNATED

A concurrent resolution designating Henry R. Martinson of Fargo and Lydia O. Jackson of Grafton as Poets Laureate of North Dakota.

WHEREAS, 96-year-old Henry R. Martinson of Fargo is a respected and long-time citizen of North Dakota whose mastery with the pen has inspired, moved, and eased the pain of many by bringing life into a more pleasant perspective; and

WHEREAS, Mr. Martinson's inspired verse has been acknowledged nationally and has resulted in a published book of poems entitled "Old Trails and New"; and

WHEREAS, Henry R. Martinson formerly served as editor of the "Iconoclast" which featured his poetry and that of Lydia O. Jackson as well as poetry by other poets of national fame; and

WHEREAS, Mr. Martinson is also highly respected for his achievements as a North Dakota pioneer homesteader, farmer, worker, public official, historian, and actor having recently been featured in the motion picture "Northern Lights"; and

WHEREAS, Lydia O. Jackson was born in North Dakota and is a highly respected lifelong resident of this state; and

WHEREAS, Mrs. Jackson is the author of several books of poems including: "Rhymes for Every Season", 1943; "Selected Poems", 1962; and "Pardon My Gaff", 1965; and

WHEREAS, Lydia O. Jackson has also compiled a book of poems entitled "Peace Garden of Verses", 1967, and has written many poems which have particular significance and meaning for the State of North Dakota, including "Sakakawea in Bronze"; and

WHEREAS, Mrs. Jackson has received the honor and distinction of having her work acclaimed by her poet contemporaries, as evidenced by the inclusion of a biographical sketch of her life in the International Who's Who In Poetry on several occasions, and her

designation as Poet Laureate by the American Poets Fellowship Society; and

WHEREAS, it is fitting that Henry R. Martinson and Lydia O. Jackson, who were designated as Associate Poets Laureate of North Dakota in 1975, be elevated to the designation of Poet Laureate, a designation held by the late Corbin A. Waldron of Minot from 1957 until his recent death;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That Henry R. Martinson of Fargo and Lydia O. Jackson of Grafton be designated as Poets Laureate of the State of North Dakota until a successor or successors shall be named by the Legislative Assembly; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to Mr. Henry R. Martinson and Mrs. Lydia O. Jackson.

Filed January 18, 1979

SENATE CONCURRENT RESOLUTION NO. 4018
(Senators Lee, Iszler)
(Representatives Freborg, Lang, Schindler)

ALLOCATION OF IN LIEU TAX PAYMENTS URGED

A concurrent resolution urging Congress to amend Public Law 94-565 to provide that in lieu of tax payments be allocated among all local units of government in proportion to the tax loss suffered by the various local units, or to authorize the states to provide for the allocation of the in lieu of tax payments.

WHEREAS, Congress has authorized and directed the Secretary of the Interior to provide federal payments to units of local government within the boundaries of which federal lands lie by Public Law 94-565, the "Payments in Lieu of Taxes Act"; and

WHEREAS, the purpose of such payments is to recognize the burden imposed by the tax immunity of federal lands (Senate Report No. 94-1262); and

WHEREAS, the Department of the Interior, through the Bureau of Land Management, has determined that counties in North Dakota are the units of government eligible to receive payments; and

WHEREAS, school districts and other local units of government have also been burdened by the tax immunity of federal lands, yet are not assured of receiving any portion of the in lieu of tax payment;

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 respectfully urged to amend Public Law 94-565 to provide that in lieu of tax payments be allocated among all local units of government proportionately with the tax loss suffered by the various local units by reason of the tax immunity of federal lands, or, in the alternative, to provide that each state be authorized to allocate the payments among the affected local units of government in a fair and equitable manner; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Committee on Interior and Insular Affairs of both the United States House of Representatives and the United States Senate, to the Secretary of the Interior, and to the North Dakota Congressional Delegation.

Filed March 15, 1979

SENATE CONCURRENT RESOLUTION NO. 4019
(Iszler, Lips, Schirado)

CORRECTIONAL FACILITY NEEDS STUDY

A concurrent resolution directing a Legislative Council study of the North Dakota state penitentiary, state farm, and the "sunny farm" in Mandan as integral parts of a total corrections master plan for the state.

WHEREAS, the inmate population at the state penitentiary and state farm is increasing toward capacity; and

WHEREAS, much of the penitentiary and state farm facilities are very old and require expensive upkeep or remodeling; and

WHEREAS, commercial, residential, mineral mining and highway development is encroaching on all sides of the penitentiary, state farm, and "sunny farm", affecting their dairy and cattle operations; and

WHEREAS, the penitentiary and its properties are in the path of expansion by the cities of Bismarck and Mandan, increasing the value of their land to the extent that its use for farming is economically questionable; and

WHEREAS, such urbanization tends to reduce prison security; and

WHEREAS, it is desirable to begin planning for the future of the North Dakota state penitentiary and its auxiliary facilities and properties to determine if, and if so, when and where the prison should be relocated and how it can be accomplished if needed in a timely and economic fashion; and

WHEREAS, other states have successfully utilized local correctional facilities not only to relieve the strain on the state penitentiary but also as community correction alternatives; and

WHEREAS, the state is in need of sentencing alternatives at the local and state level; and

WHEREAS, all correction facility needs are best reviewed within the scope of a total rather than fragmented study;

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 comprehensive study and evaluation of adult correctional facility needs throughout the state and to develop a comprehensive state corrections master plan which includes a long range approach to meeting those needs; and

BE IT FURTHER RESOLVED, that within the scope of this study the Legislative Council is directed to conduct a comprehensive study and evaluation of the location of the properties and facilities of the North Dakota state penitentiary to ascertain the economic and program impact they have on its future operations and to determine if there is a need to relocate the penitentiary and, if so, how and when it should be accomplished; and

BE IT FURTHER RESOLVED, that the Director of Institutions and such other state agencies and institutions as the Legislative Council may select shall provide such aid and assistance as the Council may request in conducting the study. The Legislative Council shall also appoint citizen members to serve upon the committee; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, together with any legislation necessary to implement such recommendations, to the Forty-seventh Legislative Assembly.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4020
(Hanson)

RARE EARTH CONFERENCE PARTICIPANTS GREETED

A concurrent resolution of greetings to the participants of the 14th International Rare Earth Conference to be held at North Dakota State University, Fargo, North Dakota, on June 25-28, 1979.

WHEREAS, the Rare Earth Research Conference represents the most prestigious forum in the world for specialists in the field of rare earth science and technology to gather and present their current findings; and

WHEREAS, the Rare Earth Research Conference brings together scientists from university, industrial, and government laboratories and features invited, as well as contributed, papers in physics, chemistry, material sciences, earth sciences, and biological sciences; and

WHEREAS, rare earth science and technology has played a significant role in changing the quality of life. Color television tubes, dye pigments, and rare earth radioactive tracers used in diagnostic medicine represent some of the benefits that rare earth science and technology have contributed to our way of life. Rare earth alloyed into steel and other structural metals provided material strength and flexibility that aided America's astronauts in reaching the moon; and

WHEREAS, the Conference Planning and Program Committees have selected conference sites of natural beauty for intellectual stimulation away from population centers so as to provide a relaxed, informal setting for mutual exchange of ideas;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly sends greetings to all the conference participants and their families and welcomes them to the "Peace Garden" State of North Dakota.

Filed January 23, 1979

SENATE CONCURRENT RESOLUTION NO. 4021
(Senators Nething, Hoffner)
(Representatives Strinden, Backes)

COAL TRAIN IMPACT TAX EXEMPTION URGED

A concurrent resolution urging Congress to exempt North Dakota lignite from provisions of any federal coal severance tax enacted for the purpose of alleviating impacts created by increased coal train traffic.

WHEREAS, it was recently announced by the Department of Transportation that legislation may be introduced in the Congress of the United States to impose a federal severance tax on coal mined; and

WHEREAS, the stated purpose of such legislation is to create a fund to be utilized to alleviate impacts of increased coal train traffic; and

WHEREAS, North Dakota lignite accounts for only three unit coal trains per week on the Burlington Northern Railroad, and seven of such trains per week on the Milwaukee Railroad, such trains traveling to Fergus Falls, Minnesota and Big Stone, South Dakota, respectively; and

WHEREAS, unit coal trains carrying North Dakota lignite thereby make no significant contribution to overall impacts created by the movement of coal across railroads in this region and the nation; and

WHEREAS, economics and physical characteristics dictate that North Dakota lignite must be utilized at or near the place where it is mined; and

WHEREAS, it is not expected or predicted that expanded development of North Dakota lignite will result in any increase in the shipment by rail of said lignite; and

WHEREAS, impacts created by increased coal train traffic are indeed created by coal mined in states other than North Dakota; and

WHEREAS, electrical generating plants in North Dakota are now supplying, and will continue to supply, electricity to several

states in this region, with the vast majority of the lignite utilized by these plants being mined at or near the plant site, thereby eliminating the need to ship lignite on railroads;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the United States Congress to exclude North Dakota lignite from any legislation which may create a federal severance tax for the purpose of offsetting impacts created by increased coal train traffic; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Secretary of the Department of Energy, the Secretary of the Department of Transportation, the chairman of the Joint Committee on Taxation, the chairmen of the Senate Committees on Energy and Natural Resources; Environment and Public Works; Energy and Natural Resources; Commerce, Science and Transportation; and the House Committees on Public Works and Transportation; Interstate and Foreign Commerce; and Ways and Means, and each member of the North Dakota Congressional Delegation.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4022
(Senators Goodman, Melland)
(Representatives Winkjer, Kloubec)

FEDERAL SURFACE MINING REGULATION DELAY URGED

A concurrent resolution urging the President of the United States and the Congress to grant the state of North Dakota a two-year delay in complying with the regulations being promulgated by the Department of the Interior pursuant to the Surface Mining Reclamation and Control Act of 1977.

BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA,
THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the state of North Dakota recognizes the value of adequate surface mining and abandoned mine reclamation and fully respects the long-range goals of the Surface Mining Reclamation and Control Act of 1977; and

That the state of North Dakota recognizes that compliance with the federal regulations is necessary in order to receive federal moneys to aid the state in control of its own reclamation programs; and

That the President of the United States and the Congress are urged to grant the state of North Dakota a two-year delay in complying with the regulations being promulgated by the Department of the Interior pursuant to the Surface Mining Control and Reclamation Act of 1977 and hold those moneys which would accrue to the state upon compliance with the proposed federal regulations until the state has completed a two-year study of the federal requirements because:

1. The North Dakota Legislative Assembly, since it only meets biennially, is unable to take advantage of the six-month extension granted by the Department of the Interior and is being asked to be the first state to consider and respond to the proposed federal regulations although the regulations will not be finalized and published until after February 16, 1979, when all North Dakota bills must be reported out of their house of origin.

2. The Legislative Assembly requires adequate time to accept the excessive costs to the state necessitated by compliance with the proposed federal regulations.
3. North Dakota's present reclamation laws are acknowledged to be among the best in the nation and compliance with the proposed federal regulations is not as imperative as it may be in states with less stringent reclamation programs.
4. North Dakota can readily adapt its present reclamation laws to comply with the intent of the federal Act, while compliance with the proposed federal regulations, when finalized, will be much more difficult.
5. The proposed regulations will add billions of dollars to coal acquisition costs at a time when increased coal use is being promoted for both environmental and economic reasons.
6. The federal government has not reached a consensus on the issues associated with surface mining reclamation, as evidenced by the facts that:
 - a. The regulations proposed by the Department of the Interior are being contested by both White House economists and Department of Energy officials.
 - b. Other federal agencies, notably the President's Council of Economic Advisors, are seeking to participate in the rulemaking process and are not being allowed to do so.
 - c. The President's Council on Wage and Price Stability termed the proposed regulations "more stringent" than the federal reclamation law itself requires.
 - d. The Department of the Interior has declined to inform other federal and state agencies of the current status of the proposed regulations.

Therefore, we urge the President and the Congress to grant the state of North Dakota a two-year delay, and respond to this resolution prior to March 8, 1979, when all North Dakota bills must be reported out of committee in the second house.

Furthermore, we urge each member of the North Dakota Congressional Delegation to request a response from the President and to offer his advice and consultation in formulating a response.

Further, we urge that copies of this Resolution be mailed to the Governor of each coal producing State in the Nation.

Filed February 8, 1979

SENATE CONCURRENT RESOLUTION NO. 4023
(Senators Jacobson, Roen)
(Representatives Murphy, Thompson, Wald)

LITTLE MISSOURI NATIONAL GRASSLANDS MANAGEMENT

A concurrent resolution urging the Secretary of Agriculture to delete the Twin Buttes area from any legislation to increase the National Wilderness System, and to manage the area and all other areas of the Little Missouri National Grasslands for multiple uses pursuant to the Badlands and Rolling Prairies management plans.

WHEREAS, the Little Missouri National Grasslands constitute federal lands acquired for the specific purposes of establishing conservation programs, fostering multiple use management, providing local economic stability, restoring depleted lands to productivity, and serving as a demonstration area for grasslands management pursuant to Title III of the Bankhead-Jones Farm Tenant Act; and

WHEREAS, the existing Badlands and Rolling Prairies management plans were developed as multiple use management programs for the Little Missouri National Grasslands with substantial public involvement and public support; and

WHEREAS, the RARE II Environmental Impact Statement was developed in a hasty manner with no public hearings in North Dakota; and

WHEREAS, North Dakota citizens overwhelmingly oppose any wilderness designations in the Little Missouri National Grasslands; and

WHEREAS, all commenting state agencies and local units of government in North Dakota have opposed wilderness designations in the Little Missouri National Grasslands; and

WHEREAS, continued multiple use management pursuant to the Badlands and Rolling Prairies management plans is in the best interests of North Dakota; and

WHEREAS, the Honorable Bob Bergland, Secretary of Agriculture, has proposed the Twin Buttes area of the Little Missouri National Grasslands as a wilderness area; and

WHEREAS, the Twin Buttes area contains nearly 12,000 acres and includes within its boundaries over 2,500 acres of state land and 300 acres of private land and over 3,500 acres of privately owned mineral rights; and

WHEREAS, a wilderness designation unduly inhibits private land and mineral owners from the peaceful enjoyment of their property while providing no justifiable environmental safeguards not already specified in existing management plans and environmental protection laws; and

WHEREAS, part of the Twin Buttes area is currently governed by the provisions of an allotment management plan which specifies a multiple use management program that has been approved by the United States and surface permittees; and

WHEREAS, the state-owned land within the Twin Buttes area constitutes grant land from the United States government pursuant to the Enabling Act which contains a congressional mandate that such lands be held in trust and managed in such a manner as will provide a sustained income to the beneficiaries of the trust; and

WHEREAS, North Dakota has accepted a land grant from the United States for public highways by declaring all section lines to be open to all usual and customary modes of travel and has not relinquished same in the Twin Buttes area; and

WHEREAS, while the world energy and food shortage is being mitigated by production in the Little Missouri National Grasslands, a wilderness designation for the Twin Buttes would eliminate mineral development except directional drilling for oil and gas, and would decrease grazing an estimated 30 percent in the Twin Buttes area due to the inability to properly maintain range improvements and eradicate noxious weeds, and would otherwise hinder or eliminate all active management techniques in favor of passive techniques; and

WHEREAS, the Theodore Roosevelt National Park contains wilderness areas that adequately represent the Badlands and Rolling Prairies ecosystems;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly opposes the inclusion of the Twin Buttes area in the National Wilderness System; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly supports multiple use management of all of the Little Missouri National Grasslands pursuant to the existing Badlands and Rolling Prairies management plans; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly hereby requests Secretary of Agriculture Bergland to delete

the Twin Buttes area from any legislation to increase the National Wilderness System, and to manage said area and all other areas of the Little Missouri National Grasslands for multiple uses pursuant to the Badlands and Rolling Prairies management plans; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly requests the Secretary of State to forward copies of this resolution to President Jimmy Carter, Secretary of Agriculture Bob Bergland, the North Dakota Congressional Delegation, Mr. John McGuire, Chief of the United States Forest Service, and Governor Arthur A. Link.

Filed February 16, 1979

SENATE CONCURRENT RESOLUTION NO. 4024
(Senators Lips, Melland)

FIRE PREVENTION WEEK DESIGNATION URGED

A concurrent resolution urging Governor Arthur A. Link to designate the week of October 7-13, 1979, as Fire Prevention Week, and October 7, 1979, as Firefighters' Memorial Sunday.

WHEREAS, Congress has designated the week of October 7-13, 1979, as Fire Prevention Week and October 7, 1979, as Firefighters' Memorial Sunday; and

WHEREAS, Congress has authorized the President to designate the month of October of each year as National Fire Prevention Month; and

WHEREAS, appropriate education and the implementation of safety procedures and inspections can aid in the prevention of the unnecessary loss of lives and property as the result of fires; and

WHEREAS, courageous firefighters have protected the lives and dreams of their neighbors from the ravages of fire since the earliest history 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-sixth Legislative Assembly urges Governor Arthur A. Link to designate the week of October 7-13, 1979, as Fire Prevention Week, and October 7, 1979, as Firefighters' Memorial Sunday; and

BE IT FURTHER RESOLVED, that the attorney general, through his appointee the state fire marshal, may coordinate observation of Fire Prevention Week and Firefighters' Memorial Sunday through such activities and educational programs as may be appropriate.

Filed January 29, 1979

SENATE CONCURRENT RESOLUTION NO. 4025
(Wright, Goodman)

RAILROAD ASSESSMENT ALTERNATIVES STUDY

A concurrent resolution directing the Legislative Council to study the alternative methods available for the assessment of railroad operating property by the State Board of Equalization.

WHEREAS, section 179 of the North Dakota Constitution and chapter 57-05 of the North Dakota Century Code require that the operating property of railroads, including franchises, shall be annually assessed by the State Board of Equalization; and

WHEREAS, on February 5, 1976 the President signed into law the Railroad Revitalization and Regulatory Reform Act [Public Law 94-210], with an effective date of February 5, 1979; and

WHEREAS, section 306 of Public Law 94-210 declares the following acts by a state or its political subdivisions constitute an undue burden on interstate commerce:

1. The assessment of railroad property at a value which bears a higher ratio to the true market value of such railroad property than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property;
2. The levy or collection of any tax which is unlawful pursuant to number 1;
3. The levy or collection of any ad valorem railroad property tax at a rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction; and
4. The imposition of any other tax which results in the discriminatory treatment of a railroad; and

WHEREAS, the district courts of the United States shall have jurisdiction in cases brought to determine whether a state or its

political subdivisions have violated section 306 of Public Law 94-210; and

WHEREAS, the severe federal limitation of a state's power to tax railroad property has created a need for legislative review of the alternative methods of assessing railroad property in North Dakota;

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 to study the alternative methods available for the assessment of railroad operating property by the State Board of Equalization; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, along with any legislation required to carry out its recommendations to the Forty-seventh Legislative Assembly.

Filed March 14, 1979

SENATE CONCURRENT RESOLUTION NO. 4026
(Jones)

STATE EMPLOYMENT INFORMATION URGED

A concurrent resolution urging state agencies, departments, boards, and commissions to furnish the Employment Security Bureau with information relating to employment opportunities.

WHEREAS, information regarding employment opportunities with state agencies, departments, boards, and commissions is presently disseminated in a number of ways and with varied results; and

WHEREAS, qualified persons throughout the state often do not have knowledge of employment opportunities with state agencies, departments, boards, and commissions; and

WHEREAS, statewide dissemination of this employment information will surely increase the number of applicants for employment positions with the state; and

WHEREAS, a greater number of applicants for positions with the government may well increase the efficiency and effectiveness of state government; and

WHEREAS, information regarding employment opportunities with state government could be disseminated at no additional cost by the Employment Security Bureau through its Job Service offices;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That each state agency, department, board, and commission is urged to furnish the Employment Security Bureau with information regarding employment opportunities with that agency, department, board, or commission; and

BE IT FURTHER RESOLVED, that each agency, department, board, and commission attempt to maximize the benefits of such dissemination through modification, if necessary, of its employment policies.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4029
(Committee on Transportation)

MILWAUKEE ROAD LINES WEST MAINTENANCE URGED

A concurrent resolution urging the Congress of the United States and the trustee in bankruptcy of the Milwaukee Road railroad to maintain Lines West as a viable and operating railroad line.

WHEREAS, the Milwaukee Road is presently in bankruptcy proceedings; and

WHEREAS, it appears to be the intent of the trustee in bankruptcy of the Milwaukee Road to abandon Lines West (those portions of the Milwaukee Road west of Minneapolis and St. Paul, Minnesota); and

WHEREAS, the abandonment of Lines West would have some or all of the following results:

1. The loss of railroad service to coal-fired electric generating stations;
2. The loss of railroad service to grain, livestock, and other agricultural shippers; or
3. The loss of a competitive railroad to compete with other railroads and other types of shippers in the area.

WHEREAS, the aforementioned results will, in turn, mean the following:

1. Business will be placed in a noncompetitive position creating a negative growth atmosphere;
2. Some businesses will fall victim to bankruptcy;
3. Employment levels will decline; and
4. Economic stagnation of the area will be the final result.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That:

1. Lines West be maintained as a viable operating railroad entity;
2. The trustee in bankruptcy of the Milwaukee Road is urged to maintain Lines West so that lack of maintenance will not force abandonment and destroy Lines West as a viable portion of the Milwaukee Road; and
3. The Congress of the United States and the Secretary of Agriculture are urged and requested to take whatever remedial steps are necessary, with all possible speed, to prevent loss of Lines West to the state of North Dakota and other great plains states.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of Agriculture, the Secretary of the Department of Transportation, the North Dakota Congressional Delegation, the trustee in bankruptcy of the Milwaukee Road railroad, and the legislative assemblies of Montana, South Dakota, Idaho, and Washington; and

BE IT FURTHER RESOLVED, that the trustee in bankruptcy of the Milwaukee Road is urged to give notification of the bankruptcy hearings to the North Dakota Legislative Assembly through the North Dakota Legislative Council so that the appropriate committee chairmen of the North Dakota Legislative Assembly can attend the bankruptcy hearings.

Filed March 27, 1979

SENATE CONCURRENT RESOLUTION NO. 4030
(Senator Nething)
(Representative Strinden)

**STRIKING EMPLOYEE ASSISTANCE
DISCONTINUANCE URGED**

A concurrent resolution urging Congress to discontinue government assistance to striking employees.

WHEREAS, although employees have the right to strike, and will never lose that right under the Constitution of the United States, striking employees should not be subsidized by government assistance programs; and

WHEREAS, striking employees may critically interfere with the public's right to electricity, employment, and education, as evidenced by the recent three-month coal strike; and

WHEREAS, it is unfair that the public must subsidize striking employees;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Assembly of the State of North Dakota urges the Congress of the United States to act expeditiously to amend the eligibility standards of the Food Stamp Act of 1964 [Pub. L. 88-525, 78 Stat. 703, 7 U.S.C. 2011 et seq.], as amended, so that striking employees not be allowed to receive government assistance.

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the North Dakota Congressional Delegation.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4032
(Senator Nething)
(Representative Strinden)

AFDC EARNED INCOME EXEMPTION AMENDMENT URGED

A concurrent resolution urging the Congress of the United States to review and amend the federal statute relating to the earned income exemption in the aid to families with dependent children program.

WHEREAS, the state of North Dakota has consistently demonstrated its concern for the health, well-being, and dignity of its citizens by maintaining a reasonable public assistance level of payment standard compatible with the national average; and

WHEREAS, the state of North Dakota has consistently encouraged employment as a viable alternative to public assistance resulting in a proportion of welfare recipients to its total population that is among the lowest in the nation; and

WHEREAS, the state of North Dakota has consistently maintained one of the lowest error rates in the administration of the aid to families with dependent children program, the medical assistance program, and the food stamp program; and

WHEREAS, the ever-escalating costs of the aid to families with dependent children program have imposed a severe financial hardship on the state; and

WHEREAS, the federally mandated thirty and one-third earned income exemption has:

1. Been difficult to administer because payroll deductions and other employment-related costs must each be dealt with individually, leading to many budgeting errors; and
2. Had a dramatically different impact among states due to their wide range of payment levels, with states which recognize a reasonable standard of need finding it extremely difficult to close cases because of earnings; and

3. Created a class of employed public assistance recipients whose assistance grant, partially exempt earnings, and related program benefits exceed the income of many independently functioning families in the community; and
4. Unnecessarily increased the costs of the aid to families with dependent children program; and
5. Eroded the public's confidence in the program;

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 review and amend its statute relating to the earned income exemption in a manner as to:

1. Simplify its administration by adoption of an "off the top" exemption of earnings which would incorporate all employment expenses with the exception of child care; and
2. Provide states with latitude to select, from within a range established in federal law, earnings to be exempt, thereby permitting a more reasonable integration with a state's level of assistance; and
3. Either mandate the level of payment as well as earning exemptions, or grant the states the option of determining the earning exemptions as well as the level of payment, as the two are interrelated.

BE IT FURTHER RESOLVED, that the Congress is respectfully requested to notify the North Dakota Legislative Council and the Executive Director of the Social Service Board of North Dakota when hearings are to be held on legislation, if any, introduced in response to this resolution; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Secretary of the United States Department of Health, Education, and Welfare, the President of the Senate, the Speaker of the House of Representatives, and to the North Dakota Congressional Delegation.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4033
(Senators Melland, Lee)
(Representatives Winkjer, Scofield)

CONSTITUTIONAL AMENDMENT PROHIBITING ESTATE TAX REQUESTED

A concurrent resolution to request appropriate action by the Congress, either acting by consent of two-thirds of both houses or, upon the application of the legislatures of two-thirds of the several states, calling a constitutional convention to propose an amendment to the Federal Constitution to prohibit federal estate taxes.

WHEREAS, under Article V of the Constitution of the United States, amendments to the Federal Constitution may be proposed by the Congress whenever two-thirds of both houses deem it necessary, or on the application of the legislatures of two-thirds of the several states the Congress shall call a constitutional convention for the purpose of proposing amendments which shall be valid to all intents and purposes when ratified by three-fourths 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-sixth Legislative Assembly of North Dakota proposes to the Congress of the United States that procedures be instituted in the Congress to propose and submit to the several states an amendment to the Constitution of the United States to prohibit Congress from passing any laws taxing death or property, real or personal, transferred upon death by action of law, devise, or bequest; and

BE IT FURTHER RESOLVED, that, alternatively, this body respectfully petitions the Congress of the United States to call a convention for the specific and exclusive purpose of proposing an amendment to the Constitution of the United States to prohibit Congress from passing any laws taxing death or property, real or personal, transferred upon death by action of law, devise, or bequest; and

BE IT FURTHER RESOLVED, that this application by this body constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of

the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical in subject matter to that contained in this concurrent resolution, then this petition for a constitutional convention shall no longer be of any force or effect; and

BE IT FURTHER RESOLVED, that this application and request be deemed null and void, rescinded, and of no effect in the event that such convention not be limited to such specific and exclusive purpose; and

BE IT FURTHER RESOLVED, that this body also proposes that the legislatures of each of the several states comprising the United States apply to the Congress requesting the enactment of an appropriate amendment to the Federal Constitution; or requiring the Congress to call a constitutional convention for proposing such an amendment to the Federal Constitution; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Secretary of State and presiding officers of both houses of the legislatures of each of the several states in the union, the Speaker and the Clerk of the United States House of Representatives, the President and the Secretary of the United States Senate, and to the North Dakota Congressional Delegation.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4034
(Senators Sorum, Farrington, Wright)
(Representatives Peltier, Houmann, Schindler)

BLACKBIRD EMERGENCY REQUEST URGED

A concurrent resolution urging the governor to request an emergency condition designation for North Dakota from the Environmental Protection Agency to control or eliminate blackbird depredation of sunflowers and other crops.

WHEREAS, sunflowers have become an increasingly important cash crop in North Dakota; and

WHEREAS, depredation of sunflowers, garden produce, corn, millet, oats, barley, and wheat by blackbirds has become an increasingly serious problem; and

WHEREAS, present methods of controlling blackbird depredations have proved ineffective; and

WHEREAS, the future growth of sunflowers as a cash crop in North Dakota may depend on discovering an effective means of controlling or eliminating blackbird depredations; and

WHEREAS, it appears that use of pesticides currently prohibited by the Federal Pesticide Control Act of 1972 [Pub. L. 92-517] may afford relief from blackbird depredations; and

WHEREAS, it appears that the North Dakota Game and Fish Department is the proper agency to oversee pesticide application while minimizing environmental harm; and

WHEREAS, the administrator of the Environmental Protection Agency has authority under section 18 of the federal Act to exempt state agencies from the provisions of the Act;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Governor is urged to request the administrator of the Environmental Protection Agency to declare that emergency conditions exist relative to blackbird depredation of sunflowers, garden produce, corn, oats, barley, and wheat and exempt the North Dakota

Game and Fish Department from the provisions of the Federal Pesticide Control Act of 1972; and

BE IT FURTHER RESOLVED, that the Game and Fish Department is urged to consult with the Environmental Protection Agency in devising a method to control depredations while minimizing environmental harm.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4035
(Melland)ADMINISTRATIVE AGENCIES PRACTICE
ACT STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the Administrative Agencies Practice Act.

WHEREAS, the North Dakota Administrative Agencies Practice Act was originally enacted in 1941 to standardize rulemaking powers of state administrative agencies; and

WHEREAS, the Administrative Agencies Practice Act is basically a two-pronged approach to administrative agency practice in that the Act provides for rulemaking procedures to be followed and for methods of appealing administrative agency decisions; and

WHEREAS, many agencies which were in existence prior to 1941 or which have been created after 1941 have statutory authority to promulgate rules under procedures other than those provided by the Administrative Agencies Practice Act; and

WHEREAS, the 1977 Legislative Assembly provided for the publication of the North Dakota Administrative Code, under the assumption that all state agencies follow the standardized procedures for rulemaking as contained in the Administrative Agencies Practice Act; and

WHEREAS, there appear to be at least 91 state agencies which could be considered administrative agencies with rules affecting persons outside the agency involved; and

WHEREAS, of these 91 agencies, 23 are not subject to the Administrative Agencies Practice Act and are not required to follow the procedures of that Act in promulgating rules and regulations; and

WHEREAS, many state agencies may be subject to the Administrative Agencies Practice Act with respect to some parts of their rulemaking authority but not with respect to other subject matter administered by the agencies; and

WHEREAS, there is a striking lack of uniformity in state laws concerning rulemaking authority of state agencies, notice, timeliness, public hearings, and publication of the rules; and

WHEREAS, many agencies do not come under the Administrative Agencies Practice Act because their decisions are not subject to review by courts and therefore they are not technically "administrative agencies" under the Act;

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 to conduct a study of the Administrative Agencies Practice Act, North Dakota Century Code Chapter 28-32, which shall include consideration of the agencies subject to the Act, the agencies not subject to the Act, the various rulemaking procedures under current law, any public hearing requirements, the procedures and practices prior to and after such hearings, the appeals available, the desirability and feasibility of standardizing administrative rulemaking authority, and the extent administrative agency rules should be published in the North Dakota Administrative Code; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4036
(Melland)

STATE LAND USE POLICIES STUDY

A concurrent resolution directing the Legislative Council to study land use policies for state-owned land and uniformity of transfer requirements for state-owned land.

WHEREAS, it is in the best interest of the citizens of North Dakota to put state-owned lands and facilities to the most economic and appropriate use; and

WHEREAS, certain tracts of state-owned land may have the potential for higher public or private uses than their current use; and

WHEREAS, state-owned lands are presently sold, transferred, exchanged, or otherwise conveyed on an individual basis by various procedures outlined in the North Dakota Century Code or in the enactments authorizing the conveyances; and

WHEREAS, the processes for transferring state-owned lands have included public auction on the courthouse steps, written bids, private sale at appraised price, and private sale for specific amounts; and

WHEREAS, these various processes for conveying state-owned land indicate a lack of uniformity for ensuring the transfer of such lands in the best interest of the citizens of the entire state;

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 to conduct a study to examine the setting of priorities for the use of state-owned land, to determine whether state-owned land should be sold by negotiation or by bid, and to determine the feasibility or desirability of establishing uniformity in the various methods and processes of transferring state-owned land; and

BE IT FURTHER RESOLVED, that the institutions or departments utilizing or managing land in the execution of their mission report current and projected use of land tracts under their direction; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4038
(Iszler, Smykowski, Strinden)

HOMEMAKER'S CONTRIBUTION RECOGNITION URGED

A concurrent resolution urging Congress to recognize the contribution of a spouse as homemaker for estate tax and social security purposes.

WHEREAS, after a marriage has tragically ended due to the death of one spouse, all property of the marriage is included in the gross estate of the decedent for federal estate tax purposes; and

WHEREAS, federal law provides that jointly held property is included in the gross estate of the first tenant to die, except that portion the survivor shows was "attributable to the amount of the consideration in money or money's worth furnished by" the survivor; and

WHEREAS, this burden of showing contribution is clearly on the survivor and a spouse's service as a homemaker is not considered to be "consideration in money or money's worth"; and

WHEREAS, the only exception to this requirement is the "fractional interest rule" whereby property acquired by gift or inheritance during the marriage is included in the decedent's estate to the extent of the share received by the decedent; and

WHEREAS, failure by Congress to recognize the invaluable contribution of a wife's service as a homemaker to the success of her husband, by requiring the contribution to be expressed in monetary terms, lowers the marital relationship to the level of a formalistic contract relationship; and

WHEREAS, a spouse who contributes to the marriage by service as a homemaker also receives no recognition for social security purposes; and

WHEREAS, a homemaker not covered by social security receives no disability benefits prior to age 50; and

WHEREAS, the children of a deceased homemaker not covered by social security receive no survivor's benefits;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the United States Congress to amend federal estate tax and social security provisions in a manner to recognize the contribution of a wife's services as homemaker with respect to the ownership of joint tenancy property and eligibility for social security coverage; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Chairman of the United States Senate Committee on Finance and the Chairmen of that committee's Subcommittees on Taxation and Debt Management Generally and Social Security; the Chairman of the United States House of Representatives Committee on Ways and Means and the Chairmen of that committee's Subcommittees on Miscellaneous Revenue Measures and Social Security; and to each member of the North Dakota Congressional Delegation.

Filed March 14, 1979

SENATE CONCURRENT RESOLUTION NO. 4039
(Senator Nething)
(Representative Strinden)

COMPUTERIZED FIREARMS REGISTRATION OPPOSED

A concurrent resolution opposing the Bureau of Alcohol, Tobacco, and Firearms' back door approach to a computerized firearms registration system.

WHEREAS, the Bureau of Alcohol, Tobacco, and Firearms published its plans for a computerized firearms registration system in the Federal Register; and

WHEREAS, the bureau asked for public comment on these "new firearms regulations"; and

WHEREAS, the Bureau of Alcohol, Tobacco, and Firearms has published its plans with no congressional authority, thus constituting a back door approach to a control which Congress has always opposed; and

WHEREAS, Congress has rejected federal gun control registration for the past decade; and

WHEREAS, if this federal agency is permitted to initiate its program without complaint, all hunters, target shooters, and arms bearing private citizens will be subject to gun confiscation; and

WHEREAS, the Bureau of Alcohol, Tobacco, and Firearms will be able to determine the identity of every dealer-purchased firearm in 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 Forty-sixth Legislative Assembly is highly opposed to the back door tactics of the Bureau of Alcohol, Tobacco, and Firearms in publishing its plans for a computerized firearms registration system and urges the North Dakota Congressional Delegation to strongly protest the bureau's dictatorial process of gun registration; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to each member of the North Dakota Congressional Delegation.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4040
(Lashkowitz)

REAL PROPERTY TAXATION STUDY

A concurrent resolution directing the Legislative Council to study the taxation of real property with emphasis upon the role of the state board of equalization.

WHEREAS, there is a continuing need for increased revenues to support the political subdivisions of this state; and

WHEREAS, disparities in assessment levels have developed between different classes of property; and

WHEREAS, some property taxed on an ad valorem basis in this state is assessed by local assessors and other property is assessed by the state board of equalization; and

WHEREAS, different methods of valuing various kinds of property for ad valorem tax purposes have been applied by local assessors and the state board of equalization; and

WHEREAS, the state board of equalization has not moved to remedy these disparities; and

WHEREAS, the taxpayers of this state desire a more equitable distribution of the tax burden;

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 the taxation of real property in this state with emphasis upon the role to be played by the state board of equalization; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 14, 1979

SENATE CONCURRENT RESOLUTION NO. 4045
(Jones)

BIOMASS RESIDUE STUDY

A concurrent resolution directing the Legislative Council to study the potential for agricultural crop residue or waste known as biomass residue, as an energy source, with emphasis on the economic feasibility, the cost of production, evaluation of the technology, and the possibility of state and federal grants and tax incentives and relief, to further the development of agricultural crop residue powered systems.

WHEREAS, the world's supply of commonly used energy sources is finite; and

WHEREAS, the world's population is increasing, new products are being developed, energy demands are increasing, the major portion of the world's petroleum supply is owned by foreign nations, and a continuous supply of petroleum is by no means assured; and

WHEREAS, the world's supply of petroleum is being wasted on low priority uses; and

WHEREAS, although biomass residue utilization probably cannot provide sufficient energy to equal current or future predicted demands, it can reduce the dependence on nonrenewable sources, thereby helping to prevent curtailment of industrial development and energy consumption; and

WHEREAS, alternative sources of energy from agricultural products are now being used and the techniques are being perfected; and

WHEREAS, research efforts are now being conducted in this state and other states to investigate alternative energy sources and to improve existing technologies for alternative energy sources; and

WHEREAS, although technologies now exist to provide for further dependence on renewable energy sources, the technology needs to be improved and evaluated, and the availability of potential conversion processes needs further exploration;

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 and authorized to conduct an interim study of the economic feasibility, the state of the technology, the cost of production, and the potential hazards of existing and potential sources of agricultural crop residue powered systems for biomass utilization, including utilization of chaff, straw, cornstocks, flax pellets, and other agricultural products; and

BE IT FURTHER RESOLVED, that the Legislative Council study of biomass residue utilization include investigation of state and federal grants for energy development, tax incentives and tax relief for alternative source energy development, and other methods for promotion of biomass residue utilization as an alternative energy source; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly; and

BE IT FURTHER RESOLVED, that the State Library of North Dakota serve as an informational center for biomass residue and other scientific and technological data information from our state and other regional sources.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4046
(Senators Barth, Sands, Shablow)
(Representatives Solberg, Hove, Mertens)

DISASTER EMERGENCY SYSTEM STUDY

A concurrent resolution directing the Legislative Council to conduct an interim study to examine the effectiveness of the state's disaster mitigation, preparedness, response, and recovery programs and to determine the feasibility of future legislation to better enable the state and its political subdivisions to meet all types of disasters and emergencies.

WHEREAS, it is recognized that the state's disaster emergency programs have functioned efficiently and effectively in meeting the challenges wrought by destructive acts of God and man; and

WHEREAS, rising costs and program requirements have affected the ability of state and local governments to handle an effective response and recovery effort in case of a disaster or emergency; and

WHEREAS, there may be a need for organizational changes within state and local governments to deal with pre- and post- disaster and emergency situations; and

WHEREAS, it may be necessary to establish building codes, stricter flood plain management, etc., to protect the public against natural and man-made disasters;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council conduct an interim study to examine the organizational base and effectiveness of the state's disaster emergency programs, including, but not limited to, an examination of the need for strengthening the ability of state and local governments to mitigate, prepare for, respond to, and recover from all types of disaster and/or emergency situations; providing a full-time coordinator of disaster emergency preparedness, response, and recovery in each county or group of counties; strengthening the ability of state and local governments to fund their response and recovery efforts; granting authority to local officials to act in situations immediately preceding or following a disaster or emergency; and examining the feasibility for legislative action to establish building and/or construction codes, zoning, flood plain management, etc., to ensure our citizens quality of life and protect our environment and economic base.

Filed March 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4047
(Senators Hoffner, Nething, Reiten)
(Representatives Backes, Strinden)

PRESS PRAISED AND EDITORS DAY DECLARED

A concurrent resolution offering a panegyric pronouncement on the press; declaring Thursday, February 15, 1979, as North Dakota Editors Day at the Forty-sixth Legislative Assembly; and welcoming Mr. Walter Ridder, a distinguished journalist and former national columnist, to North Dakota.

WHEREAS, despite the fact that as legislators we have all at times felt like Oscar Wilde who once said, "In the old days men had the rack. Now they have the press.", we nevertheless subscribe to the words of George Mason in the Virginia Bill of Rights: "The freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic governments."; and

WHEREAS, such paeans of praise are appropriate for members of North Dakota's distinguished Fourth Estate, the editors and reporters of the state's daily, semiweekly and weekly newspapers, who are dedicated to informing North Dakotans and thus serve a vital function in the democratic processes; and

WHEREAS, the North Dakota Legislative Assembly receives thorough and complete coverage by the news media which enables it to better fulfill its governmental duties for the citizens of North Dakota, and for which it is much appreciative; and

WHEREAS, the North Dakota Newspaper Association and the North Dakota chapter of the Society of Professional Journalists - Sigma Delta Chi are cosponsoring the biennial Editors Day at the Legislature February 15, 1979; and

WHEREAS, the Editors Day banquet, to which all members of the Forty-sixth Legislative Assembly will be invited by the press from their respective districts, will feature as a speaker Mr. Walter Ridder, a veteran Washington correspondent for the Knight-Ridder News Service and for many years a national columnist of note;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly commends and congratulates North Dakota's sempiternally vigilant press through this encomium for its continuing service to all North Dakotans, and declares Thursday, February 15, 1979, as Editors Day at the Forty-sixth Legislative Assembly; and

BE IT FURTHER RESOLVED, that the Forty-sixth Legislative Assembly extends a sincere and hardy North Dakota welcome to Mr. Walter Ridder, and hopes that his stay in the state is pleasant and enjoyable; and

BE IT FURTHER RESOLVED, that each legislator make every effort to attend the Editors Day banquet at the invitation of the press or be prepared to put up with two years of having their names misspelled; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to Mr. Walter Ridder, to Dr. Vernon Keel and Professor Al Austin at the University of North Dakota Journalism Department, and to Mr. Gene Carr of the North Dakota Newspaper Association.

Filed February 5, 1979

SENATE CONCURRENT RESOLUTION NO. 4048
(Committee on Delayed Bills)
(At the request of Senator Hanson)

SORROW EXPRESSED AT DEAN HAZEN'S DEATH

A concurrent resolution expressing sorrow on the death of Arlon G. Hazen, former Dean of the College of Agriculture at North Dakota State University.

WHEREAS, Arlon G. Hazen was Dean of the College of Agriculture at North Dakota State University for 22 years and was recently named Dean Emeritus of the College of Agriculture; and

WHEREAS, Arlon G. Hazen, as Dean of the College of Agriculture, was Director of the Agricultural Experiment Station at Fargo and the seven branch experiment stations around the state; and

WHEREAS, Arlon G. Hazen was named Acting President of North Dakota State University from June 1961 until January 1962; and

WHEREAS, Arlon G. Hazen recently resigned his post at North Dakota State University to become Regional Director of the North Central Association of Agricultural Experiment Stations, one of four regional directors in the United States; and

WHEREAS, Arlon G. Hazen dedicated his career to acquiring and diffusing among the people of this state useful and practical information on subjects connected with agriculture, and to promoting scientific investigations and experiments representing the principles and practices of agricultural science; and

WHEREAS, Arlon G. Hazen worked for 32 years as part of the land-grant system to combine research, extension services, and on-campus education, with the ingenuity of the farmer, to make a truly significant contribution to the success of our American society;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the members of the Forty-sixth Legislative Assembly officially express their sorrow at Arlon G. Hazen's death and convey their condolences to his family; and

BE IT FURTHER RESOLVED, that duly enrolled copies of this resolution be forwarded by the Secretary of State to members of Arlon G. Hazen's family.

Filed February 7, 1979

SENATE CONCURRENT RESOLUTION NO. 4049
(Hanson, Fritzell, Lips, Reiten, Schirado)

RESIDENTIAL DEVELOPMENT AND CITY INCORPORATION STUDY

A concurrent resolution directing a Legislative Council study of residential developments in rural areas near cities and the incorporation of cities.

WHEREAS, there has been a proliferation of residential developments in rural areas near cities in North Dakota in recent years; and

WHEREAS, the concentration of people outside of established cities creates problems in providing adequate police and fire protection, water and sewer systems, and other services; and

WHEREAS, several of these rural developments have been incorporated as cities in recent years; and

WHEREAS, under current laws established cities near these developments have no input into decisions to incorporate but are materially affected by the decisions; and

WHEREAS, newly incorporated cities encroach upon the zoning powers of existing cities, frequently do not fit into the master plans or growth patterns of existing cities, and have the potential of encircling established cities and stifling future growth and orderly planning; and

WHEREAS, there is a need to coordinate services and planning of various taxing districts, including cities, townships, school districts, and counties;

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 to conduct a study of the problems of residential developments in rural areas near established cities and the incorporation of cities, with emphasis on the effects of such developments and newly created cities on established cities and the need for planning and coordination related to police and fire protection, water and sewer systems, city

planning and zoning, schools, libraries, and other services, as well as the effects on the tax structures of all affected political subdivisions; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 15, 1979

SENATE CONCURRENT RESOLUTION NO. 4050
(Melland)**SPECIAL FUNDS AND CASH ACCOUNTS STUDY**

A concurrent resolution directing a Legislative Council study of the use of special funds and cash accounts maintained in the state treasury and of the state's accounting system.

WHEREAS, there are many special funds and cash accounts maintained in the state treasury, some of which may be available for such uses as the Legislative Assembly may designate; and

WHEREAS, in a period of declining state revenues it may be necessary to use the proceeds of these accounts to supplement general fund revenues; and

WHEREAS, significant changes are necessary to the state's current accounting system to provide useful and reliable information which is in conformity with generally accepted accounting principles; and

WHEREAS, the state's accounting system should provide for a complete accounting for total state financial resources;

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 to conduct a study of the cash accounts and special funds maintained in the state treasury to determine if such funds are necessary, whether they are making a maximum contribution to the state, and whether a portion or all of such funds can be deposited in the general fund of the state treasury; and

BE IT FURTHER RESOLVED, that the Legislative Council conduct a study of the state's accounting system to determine the changes necessary to provide for an accounting system that is in conformity with generally accepted accounting principles and provides for a comprehensive financial information system; and

BE IT FURTHER RESOLVED, that the Department of Accounts and Purchases and such other state agencies and institutions as the

Council may select shall provide such aid and assistance as the Council may request in conducting the study; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4052
(Dotzenrod)

NONPUBLIC SCHOOL AID STUDY

A concurrent resolution directing a Legislative Council study of state aid to nonpublic schools.

WHEREAS, nonpublic elementary and secondary schools have served to educate a substantial number of North Dakota citizens; and

WHEREAS, 10,150 students are now being educated in nonpublic elementary and secondary schools in North Dakota; 7,259 students in nonpublic elementary and 2,891 students in nonpublic secondary schools; and

WHEREAS, nonpublic elementary and secondary schools are, therefore, saving North Dakota taxpayers \$13,849,008.39 per year in operational expenses alone; and

WHEREAS, payments made to public school districts from the state tuition fund are based upon the number of students attending both public and nonpublic schools within the district and such payments were \$47.46 per student per year through May 1978; and

WHEREAS, the nonpublic schools of this state afford freedom of choice to the citizens of North Dakota; and

WHEREAS, Justice Powell of the United States Supreme Court has said:

"Parochial schools, quite apart from their sectarian purpose, have provided an educational alternative for millions of young Americans; they often afford wholesome competition with our public schools; and in some states they relieve substantially the tax burden incident to the operation of public schools. The state has, moreover, a legitimate interest in facilitating education of the highest quality for all children within its boundaries, whatever school their parents have chosen for them."

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council be directed to conduct a study on the feasibility and constitutionality of providing state aid for North Dakota students attending nonpublic elementary and secondary schools in the state; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4053
(Senator Sandness)
(Representative Eagles)

POOR RELIEF RESIDENCY LAWS STUDY

A concurrent resolution requesting the Legislative Council to study the laws relating to residence for poor relief purposes, North Dakota Century Code chapters 50-01 and 50-02, and to determine the adequacy of the provisions of these chapters.

WHEREAS, chapters 50-01 and 50-02 of the North Dakota Century Code set forth the law relating to residency for poor relief purposes in North Dakota, many provisions of which were derived from the Dakota Territorial Code of 1877 and are now obsolete; and

WHEREAS, the United States Supreme Court has consistently struck down statutes which impose durational residency requirements as a condition for the receipt of public aid, holding such statutes violative of the Equal Protection Clause and therefore unconstitutional; and

WHEREAS, the many conflicting and contradictory provisions of chapter 50-02 give rise to otherwise avoidable litigation and strained interpretations of law; and

WHEREAS, the archaic residency statutes within chapter 50-02 result in costly and time consuming paper shuffling between county agencies and undue delay in the provision of vitally needed assistance to indigent persons and families; and

WHEREAS, there exists otherwise avoidable doubt and uncertainty in identifying responsibility for the county payment of general and public assistance among the fifty-three counties;

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 to make a comprehensive study of chapters 50-01 and 50-02 of the North Dakota Century Code relating to residence for poor relief purposes, such study to explore the adequacy and legal sufficiency of these chapters, and to examine the basis upon which the counties'

responsibility for the payment of general and public assistance is allocated among the several counties; and

BE IT FURTHER RESOLVED, that the Legislative Council make its recommendations and report thereon to the Forty-seventh Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4055
(Solberg)**MOTOR VEHICLE REGISTRATION STUDY**

A concurrent resolution directing the Legislative Council to study and review motor vehicle registration and title registration.

WHEREAS, Chapter 39-04 of the North Dakota Century Code, the motor vehicle registration chapter, is in need of substantial change in regard to application for registration; refusing, rescinding, or suspending registration; issuance of special plates; exemptions from registration; transfer of registration and number plates; display of number plates and tabs; credits for registration of destroyed vehicles; issuance of registration cards; and related matters concerning the administration of registration cards and number plates by the Motor Vehicle Department; and

WHEREAS, Chapter 39-05, the title registration chapter, is in need of substantial change in regard to definition of specific terms, application for certificate of title, exclusion from application for certificate of title, issuance of certificate of title, specialized certificates of title, and related matters concerning the administration of certificates of title by the motor vehicle department;

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 and authorized to conduct an interim study on motor vehicle registration and title registration in the state. The study shall give special emphasis to the process of applying for and receiving registration for motor vehicles, number plates, and tabs, including exemptions from registration; specialized registration; refusing registration; rescinding and suspending registration; penalties for altering or forging registration; display and contents of number plates and tabs; transfer of registration and number plates; credits for registration of destroyed vehicles; and related matters concerning the administration of registration cards and number plates by the Motor Vehicle Department. The study shall also give special emphasis to the process of applying for and receiving a certificate of title, including exclusions from the necessity of certificate of

title; the need for specialized certificates of title; the involvement and requirements of those holding security interests in motor vehicles; contents, delivery, and terms of certificates of title; and related matters concerning the administration of certificates of title by the Motor Vehicle Department; and

BE IT FURTHER RESOLVED, that the Legislative Council shall conduct the study with the cooperation and assistance of any state agency, political subdivision, or federal agency and any individual or business entity concerned with or having an interest in motor vehicle registration and title registration; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4056
(Committee on Delayed Bills)
(At the request of Senator Nething)

YMCA MODEL LEGISLATURE PROGRAM SUPPORTED

A concurrent resolution expressing the support of the Forty-sixth Legislative Assembly and urging cooperation for the Young Men's Christian Association model legislature program.

WHEREAS, the first YMCA State Youth and Government Program was initiated in New York in 1936, and since that time 44 states have developed similar programs; and

WHEREAS, the purpose of the YMCA's model legislature program is to enhance development of the American democratic system by enabling young people to prepare for moral and political leadership through training in the theory and practice of determining public policy; and

WHEREAS, having such a program operational in a state can become a major vehicle to help young people to really know about and become interested in government and the citizen's role in it; and

WHEREAS, among the goals for youth involvement in such a program are the development of confidence in and dedication to the democratic process, the gaining of communications skills, the learning of accountability and respect for others' rights, and the application of moral and ethical valuation processes to public policymaking;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly express its support for the YMCA model state legislature to be held on Thursday through Sunday, April 26-29, 1979 at the State Capitol in Bismarck; and

BE IT FURTHER RESOLVED, that those members of the Senate and House who are requested to participate in the program make every effort to arrange their schedules to be able to do so, and that the staff of the Legislative Council and the Director of Institutions office render such reasonable assistance as may be necessary to make the program a success.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4057
(Committee on Delayed Bills)
(At the request of Senator Goodman)

CARRYOVER BASIS RULES SUSPENSION URGED

A concurrent resolution urging the United States Congress to permanently suspend the carryover basis rules enacted under the 1976 Tax Reform Act and to restore the stepped-up basis rules applicable to the basis of property acquired from a decedent dying after 1976 to apply the same basis rules which were applicable prior to the 1976 Tax Reform Act.

WHEREAS, inflation rates during recent years have caused and are continuing to cause tremendous increases in real estate valuations, which valuations are substantially higher than would be indicated by the return that can be obtained from agricultural lands in North Dakota and agricultural lands in other states; and

WHEREAS, Congress in enactment of the 1976 Tax Reform Act provided certain tax relief applicable to farmers and land owned by farmers used for agricultural purposes and restructured the estate and gift tax rates providing for an increase in the size of the estate exemption from federal estate tax; and

WHEREAS, the result of the change from fresh start basis to carryover basis will result in a substantial increase in income taxes to estates and beneficiaries resulting in combined income taxes and estate taxes which may in many instances exceed the combined estate tax, gift tax and income tax prior to the 1976 Tax Reform Act; and

WHEREAS, the proposed rules for implementation of the carryover basis appear to be extremely complicated and difficult to implement and appear to create extreme difficulties in both compliance by affected taxpayers and administration by the Internal Revenue Service; and

WHEREAS, Congress has recognized many of these problems as evidenced by the postponement of the effective date of the carryover basis rules for three years so that they will apply only to property acquired from a decedent dying after 1979; and

WHEREAS, the Forty-sixth Legislative Assembly is aware of the tax burdens imposed upon agricultural lands in the form of estate and inheritance taxes as well as income taxes on the distribution of agricultural lands, and this Legislative Assembly is giving consideration to legislation that would substantially eliminate the North Dakota estate tax;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly urges the United States Congress to amend federal estate tax and income tax provisions to permanently restore the stepped-up basis of property acquired from a decedent so that the pre-1976 Tax Reform Act rules will be applicable; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the Chairman of the United States Senate Committee on Finance and the chairmen of that committee's Subcommittees on Taxation and Debt Management Generally and Social Security; the Chairman of the United States House of Representatives Committee on Ways and Means and the chairmen of that committee's Subcommittees on Miscellaneous Revenue Measures and Social Security; to the North Dakota Congressional Delegation; the Chairmen of the Committees on Finance and Taxation or their equivalents in each legislative body in each of the other states; and to the Governors of each of the other states.

. Filed March 14, 1979

SENATE CONCURRENT RESOLUTION NO. 4058
(Committee on Delayed Bills)
(At the request of Senator Nething)

AMTRAK SERVICE CONTINUATION URGED

A concurrent resolution urging Congress to take appropriate steps to ensure continued AMTRAK service and to provide for a review of AMTRAK service schedules to make the schedules more compatible with the needs of a majority of passengers.

WHEREAS, AMTRAK, the corporation designated by Congress to provide a minimum basic national rail passenger service, has scheduled drastic reductions in service to an extent which will destroy the purposes for which the law was intended, all to the detriment of the nation as a whole and the traveling public;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That Congress is urged to take appropriate steps to ensure continued AMTRAK service on those routes in operation within the current basic system, and to authorize a review of AMTRAK service schedules so that the schedules may be made more compatible with the needs of a majority of the passengers using the service provided by those passenger trains operating within the basic system; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the president of AMTRAK, the Secretary of the United States Senate, the Chief Clerk of the United States House of Representatives, to each member of the North Dakota Congressional Delegation, the Secretary of the Department of Transportation, and to the North Dakota Public Service Commission.

Filed March 22, 1979

SENATE CONCURRENT RESOLUTION NO. 4059
(Lips)

STATE EMPLOYEES RETIREMENT STUDY

A concurrent resolution directing the Legislative Council to study state employees retirement.

WHEREAS, the Legislative Assembly recognizes a continuing responsibility to provide state employees with efficient, responsive retirement programs providing the greatest retirement benefits possible on an actuarially sound basis; and

WHEREAS, several aspects of state employees' retirement could properly be addressed through a comprehensive interim study;

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 to conduct a study of state employees retirement, particularly with respect to the possibility of:

1. Raising the Public Employees Retirement System benefit formula multiplier.
2. Removing the 30-year maximum service limitation under the Public Employees Retirement System.
3. Allowing employees to obtain a vested interest in their employer's contribution toward their retirement.
4. Reducing from ten years to five years the length of service necessary to qualify for disability benefits.
5. Crediting accumulated sick leave as additional years of service for retirement or as an adjustment in the benefit formula; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4060
(Sandness)

COMMUNITY PLACEMENT PROGRAM STUDY

A concurrent resolution directing a Legislative Council study of the community placement program at the Grafton State School.

WHEREAS, Section 25-04-13.1 of the North Dakota Century Code provides for the relinquishing of guardianship by parents or responsible relatives of residents at the Grafton State School, including its division located at the San Haven State Hospital, and further provides that after such relinquishing of guardianship by parents or responsible relatives the superintendent of the Grafton State School is statutorily given guardianship over such residents; and

WHEREAS, it is professionally and legally required to place residents of the Grafton State School into community programs; and

WHEREAS, federal and state regulations require, for certain Grafton State School residents, the appointment of surrogate parents and, as such parent cannot be an employee from the agency providing services, this requirement tends to cloud the role and purpose of guardianship; and

WHEREAS, public and private community agencies do not seem to have authority to provide the needed guardianship nor any other form of legal supervision which may be required for successful community placement of the residents of the Grafton State School and said community agencies are therefore reluctant to have the Grafton State School discharge these residents; and

WHEREAS, Section 25-14-08 of the North Dakota Century Code seems to require a discharge of a Grafton State School resident who is placed in a community program; and

WHEREAS, several governmental agencies are involved in community programs for Grafton State School residents which include social services, vocational rehabilitation, public instruction, health, and other state and local entities, such as law enforcement units, charitable endeavors, private organizations and facilities, parent groups and advocacy services, and with this array of private

and public functionaries it is difficult to determine the role and responsibility of each as it relates to guardianship and no one seems to be clearly designated to take the required legal authority over the resident on community placement; and

WHEREAS, the obscure roles of these community service providers as it relates to guardianship is a direct hindrance in the legally required expansion of this program of deinstitutionalization;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council be directed to conduct a study of the Grafton State School program relating to community placements and the role and responsibility of the private and public organizations providing services to Grafton State School residents on community placement and determine what provisions are needed in the area of guardianship; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4062
(Committee on Delayed Bills)
(At the request of Senator Nething)

NATIONAL SCIENCE FOUNDATION PROGRAM PARTICIPATION URGED

A concurrent resolution urging the State Board of Higher Education and the state educational institutions under its control and administration to participate in programs sponsored by the National Science Foundation.

WHEREAS, science and technology are of increasing import to North Dakota; and

WHEREAS, basic research is the foundation of scientific and technical competence in North Dakota; and

WHEREAS, it is necessary to periodically evaluate and assess the level and quality of scientific research within the state and its educational institutions; and

WHEREAS, the National Science Foundation supports scientific research and education projects in the mathematical, physical, environmental, biological, social, behavioral, and engineering sciences; and

WHEREAS, the purposes of the National Science Foundation are to increase the nation's base of scientific knowledge and strengthen its ability to conduct scientific research; encourage research in areas that can lead to improvements and economic growth, energy supply and use, productivity, and environmental quality; promote international cooperation through science; and develop and help implement science education programs that can better prepare the nation for meeting the challenges of the decades ahead; and

WHEREAS, in its role as a leading federal supporter of science, the National Science Foundation also has an important role in national science policy planning;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly of the State of North Dakota encourages and urges the State Board of Higher

Education and the state educational institutions under its control and administration to participate in National Science Foundation-sponsored programs so that the level of scientific research in the state may be evaluated and steps be proposed to increase the level and quality of scientific research in the state; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of State to the State Board of Higher Education and to the director of the National Science Foundation.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4063
(Senators Hoffner, Wright)
(Representatives Langley, Peltier, Vander Vorst)

FARMERS HOME ADMINISTRATION STUDY

A concurrent resolution directing a Legislative Council study of the local delivery of programs by the Farmers Home Administration.

WHEREAS, the Farmers Home Administration is the largest rural development agency in the United States Department of Agriculture; and

WHEREAS, the Farmers Home Administration delivers 34 rural oriented programs, including loans for low income farmers and assistance with community facilities, business and industry, water and sewer systems, and industrial development; and

WHEREAS, executive branch reorganization studies have recommended several options for reorganizing the Farmers Home Administration, including consolidation of community, housing, and economic development from several federal agencies into a new super department of community and economic development and consolidating economic development programs into a new economic development agency; and

WHEREAS, these options for creating new federal agencies have delivery points only at regional and state levels; and

WHEREAS, these options will consolidate Farmers Home Administration programs at the expense of the rural states and will result in 48 county offices being closed in North Dakota; and

WHEREAS, Farmers Home Administration services should be maintained and provided in a manner to encourage service at the state, substate, and county levels to preserve the local approach to rural problems addressed by the Farmers Home Administration; and

WHEREAS, nonmetropolitan areas need a single federal system for delivering core community development assistance that will provide funds directly, uniformly, and efficiently, and will take into consideration the conditions and priorities found in such areas; and

WHEREAS, the Farmers Home Administration delivery system is largely in place and has demonstrated its capacity over the years by handling an ever-increasing caseload without a parallel increase in permanent personnel numbers, with program administration being efficient, free of scandal, and relatively responsive and free of red tape;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council conduct a study to carefully review the options for government reorganization of the Farmers Home Administration to ensure the retention of a system whereby the programs delivered by the Farmers Home Administration would continue to be delivered on a local level in recognition of the unique problems of rural communities and areas; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4065
(Hoffner)

HIGHER EDUCATION COST INFORMATION SYSTEMS STUDY

A concurrent resolution directing the Legislative Council to study cost information systems at institutions of higher education.

WHEREAS, a number of institutions of higher education have conducted pilot projects relating to, or have implemented, cost information systems; and

WHEREAS, the institutions of higher education are installing a comprehensive accounting system to provide detailed information regarding the cost of educational programs; and

WHEREAS, information from this cost accounting system will be of assistance to the Legislative Assembly in evaluating the needs of higher education; and

WHEREAS, information generated from this system can assist the Legislative Assembly as it evaluates the budget formula and can provide a basis to improve it;

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 and authorized to conduct an interim study of the results of institutions of higher education pilot projects relating to detailed cost information systems; and

BE IT FURTHER RESOLVED, that the Legislative Council be provided information resulting from the use and application of such systems at the state colleges and universities; and

BE IT FURTHER RESOLVED, that the institutions of higher education and the board of higher education office provide such information and assistance as may be requested by the committee in its study of cost information systems; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 21, 1979

SENATE CONCURRENT RESOLUTION NO. 4067
(Jacobson)

RECLAMATION LAW ADEQUACY STUDY

A concurrent resolution directing the Legislative Council to conduct an interim study to consider the adequacy and sufficiency of the state's surface mining and reclamation laws to enable the state to secure an approved state regulatory program under the Surface Mining Control and Reclamation Act of 1977.

WHEREAS, Congress has passed and the President has signed the Surface Mining Control and Reclamation Act of 1977 [Pub. L. 95-87, 30 U.S.C. 1201, et seq.] which law became effective August 3, 1977; and

WHEREAS, the State of North Dakota has until August 3, 1979, to enact legislation which will place the state in compliance with the requirements of the federal Act and enable the state to continue state control of surface mining and reclamation on all lands within the state; and

WHEREAS, the Forty-sixth Legislative Assembly is considering a legislative package which is considered to be in compliance with the federal requirements, but because of the failure of the Department of Interior, through the Office of Surface Mining, to promulgate and publish final permanent program regulations, the legislature is unable to determine whether or not the legislative package is in fact adequate for all purposes under the federal laws and regulations; and

WHEREAS, if the state does not have an approved state program on or before June 3, 1980, the federal Act mandates the implementation of a federal program in the state which will preempt all state statutes which are not more stringent than the federal law; and

WHEREAS, the federal regulations now being considered would allow the Secretary of the Interior to conditionally approve a state program where the program is found to have minor deficiencies, provided:

1. The deficiencies are of such size and nature so as to render no part of a proposed state program incomplete;
2. The state has initiated and is actively proceeding with steps to correct the deficiencies;
3. The state agrees in writing to correct such deficiencies within a time established by the secretary and stated in the conditional approval; and
4. The conditionally approved state program shall be terminated if the deficiencies have not been corrected by the date set forth in the secretary's decision.

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 an interim study to determine the adequacy and sufficiency of the state's surface mining and reclamation laws to enable the state to secure an approved state regulatory program under the Surface Mining Control and Reclamation Act of 1977; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4068
(Senators Holmberg, Solberg, Strand)
(Representatives Strinden, Fleming, Kelly)

RECIPROCITY AGREEMENTS STUDY

A concurrent resolution directing a Legislative Council study of reciprocity agreements for students enrolled in out-of-state vocational and professional education programs.

WHEREAS, presently a large number of students are enrolled in postsecondary vocational education programs throughout the state; and

WHEREAS, the cost of postsecondary education programs, including vocational and professional education, is increasing; and

WHEREAS, contract agreements in higher education for professional education programs presently exist between the state of North Dakota and others; and

WHEREAS, the State of Minnesota has entered into reciprocal agreements with the State of Wisconsin for vocational education programs in area vocational technical institutes;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Legislative Council be directed to conduct a study regarding the feasibility of reciprocity arrangements for North Dakota students enrolled in postsecondary vocational education programs in states other than North Dakota and review the existing contract programs for veterinary medicine, optometry and dentistry; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 21, 1979

SENATE CONCURRENT RESOLUTION NO. 4069
(Sands)

GARNISHMENT REVISION STUDY

A concurrent resolution directing a Legislative Council study of the feasibility and benefits of revising chapter 32-09 of the North Dakota Century Code, dealing with garnishment.

WHEREAS, there have been significant mandates from federal courts and the United States Supreme Court regarding garnishment proceedings in recent years; and

WHEREAS, there has been no comprehensive study of North Dakota's garnishment laws to bring them into compliance with these federal mandates; and

WHEREAS, North Dakota's garnishment law has proven to be difficult to work with for creditors, debtors and employers; and

WHEREAS, any revision of the garnishment law would affect creditors, debtors, employers, attorneys, the judiciary, sheriffs and others; and

WHEREAS, North Dakota's garnishment law is a complex area of law requiring a background study and technical assistance for effective revision;

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 and authorized to conduct a study of the feasibility and benefits of revising or repealing chapter 32-09 of the North Dakota Century Code, dealing with garnishment; and

BE IT FURTHER RESOLVED, that the Legislative Council may seek the aid and assistance of public officials, interested citizens and such other persons as it may deem necessary to assist in its study; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make its report to the Forty-seventh Legislative Assembly, together with such legislation as may be necessary to carry out its recommendations.

Filed March 21, 1979

SENATE CONCURRENT RESOLUTION NO. 4071
(Nething, Hoffner)

LEGISLATIVE RULES STUDY

A concurrent resolution directing the Legislative Council to study legislative rules.

WHEREAS, the Legislative Assembly operates under rules established pursuant to the authority of Section 48 of the Constitution of the State of North Dakota; and

WHEREAS, through the years both the Senate and the House of Representatives have adopted many rules which differ from those adopted by the other house; and

WHEREAS, the rules of procedure are in need of a constant review and updating to permit the Legislative Assembly to perform its duties in the most efficient and effective 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 directed to study the legislative rules, including the Senate Rules, House Rules, and Joint Rules, with emphasis upon finding methods of improving the legislative process, including the deletion of obsolete provisions and the giving of special attention to those rules in the two houses which differ; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation or rules proposals, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4072
(Melland)

GENERAL FUND REVENUES AND EXPENDITURES STUDY

A concurrent resolution directing the Legislative Council to conduct a study of general fund revenues and expenditures during the next biennium.

WHEREAS, a continuing analysis and review of the general fund cash flow is necessary during a period of expected lower general fund balances; and

WHEREAS, significant changes have been made to state sales and income tax rates which have affected general fund revenue estimates; and

WHEREAS, the annual rate of inflation is expected to be at least seven percent during the next biennium; and

WHEREAS, energy costs at state institutions are increasing significantly; and

WHEREAS, the Budget Section of the Legislative Council should be informed of any major budgetary problems incurred by state agencies and institutions during the interim so that early action can be taken by the Forty-seventh Legislative Assembly in response to these problems;

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 review and analyze the state budget and expenditures by state agencies and institutions during the biennium beginning July 1, 1979, and ending June 30, 1981, with special emphasis being given to categories of expenditures subject to high inflationary rates, such as energy costs; to review and analyze the cash balance in the state general fund at various times during the biennium; and to analyze general fund revenue collections during the next biennium and estimates, from any source, of general fund revenues for the 1981-83 biennium; and

BE IT FURTHER RESOLVED, that all state agencies, departments, and institutions shall furnish the Legislative Council with such information as the Council, in carrying out the provisions of this resolution, reasonably requests, and that the Council shall make its report and recommendations, together with any legislation necessary to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed April 3, 1979

SENATE CONCURRENT RESOLUTION NO. 4074
(Nething, Melland)

STATE EMPLOYEES COMPENSATION AND PERKS STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the compensation and fringe benefits currently made available to state employees.

WHEREAS, there has been a high level of retention of state employees; and

WHEREAS, this level of retention has resulted in a cost efficient system of government service and has resulted in high levels of performance and service; and

WHEREAS, present state fringe benefits are believed to be highly competitive with the present fringe benefits given employees in the private sector; and

WHEREAS, improvements in the fringe benefits and compensation available to state employees will continue to make employment with this state more attractive to persons who might otherwise seek employment with other states or with the private sector; and

WHEREAS, it is the intent of the Legislative Assembly that state employment continue to be a favorable alternative to employment in the private sector;

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 conduct a study of the compensation and fringe benefits currently made available to state employees to determine if any changes or adjustments therein are necessary or desirable; and

BE IT FURTHER RESOLVED, that in conducting the study the Council may consult with the Central Personnel Division of the Department of Accounts and Purchases, the State Public Employees Retirement Board, and all recognized state employee associations; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4075
(Melland)

SPECIAL EDUCATION STUDY

A concurrent resolution directing the Legislative Council to study the organization and financing of special education.

WHEREAS, Public Law 94-142, the Education for all Handicapped Children Act of 1975, requires that all handicapped children have available to them a free appropriate public education; and

WHEREAS, the people of North Dakota intend to provide the best possible educational opportunities for those pupils in need of special education services within the limitations of available resources; and

WHEREAS, the appropriations for special education have increased from just over \$1 million for the 1969-71 biennium to over \$10 million in the current biennium, and the requested appropriation for the 1979-81 biennium is nearly \$12 million; and

WHEREAS, there are many unanswered questions concerning the requirements of Public Law 94-142, including the long-range impact of this legislation on the school districts and institutions in this state; and

WHEREAS, there is a need to determine the proper relationships for delivery of special education services as between and among local school districts, the Superintendent of Public Instruction, and state institutions;

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 Superintendent of Public Instruction, is hereby directed to study the organization and financing of special education in North Dakota, including the requirements of Public Law 94-142, the long-range impact of special education legislation on general fund appropriations as well as on the school districts and institutions in this state, and the relationships for delivery of special education services of various state and local governmental entities; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement such recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4076
(Lashkowitz)

FAMILY LAW AND DOMESTIC RELATIONS STUDY

A concurrent resolution directing the Legislative Council to study the procedures involved in family law and other related domestic relations matters.

WHEREAS, the number of marriages which result in divorce is rapidly increasing; and

WHEREAS, the rise in the divorce rate results in a corresponding rise in the number of children living in single-parent homes; and

WHEREAS, the traditional roles of men and women are modifying; and

WHEREAS, the children of divorced parents have the same right as other children to free access to the love and companionship of both parents; and

WHEREAS, economics and employment are no longer necessarily sex orientated; and

WHEREAS, following a divorce, both parents have a similar right to the love and companionship of their children and to share in the joys and responsibilities involved in the raising of their children; and

WHEREAS, current procedures involved in the awarding of custody and the division of property following a divorce do not always adequately protect the rights and interests of the parents or the children, nor do they assure adequate visitation rights to the noncustodial parent; and

WHEREAS, the proceedings to modify custody and support decrees under the present laws are slow and costly for both parents and also put a heavy burden on the courts;

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 conduct a study of the present statutes governing family law and other domestic relations issues and consider alternative approaches which will more adequately and efficiently protect the rights of all parties involved and that the study committee shall include citizen representation, a juvenile court counselor, a mental health family counselor, and other specialists in human behavior; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4078
(Albers, Thane)

EMINENT DOMAIN PROCEDURES STUDY

A concurrent resolution directing the Legislative Council to study eminent domain procedures for condemnation of land acquired for public use, and relocation assistance.

WHEREAS, state condemnation procedures do not require a negotiating period; and

WHEREAS, even after negotiations take place, the owner of the condemned land sometimes has no reference or assistance in ascertaining the value of the property; and

WHEREAS, the landowner of the condemned land often loses unique and valuable property to the condemning agency without replacement; and

WHEREAS, the tax consequences of the sale of property remaining after the acquisition of the condemned portion can cause adverse tax consequences to the landowner; and

WHEREAS, the Model Relocation Assistance Act, Chapter 54-01.1, provides assistance payments which are inadequate to provide for moving and related expenses;

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 to study eminent domain procedures in the condemnation of land that is to be acquired for public use by the state, any agency or political subdivision thereof, or any person or the person's agents, acquiring land for public use, including public and private utilities, the State Highway Department, and acquisitions of fish and wildlife mitigation acres. The study shall emphasize consideration of the feasibility of negotiations prior to condemnation proceedings or actions, appraisal of the property to be acquired by qualified and disinterested persons, replacement of acquired property, the consequences of capital gains tax on the sale of remaining property,

the practice of transferring land acquired by eminent domain, and the adequacy of relocation assistance; and

BE IT FURTHER RESOLVED, that the Legislative Council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4079
(Jacobson, Roen)

SEVERED MINERAL INTERESTS STUDY

A concurrent resolution directing the Legislative Council to conduct a study of the legal methods for discovering and categorizing severed mineral interests and to develop a pilot project to identify mineral interests in a particular township.

WHEREAS, many mineral rights have been sold and are owned by persons not owning the surface rights to land; and

WHEREAS, through further sale and subdividing of interests, and through the inheritance of mineral rights by numerous heirs, severed mineral rights have, in many cases, been divided into minute fractional interests; and

WHEREAS, in many cases severed mineral interests have, for practical purposes, been abandoned as worthless or not of sufficient value; and

WHEREAS, severed mineral interests are not now assessed and taxed under laws relating to the ad valorem system of taxing property because of the cost of determining ownership and the cost of assessment, collection, and foreclosure; and

WHEREAS, wide dispersion of severed mineral interests increase the costs of abstract preparation; and

WHEREAS, title to abandoned severed mineral interests should be legally acquired by the state or its political subdivisions so that such property may be resold to surface owners or other interested purchasers and thereby returned to valuable use; and

WHEREAS, a thorough study should be made of feasible methods to discover and categorize severed mineral interests prior to legislative action; and

WHEREAS, there may be means of developing feasible data processing systems to carry out a pilot project to identify mineral interests in a particular township to serve as a pilot project for future use;

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 to conduct a study of feasible methods for discovering and categorizing severed mineral interests, including a study of the legality of the state taking severed mineral interests not identified by the owners. The Legislative Council is also directed to establish a pilot project to identify mineral interests in a particular township, designated by the Council or the committee conducting the study; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4080
(Committee on Delayed Bills)
(At the request of Senator Shablow)

GASOHOL MANUFACTURE AND AND MARKETING URGED

A concurrent resolution urging the United States Department of Agriculture, the United States Department of Commerce, the United States Department of Energy, the United States Department of Transportation, and the Small Business Administration to assist and encourage the manufacture and marketing of gasohol; and urging Congress to consider any requests for funds to support any related programs.

WHEREAS, the United States is an energy-consuming nation which annually consumes more energy than it produces; and

WHEREAS, there is a lack of readily available and renewable energy sources; and

WHEREAS, the United States presently relies upon the nonrenewable organic energy sources which are being depleted, resulting in an energy crisis; and

WHEREAS, due to recent events in Iran, a major oil-exporting nation, the energy crisis in the United States is expected to worsen; and

WHEREAS, research has determined that gasohol, which is a mixture of gasoline and either ethanol or methanol, is a competitive, practical, renewable energy source; and

WHEREAS, ethanol may be produced from grain and other agricultural products, including distressed grain which would otherwise go to waste; and

WHEREAS, methanol may be produced from coal and other biomass substances, including many municipal, agricultural, and forest waste products; and

WHEREAS, the fermentation process used in producing ethanol results in high protein food supplement byproducts for cattle and human consumption; and

WHEREAS, research has indicated that the use of gasohol may effectively reduce the consumption of lead as a result of atmospheric contamination caused by automobile exhausts, thereby benefiting the health of the American people and lessening environmental pollution; and

WHEREAS, it is in the national interest to stimulate the development of a prosperous rural and agricultural industry through the development of new uses for agricultural products; and

WHEREAS, it is also in the national interest to promote the maximum utilization of more abundant energy sources such as coal, thereby lessening the effects of present and future shortages of petroleum fuels;

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, the United States Department of Energy, the United States Department of Transportation, and the Small Business Administration are hereby urged to assist and encourage the development of procedures for the manufacturing and marketing of gasohol and its components, ethanol and methanol; 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 any activities related to the development of the successful manufacturing and marketing of gasohol; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded to the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, the Secretary of Transportation, the administrator of the Small Business Administration, and the North Dakota Congressional Delegation.

Filed March 26, 1979

SENATE CONCURRENT RESOLUTION NO. 4081
(Committee on Delayed Bills)
(At the request of Senators Lodoen,
Hanson, Olin, Peterson, Wenstrom)

NATIONAL HIGH SCHOOL RODEO WEEK PROCLAIMED

A concurrent resolution to proclaim the week of July 30, 1979, through August 5, 1979, as National High School Rodeo Week in the State of North Dakota.

WHEREAS, North Dakota will be hosting the National High School Rodeo Finals, on their thirty-second anniversary, on July 30, 1979, through August 5, 1979, at the Red River Valley Fairgrounds in West Fargo, North Dakota; and

WHEREAS, the said National High School Rodeo Finals are being brought to North Dakota by the Fargo Chamber of Commerce, Fargo, North Dakota; and

WHEREAS, National High School Rodeo contestants must maintain grades and conduct that meet qualifications of the state athletic association of their state, and are the epitome of American youth; and

WHEREAS, the National High School Rodeo consists of over 1,200 young persons of high school age from 30 states and two Canadian provinces who bring with them an average of three and one-half persons to the National Finals; and

WHEREAS, the National High School Rodeo Finals offer the unique opportunity for those attending to observe three rodeo arenas in progress at the same time; and

WHEREAS, this event will bring an influx of approximately 65,000 persons during the week prior to, the week of, and the week after July 30, 1979, through August 5, 1979, traveling and staying in North Dakota;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the State of North Dakota proclaim July 30, 1979, through August 5, 1979, as National High School Rodeo Week in the State of North Dakota.

Filed March 5, 1979

SENATE CONCURRENT RESOLUTION NO. 4082
(Committee on Delayed Bills)

(At the request of Senators Nething and Hoffner and
Representatives Strinden and Backes)

LEGISLATIVE INTERNSHIP PROGRAM VALUE RECOGNIZED

A concurrent resolution recognizing the value of the legislative internship program and commending its participants.

WHEREAS, the legislative intern program has been functioning as an integral part of the legislative process in the State of North Dakota since its inception in 1969; and

WHEREAS, the Forty-sixth Legislative Assembly continues to participate in this academic program whereby 18 outstanding young undergraduate, graduate, and law students were selected by their parent institution to serve the political party caucuses, 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 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 political party caucuses, the standing committees of the Senate and the House of Representatives, and the Legislative Assembly to avail themselves of the energy, talents, enthusiasm, and ability of the legislative interns; and

WHEREAS, the Forty-sixth 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 political party caucuses and the standing committees of the Legislative Assembly;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the service performed by Steve Becker, Bonnie Buckeye, Mary Beth Bultema, Bruce Eckre, Bryan Giese, John Hertsgaard, Douglas Johnson, Kevin Korsmo, Mark Larson, Timothy Lenz, Thomas

McShane, Owen Mehrer, George Sinner, Karla Spitzer, William Strate, Lynne Thomas, Jo Wheeler, and Frank Wikenheiser as legislative interns for the Forty-sixth Legislative Assembly is hereby recognized, and that they be commended for the outstanding diligence, ability, talent, enthusiasm, and courteousness that they have exhibited throughout all their association with the Legislative Assembly; and

BE IT FURTHER RESOLVED, that copies of this resolution be forwarded by the Secretary of the Senate to the presidents of the parent institutions, to the appropriate deans, chairmen of the appropriate departments, and to each of the 18 legislative interns.

Filed March 9, 1979

SENATE CONCURRENT RESOLUTION NO. 4083
(Committee on Delayed Bills)
(At the request of Senator Orange and
Representatives Pomeroy and Stenehjem)

UND HOCKEY TEAM CONGRATULATED

A concurrent resolution congratulating the University of North Dakota hockey team and its coach John Gasparini on the team's outstanding 1978-79 season.

WHEREAS, the University of North Dakota Sioux hockey team has completed an outstanding regular season with a 22-10 record in the Western Collegiate Hockey Association and a 26-10 overall record; and

WHEREAS, the UND Sioux were ranked number one in the nation in college hockey for the last four weeks of the regular season; and

WHEREAS, in the last game of regular season play the UND Sioux defeated the University of Minnesota Gophers by a score of 4-2, thereby securing the Western Collegiate Hockey Association championship; and

WHEREAS, this marks the first WCHA title won by the Sioux in 12 years; and

WHEREAS, this remarkable record was compiled by the Sioux in John "Gino" Gasparini's first year as head coach of the Sioux hockey team; and

WHEREAS, this marks the second WCHA championship team for John Gasparini, who played center on the 1966-67 Sioux championship team; and

WHEREAS, the UND Sioux will participate as the top-ranked team based on final league standings in the WCHA playoffs to determine which teams will advance to the national tournament;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly of the State of North Dakota hereby extends its heartiest congratulations to the

University of North Dakota Sioux 1978-79 hockey team and its coach, John Gasparini, for its outstanding season, including the WCHA championship and its top national ranking in college hockey; and

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to UND President Thomas Clifford, to UND Athletic Director Carl Miller, and to UND hockey coach John "Gino" Gasparini.

Filed March 9, 1979

SENATE CONCURRENT RESOLUTION NO. 4084

(Committee on Delayed Bills)

(At the request of

Senator Strinden and Representatives Berge and F. Larson)

**VALLEY CITY STATE COLLEGE WRESTLER
CONGRATULATED**

A concurrent resolution congratulating Tony Huck of Valley City State College on winning the 1979 National Association of Intercollegiate Athletics national wrestling championship in the 190 pound division.

WHEREAS, Tony Huck, a junior at Valley City State College, from New Salem, North Dakota, was a two-time state high school champion and had a 26-0 record this year; and

WHEREAS, he won the Yankton tournament, the Minnesota-Morris tournament, at which he was the tournament's outstanding wrestler, and the North Dakota College Athletic Conference for the second time at 190 pounds; and

WHEREAS, he is the first national champion from Valley City State College and only the second national champion ever from the North Dakota College Athletic Conference;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly extends congratulations to Tony Huck on winning the 1979 National Association of Intercollegiate Athletics national wrestling championship in the 190 pound division; and

BE IT FURTHER RESOLVED, that copies of this resolution be sent to Tony Huck, his parents, Mr. and Mrs. Ed Huck of New Salem, North Dakota, and to Valley City State College.

Filed March 19, 1979

SENATE CONCURRENT RESOLUTION NO. 4085
(Committee on Delayed Bills)
(At the request of Senators Hoffner, Nething)
(Representatives Backes, Strinden)

GARRISON DIVERSION OVERVIEW COMMITTEE STUDY

A concurrent resolution directing the Garrison Diversion Overview Committee to conduct a study of the Garrison Diversion Project and its present and potential effects on North Dakota, which study is to emphasize the problems concerning the acquisition of fish and wildlife mitigation and enhancement acreage and the feasibility of constructing a pipeline to deliver municipal and industrial water to users.

WHEREAS, Senate Concurrent Resolution No. 4005, as introduced in the Forty-sixth Legislative Assembly, will reauthorize the existence of the Garrison Diversion Overview Committee through April 30, 1981, upon its approval by the Forty-sixth Legislative Assembly; and

WHEREAS, Senate Concurrent Resolution No. 4005 charges the committee with the responsibility of legislative overview of the Garrison Diversion Project; and

WHEREAS, the Congress of the United States authorized the dedication of 146,530 acres of private and public land for fish and wildlife mitigation and enhancement purposes in connection with the Garrison Diversion Unit; and

WHEREAS, the authorized plan and master contract of the Garrison Diversion Unit identify the land areas proposed for fish and wildlife development; and

WHEREAS, North Dakota has dedicated approximately 84,000 acres of public land for the development of recreation areas and the mitigation and enhancement of fish and wildlife habitat for purposes of meeting obligations toward the construction of the Garrison Diversion Unit; and

WHEREAS, the authorized plan of the Garrison Diversion Unit recognizes and credits toward the mitigation and enhancement of fish and wildlife approximately 28,000 acres of principal supply works land area; and

WHEREAS, the fish and wildlife service has failed to present to the state a formal plan for the development of these authorized and identified land areas; and

WHEREAS, North Dakota has given dearly in productive lands for Oahe and Garrison reservoirs; and

WHEREAS, North Dakota has also given dearly in easements and fee title lands for fish and wildlife acquisitions; and

WHEREAS, vague proposals and concepts publicized by the fish and wildlife service have resulted in creating uncertainty and confusion among landowners; and

WHEREAS, regulation of usage of fish and wildlife acreage is so restricted as to limit economic growth or increase governmental and private cost horrendously; and

WHEREAS, scattered tracts of wildlife habitat have very serious economic consequences to surrounding croplands due to bird predation, weeds, and game damage; and

WHEREAS, a number of alternatives to the authorized plan have been discussed which would alter the number of acres required for fish and wildlife mitigation; and

WHEREAS, several of these plans may also affect the availability of municipal and industrial water to a number of areas;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Garrison Diversion Overview Committee, as authorized by Senate Concurrent Resolution No. 4005, is hereby directed to study the Garrison Diversion Project and its present and potential effects on North Dakota to determine what, if any, changes may be necessary in the amount of land required for mitigation and enhancement of recreation, fish and wildlife, the method used to identify the lands required, and the manner in which lands are credited toward the required acreage; and

BE IT FURTHER RESOLVED, that the study include the feasibility and desirability of constructing a pipeline system for the delivery of municipal, industrial, and irrigation water; and

BE IT FURTHER RESOLVED, that the committee provide for citizen input in a manner and to the extent it deems appropriate; and

BE IT FURTHER RESOLVED, that the committee report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed April 3, 1979

SENATE CONCURRENT RESOLUTION NO. 4086
(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-sixth Legislative Assembly a complete record with index of the House and Senate journals must be prepared;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES 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-sixth Legislative Assembly, and the said Roy Gilbreath and Leo Leidholm are hereby directed to arrange for and procure sufficient assistance to ensure that the said work shall be completed within thirty days after the close 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 \$3,000.00 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 April 3, 1979

SENATE CONCURRENT RESOLUTION NO. 4087
(Committee on Delayed Bills)
(At the request of Senator Thane)

STATE REIMBURSEMENT FOR FEDERAL PROGRAM COST URGED

A concurrent resolution urging the President and the Congress of the United States to undertake the necessary actions to provide for the reimbursement of the states by the federal government for all costs incurred in implementing new or expanded federal programs.

WHEREAS, the federal government of the United States, by actions of both the legislative branch and the executive branch, frequently requires the states to implement new programs and provide increased levels of service under existing programs; and

WHEREAS, in order to implement new programs and provide increased levels of service as required by the federal government, the states must incur significant costs which must be paid for out of state revenues, existing or to be raised by the imposition of additional taxes; and

WHEREAS, there exists throughout the United States and North Dakota a growing resentment of the heavy burden of taxation and an active rejection of existing and proposed levels and methods of revenue raising; and

WHEREAS, the public outcry against taxation makes it increasingly difficult for the states to raise the revenues necessary to finance the programs and services which the states are required to provide by the federal government; and

WHEREAS, it is a matter of simple equity that a level of government which establishes programs or services in the public interest should provide the means for financing those programs and services;

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF NORTH DAKOTA, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:

That the Forty-sixth Legislative Assembly respectfully urges the President and the Congress of the United States to undertake such actions as may be necessary to ensure that the federal

government reimburses each state for all costs incurred with respect to implementing new programs or providing increased levels of service under existing programs pursuant to any law enacted by the United States Congress after July 1, 1980, or any executive order or regulation issued by the President of the United States after January 1, 1980; and

BE IT FURTHER RESOLVED, that the Secretary of State forward copies of this resolution to the President of the United States, the Vice President of the United States, the Speaker of the United States House of Representatives, and the North Dakota Congressional Delegation.

Filed April 3, 1979

SENATE CONCURRENT RESOLUTION NO. 4088
(Committee on Delayed Bills)
(At the request of Senator Lashkowitz)

CHILD CUSTODY AND VISITATION RIGHTS STUDY

A concurrent resolution directing the Legislative Council to study the rights of children in custody and divorce proceedings.

WHEREAS, 1979 has been proclaimed the International Year of the Child by the United Nations, by President Jimmy Carter, and by Governor Arthur Link; and

WHEREAS, the United States Supreme Court has held that children have rights which must be protected, and the states are increasingly recognizing the rights of the children in divorce and custody proceedings; and

WHEREAS, the children of this state, as well as those of the several states, have the following inalienable rights:

1. The right to be treated as an interested and affected person and not as a pawn or chattel of either or both parents.
2. The right to that home environment which will best guarantee an opportunity to grow to mature and responsible citizenship.
3. The right to the privilege and benefits of being a United States resident and citizen.
4. The right to the day-by-day love, care, discipline and protection of the parent having custody.
5. The right to know the noncustodial parent and to have the benefit of that parent's love and guidance through adequate visitation.
6. The right to a positive and constructive relationship with both parents, with neither to be permitted to degrade the other in the mind of the child.

7. The right to the most adequate level of economic support that can be provided by the best efforts of both parents.
8. The right to the same opportunities for education that the child would have if the family unit were not broken.
9. The right to periodic review of custodial arrangements and child-support orders as the circumstances may require.
10. The right to recognition that children involved in a divorce or custody proceedings are disadvantaged parties and that the law must take affirmative steps to protect their welfare and security including, where indicated, a social investigation to determine their interests and the appointment of a guardian ad litem and/or attorney to protect their interests.
11. The right to have the benefits of all the aforementioned, instead of subjecting the child to unknown circumstances and surroundings where these basic rights cannot be guaranteed.

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 conduct a study of the present procedures involved in the awarding of custody and visitation rights and related domestic relations issues and consider alternative approaches which will more adequately and efficiently protect the rights of children, who are frequently the real victims of domestic discord; and

BE IT FURTHER RESOLVED, that the study committee shall include citizen representation, a juvenile court counselor, a mental health family counselor, and other specialists in human behavior; and

BE IT FURTHER RESOLVED, that the Legislative Council report its findings and recommendations, together with any legislation required to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed April 3, 1979

SENATE CONCURRENT RESOLUTION NO. 4089
(Committee on Delayed Bills)
(At the request of Senators Sands and Holmberg)

JUDICIAL SYSTEM STUDY

A concurrent resolution directing the Legislative Council to study the state's judicial system.

WHEREAS, North Dakota voters in September 1976 approved a constitutional amendment giving North Dakota a new judicial article based on a unified court system; and

WHEREAS, the judicial article allows the legislature to make structural changes in the judicial system; and

WHEREAS, it has been shown by experience in other states which have established a unified court system that a great deal of study and planning is necessary before any structural changes are made in the overall judicial system, not only because of the interdependence of one portion of the system on another, but also because of the far-reaching effects any structural change in the state's court system will have on all citizens of the state;

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 initiate a study of the state's entire judicial system in light of the new judicial article to determine the structural changes necessary and the timetable for such changes; and

BE IT FURTHER RESOLVED, that the Legislative Council shall make a report of its findings and recommendations, together with any legislation necessary to implement the recommendations, to the Forty-seventh Legislative Assembly.

Filed April 3, 1979

SENATE MEMORIAL RESOLUTIONS

SENATE MEMORIAL RESOLUTION NO. 1
(Committee on Senate Memorial Resolutions)
(Christensen, Berube, Sorum)

MEMORIAL FOR DECEASED SENATE MEMBERS

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:

F. CLYDE DUFFY, who served in the Thirty-first through Thirty-fourth Legislative Assemblies, from the twenty-first district, died December 17, 1977.

ISAK HYSTAD, who served in the Thirty-sixth and Thirty-seventh Legislative Assemblies, from the thirty-fourth district, died February 16, 1978.

MELVIN P. JOHNSON, who served in the Twenty-fourth and Twenty-fifth Legislative Assemblies, from the twelfth district, died April 16, 1978.

DWIGHT KAMRATH, who served in the Thirty-seventh and Thirty-eighth Legislative Assemblies, from the forty-seventh district, died October 23, 1977.

HARVEY B. KNUDSON, who served in the Thirty-second through the Thirty-fifth Legislative Assemblies, from the eighth district, died June 29, 1978.

GEORGE KOLPIN, who served in the Twenty-fourth and Twenty-fifth Legislative Assemblies, from the sixteenth district, died June 23, 1978.

RILIE R. MORGAN, who served in the Twenty-sixth through the Thirty-third Legislative Assemblies, from the fourth district, died May 20, 1977.

RAYMOND H. MURRY, who served in the Twenty-ninth and Thirtieth Legislative Assemblies, from the nineteenth district, died March 22, 1977.

IVER SOLBERG, who served in the Twenty-seventh, Twenty-eighth, and Thirty-first Legislative Assemblies, from the forty-fifth district, died December 30, 1978.

THOMAS E. WHELAN, who served in the Twenty-third through the Twenty-sixth Legislative Assemblies, from the first district, died August 31, 1977.

WHEREAS, today, we, as members of the Senate of the Forty-sixth Legislative Assembly of the State of North Dakota, pause to mourn the passing of our former colleagues, and to honor their memories; and

WHEREAS, these 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-SIXTH LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

That we express our keen sorrow on their passing and our appreciation, on behalf of the people of North Dakota, of the loyal and devoted service of these, our former colleagues; 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 16, 1979