

# APPROPRIATIONS

---

## CHAPTER 1

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

### STATE INSTITUTIONS OF HIGHER LEARNING

#### AN ACT

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

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

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

#### UNIVERSITY OF NORTH DAKOTA

Salaries and wages	\$16,456,159.00
Fees and services	1,580,567.00
Supplies and materials	1,767,399.00
Equipment	505,825.00
	<hr/>
Total operating budget	\$20,309,950.00
Less estimated income	7,625,138.00
	<hr/>
Net operating budget	\$12,684,812.00



## Land, structures and major improvements:

Special assessments	130,000.00
Plant improvements	500,000.00
	<hr/>
Total general fund	\$13,314,812.00

## UNIVERSITY OF NORTH DAKOTA MEDICAL CENTER

Salaries and wages	\$ 2,080,027.00
Fees and services	49,598.00
Supplies and materials	189,200.00
Equipment	5,000.00
	<hr/>
Total operating budget	\$ 2,323,825.00
Less estimated income	1,417,000.00
	<hr/>
Total general fund	\$ 906,825.00

THE NORTH DAKOTA STATE UNIVERSITY OF  
AGRICULTURE AND APPLIED SCIENCE

Salaries and wages	\$13,720,675.00
Fees and services	1,600,217.00
Supplies and materials	1,314,085.00
Equipment	388,154.00
	<hr/>
Total operating budget	\$17,023,131.00
Less estimated income	6,614,471.00
	<hr/>
Net operating budget	\$10,408,660.00

## Land, structures and major improvements:

Plant improvements	400,000.00
	<hr/>
Total general fund	\$10,808,660.00

## STATE SCHOOL OF FORESTRY, BOTTINEAU

## Junior college division:

Salaries and wages	\$ 679,815.00
Fees and services	49,157.00
Supplies and materials	95,616.00

Equipment	17,071.00
	<hr/>
Total operating budget	\$ 841,659.00
Less estimated income	233,485.00
	<hr/>
Net junior college operating budget	\$ 608,174.00
North Dakota forest service:	
Salaries and wages	\$ 324,762.00
Fees and services	49,547.00
Supplies and materials	53,516.00
Equipment	16,815.00
	<hr/>
Total operating budget	\$ 444,640.00
Less estimated income	231,844.00
	<hr/>
Net forest service operating budget	\$ 212,796.00
Net appropriation (junior college and forest service)	\$ 820,970.00
	<hr/>
Total general fund	\$ 820,970.00

## UNIVERSITY OF NORTH DAKOTA-ELLENDALE BRANCH

Salaries and wages	\$1,064,578.00
Fees and services	107,801.00
Supplies and materials	127,770.00
Equipment	57,275.00
	<hr/>
Total operating budget	\$1,357,424.00
Less estimated income	471,060.00
	<hr/>
Net operating budget	\$ 886,364.00
Land, structures, and major improvements:	
Special assessments	29,796.00
Furniture and equipment for dormitories and housing	20,000.00
	<hr/>
Total general fund	\$ 936,160.00



## STATE SCHOOL OF SCIENCE, WAHPETON

Salaries and wages	\$ 4,931,240.00
Fees and services	418,583.00
Supplies and materials	716,696.00
Equipment	213,941.00
	<hr/>
Total operating budget	\$ 6,280,460.00
Less estimated income	2,416,642.00
	<hr/>
Net operating income	\$ 3,863,818.00
Land, structures, and major improvements:	
Special assessments	60,000.00
Plant improvements	200,000.00
	<hr/>
Total general fund	\$ 4,123,818.00

## DICKINSON STATE COLLEGE

Salaries and wages	\$ 2,793,322.00
Fees and services	356,358.00
Supplies and materials	214,953.00
Equipment	199,475.00
	<hr/>
Total operating budget	\$ 3,564,108.00
Less estimated income	1,236,210.00
	<hr/>
Net operating budget	\$ 2,327,898.00

## Land, structures, and major improvements:

Furniture and equipment for dormitories and housing	30,000.00
Special assessments	25,000.00
Faculty offices	30,000.00
	<hr/>
Total general fund	\$ 2,412,898.00

## MINOT STATE COLLEGE

Salaries and wages	\$ 4,384,808.00
Fees and services	323,638.00
Supplies and materials	382,380.00

Equipment	133,832.00
Total operating budget	\$ 5,224,658.00
Less estimated income	1,911,604.00
Net operating budget	\$ 3,313,054.00

## Land, structures, and major improvements:

Special assessments	2,500.00
Plant improvements	100,000.00
Total general fund	\$ 3,415,554.00

## MAYVILLE STATE COLLEGE

Salaries and wages	\$ 1,708,041.00
Fees and services	219,811.00
Supplies and materials	165,471.00
Equipment	76,411.00
Total operating budget	\$ 2,169,734.00
Less estimated income	733,679.00
Net operating budget	\$ 1,436,055.00

## Land, structures and major improvements:

Special assessments	21,000.00
Remodel main hall	75,000.00
Total general fund	\$ 1,532,055.00

## VALLEY CITY STATE COLLEGE

Salaries and wages	\$ 2,505,768.00
Fees and services	198,792.00
Supplies and materials	221,500.00
Equipment	158,188.00
Total operating budget	\$ 3,084,248.00
Less estimated income	989,802.00
Net operating budget	\$ 2,094,446.00



Land, structures and major improvements:

Special assessments	10,000.00
Plant improvements	100,000.00
	<hr/>
Total general fund	\$ 2,204,446.00
	<hr/>
Grand total all institutions of higher learning	\$40,476,198.00

Any additional income not required by law to be deposited in the operating fund in the state treasury is hereby appropriated. The board of higher education is hereby authorized to increase tuitions at the various institutions during the next biennium. All income resulting from increased enrollments in excess of estimated income in the budget appropriated by the legislature to the institutions of higher learning must be deposited in their operating funds in the state treasury and can be expended only by authorization of the emergency commission.

**Section 2. New Programs.)** The new programs requested and approved by the state board of higher education for the institutions of higher learning are hereby authorized if institutional funds become available for their implementation.

**Section 3. The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1969, and ending June 30, 1971.

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

**Section 5. General Fund Decrease.)** The net appropriation from the general fund of the state treasury to the institutions under the control of the board of higher education is reduced

by \$3,600,000.00 from the amount recommended by the executive office of the budget for the biennium ending June 30, 1971. This reduction is prorated to the various institutions and included in the estimated income of each institution in the following amounts:

University of North Dakota	\$1,096,533.00
North Dakota state university	1,022,087.00
State school of forestry, Bottineau	54,153.00
University of North Dakota Ellendale branch	80,252.00
State school of science, Wahpeton	389,444.00
Dickinson state college	245,088.00
Minot state college	387,962.00
Mayville state college	142,679.00
Valley City state college	181,802.00
	<hr/>
Total	\$3,600,000.00

**Section 6. Appropriation for University of North Dakota Medical Center Rehabilitation Hospital.)** There is hereby appropriated out of any moneys not otherwise appropriated, derived from gifts, grants, contracts, sales, services, and other income of the university of North Dakota medical center rehabilitation hospital, \$1,545,890.00, or so much thereof as may be necessary, to pay the operation, maintenance, equipment, and general expenses of the hospital for the biennium beginning July 1, 1969, and ending June 30, 1971, in the sums set forth as follows:

Salaries and Wages	\$1,317,879.00
Fees and Services	118,974.00
Supplies and Materials	93,104.00
Equipment	15,933.00
	<hr/>
Total	\$1,545,890.00

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

**Section 7.)** 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 at the various institutions, with consent of the emergency commission during the biennium beginning July 1, 1969, and ending June 30, 1971.

Approved March 29, 1969.

---

CHAPTER 2

S. B. No. 2

(Committee on Appropriations)

EXTENSION DIVISION AND  
EXPERIMENT STATIONS

AN ACT

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

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

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

EXTENSION DIVISION

Salaries and wages	\$ 4,528,386.00
Fees and services	495,668.00
Supplies and materials	175,268.00
Equipment	57,033.00
Total operating budget	\$ 5,256,355.00
Less estimated income	3,722,080.00
Total general fund	\$ 1,534,275.00

EXPERIMENT STATION - MAIN STATION

Salaries and wages	\$ 4,851,912.00
Fees and services	765,854.00
Supplies and materials	611,636.00
Equipment	475,000.00
	<hr/>
Total operating budget	\$ 6,704,402.00
Less estimated income	2,579,728.00
	<hr/>
Net operating budget	4,124,674.00
Land, structures, and major improvements:	
Livestock confinement unit	39,300.00
	<hr/>
Total general fund	\$ 4,163,974.00

DICKINSON EXPERIMENT STATION

Salaries and wages	\$ 193,212.00
Fees and services	36,570.00
Supplies and materials	70,664.00
Equipment	40,900.00
	<hr/>
Total operating budget	\$ 341,346.00
Less estimated income	125,392.00
	<hr/>
Total general fund	\$ 215,954.00

EDGELEY EXPERIMENT STATION

Operating expenses	\$ 8,000.00
	<hr/>
Total operating budget	\$ 8,000.00
Less estimated income	8,000.00
	<hr/>
Total general fund	\$ - 0 -

HETTINGER EXPERIMENT STATION

Salaries and wages	\$ 46,553.00
Fees and services	10,534.00
Supplies and materials	12,314.00



Equipment		11,120.00
Total operating budget	\$	80,521.00
Less estimated income		29,262.00
Total general fund	\$	51,259.00

## LANGDON EXPERIMENT STATION

Salaries and wages	\$	40,836.00
Fees and services		5,587.00
Supplies and materials		11,829.00
Equipment		2,000.00
Total operating budget	\$	60,252.00
Less estimated income		13,896.00
Total general fund	\$	46,356.00

## NORTH CENTRAL EXPERIMENT STATION

Salaries and wages	\$	92,404.00
Fees and services		12,695.00
Supplies and materials		31,195.00
Equipment		18,000.00
Total operating budget	\$	154,294.00
Less estimated income		115,231.00
Total general fund	\$	39,063.00

## WILLISTON EXPERIMENT STATION

Salaries and wages	\$	78,420.00
Fees and services		17,857.00
Supplies and materials		21,570.00
Equipment		14,000.00
Total operating budget	\$	131,847.00
Less estimated income		34,282.00
Total general fund	\$	97,565.00

## CARRINGTON EXPERIMENT STATION

Salaries and wages	\$	130,395.00
--------------------	----	------------

Fees and services		33,474.00
Supplies and materials		42,419.00
Equipment		25,400.00
		<hr/>
Total operating budget	\$	231,688.00
Less estimated income		88,497.00
		<hr/>
Net operating budget	\$	143,191.00

## Land, structures, and major improvements:

Extension of irrigation pipelines		7,000.00
		<hr/>
Total general fund	\$	150,191.00
		<hr/>
Grand total general fund	\$	6,298,637.00

## AGRONOMY SEED FARM

Salaries and wages	\$	51,101.00
Fees and services		12,857.00
Supplies and materials		75,000.00
Equipment		12,000.00
		<hr/>
Total operating budget	\$	150,958.00
Less estimated income		150,958.00
		<hr/>
Net operating budget	\$	- 0 -

## Land, structures, and major improvements:

Storage building		25,000.00
Less amount from income		25,000.00
		<hr/>
Total general fund	\$	- 0 -

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 experiment stations, and the cooperative extension division, except as otherwise provided by law, are hereby appropriated for the purpose designated in the gift, grant or donation; however, public moneys from local sources, which shall include receipts from sale of grains, personal services, dairy products, livestock, and other agricultural products at the North Dakota main experiment



station, branch experiment stations and the cooperative extension division, may be expended in excess of that specifically appropriated through biennial appropriations bills of the Legislative Assembly only in the event that an authorization has first been received from the subcommittee on budget of the legislative research committee. The balances of all existing moneys on deposit in the name of the North Dakota state university main experiment station, the branch experiment stations, and the cooperative extension division, except grants, gifts, and donations from private sources, along with all subsequent receipts of such moneys, shall be deposited in a special fund in the state treasury. Hereafter, this fund shall be referred to as an operating fund and shall also be the depository for transfers from the general fund, and balances therein shall not revert to any other fund under the terms of section 54-44.1-11. All of the moneys in the operating fund shall remain in such fund until expended pursuant to a specific legislative appropriation or an authorization from the subcommittee on budget of the legislative research committee, 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, 1969, exceeds the estimated income for the biennium ending June 30, 1971. The state board of higher education is authorized to approve transfer of funds between categories of expenditures, and will notify the director of the department of accounts and purchases of any such transfers within ten days following such authorization.

**Section 2. The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1969, and ending June 30, 1971.

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

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

Approved March 29, 1969.

**CHAPTER 3**

**S. B. No. 3  
(Committee on Appropriations)**

**STATE HIGHWAY PATROL**

**AN ACT**

Making an appropriation out of the state highway fund in the state treasury for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the highway patrol.

**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 highway fund in the state treasury, not otherwise appropriated, the sum of \$2,142,798.00, or so much thereof as is necessary, for the operation, maintenance, equipment, supplies, outfitting of patrolmen, travel and miscellaneous expenses for the highway patrol, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$1,527,738.00
--------------------	----------------

(Including salary of superintendent not to exceed \$26,000.00 for the biennium— and salary of the assistant superintendent, not to exceed \$22,000.00 for the biennium.)

Fees and services	262,960.00
-------------------	------------

Supplies and materials	242,500.00
------------------------	------------

---

Equipment	<u>109,600.00</u>
Total	\$2,142,798.00

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

Approved March 29, 1969.



## CHAPTER 4

## S. B. No. 4

(Committee on Appropriations)

## STATE HISTORICAL BOARD

## AN ACT

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

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$347,175.00, or so much thereof as may be necessary, for salary, clerkhire, and miscellaneous expenses and maintenance of the state historical society in the sums hereinafter set forth, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages (Including salary of superintendent not to exceed \$22,000.00 for the biennium)	\$ 184,400.00
Fees and services	18,100.00
Supplies and materials	38,800.00
Equipment	5,000.00
Grant for maintenance and operation of International Peace Garden	75,000.00
Land, structures, and major improvements:	
Special assessments, Medora	875.00
Further stabilization and repair of Fort Totten buildings	15,000.00
New storage building	<u>10,000.00</u>
Total	\$ 347,175.00

Approved March 14, 1969.

## CHAPTER 5

S. B. No. 5  
(Committee on Appropriations)

## NORTH DAKOTA PARK SERVICE

## AN ACT

Making an appropriation to the North Dakota park service for administration, operation, maintenance, and development of state parks, and declaring an emergency.

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

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

**Section 2. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the state park operating fund in the state treasury the sum of \$1,577,908.00 of which \$1,207,138.00 is derived from income and collections and \$370,770.00 from the general fund or so much thereof as is necessary for salary, clerkhire, and maintenance of state parks, in the sums hereinafter set forth for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 1,271,884.00
Fees and services	70,174.00
Supplies and materials	121,250.00
Equipment	43,600.00
Land, structures and major improvements:	
Sanitary facilities - Lake Metigoshe	29,000.00

The above line item of this Act is hereby declared to be an emergency measure and shall be in full



force and effect from and after its passage and approval.

Turtle River group camp dormitory	15,000.00
Fort Abraham Lincoln maintenance building	15,000.00
Lake Sakakawea state park marina building renovation	12,000.00
	<hr/>
Total	\$1,577,908.00
Less estimated state park fund income including federal funds	1,207,138.00
	<hr/>
Net general fund	\$ 370,770.00

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

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

**Section 5.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval on such items or subdivisions as are designated to be made available immediately on passage and approval.

Approved March 25, 1969.

## CHAPTER 6

S. B. No. 6  
(Committee on Appropriations)

BUSINESS AND INDUSTRIAL DEVELOPMENT COMMISSION  
AND  
STATE PLANNING AGENCY

## AN ACT

Making an appropriation for the use of the North Dakota business and industrial development commission and state planning agency.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the general fund the sum of \$227,455.00, or so much thereof as may be necessary, for the operation of the business and industrial development commission for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 128,055.00
Fees and services	65,600.00
Supplies and materials	30,000.00
Equipment	3,800.00
	<hr/>
Total general fund appropriation	\$ 227,455.00

**Section 2. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the state planning agency operating fund in the state treasury the sum of \$543,695.00 or so much thereof as may be necessary for the operation of the state planning agency of which \$462,690.00 is derived from income and collections and \$81,005.00 from the general fund in the state treasury for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 74,695.00
Fees and services	60,000.00



Supplies and materials	8,000.00
Equipment	1,000.00
Grants, benefits, and claims	<u>400,000.00</u>
Total for biennium	\$ 543,695.00
Less estimated income	<u>462,690.00</u>
Total general fund	\$ 81,005.00

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

Approved March 28, 1969.

## CHAPTER 7

S. B. No. 7  
(Committee on Appropriations)

OLD AGE AND SURVIVOR INSURANCE SYSTEM  
AND  
SOCIAL SECURITY CONTRIBUTION FUND

## AN ACT

Relating to an appropriation for the purpose of administering the provisions of chapters 52-09 and 52-10 of the North Dakota Century Code, pertaining to administration costs of the old age and survivor insurance system and to social security coverage of public employees.

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

**Section 1. Appropriation.)** There is hereby appropriated to the unemployment compensation division, out of any funds in the social security contribution fund, collected as provided by section 52-10-04 of the North Dakota Century Code, not otherwise appropriated, the sum of \$104,530.00, or so much thereof as may be necessary, for the purpose of administering the provisions of chapter 52-09 and 52-10 of the North Dakota Century Code, pertaining to the old age and survivor insurance system and the social security coverage of public employees, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 82,973.00
Fees and services	16,563.00
Supplies and materials	3,000.00
Equipment	<u>1,994.00</u>
Total	\$ 104,530.00

Approved March 14, 1969.



CHAPTER 8

S. B. No. 8  
 (Committee on Appropriations)

LIVESTOCK SANITARY BOARD

AN ACT

Making an appropriation to the livestock sanitary board for its operating and maintenance expense and expenses pertaining to licensed quarantined feedlots.

**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 \$313,516.00, or so much thereof as may be necessary, to pay the operating and maintenance expenses of the livestock sanitary board, and expenses pertaining to licensed quarantined feedlots, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 154,683.00
Fees and services	142,201.00
Supplies and materials	14,632.00
Equipment	2,000.00
<b>Total</b>	<b>\$ 313,516.00</b>

Approved March 25, 1969.

## CHAPTER 9

S. B. No. 9  
(Committee on Appropriations)

COMMISSIONER OF VETERANS' AFFAIRS AND  
VETERANS' AID COMMISSION

## AN ACT

Providing an appropriation for the paying of salaries and other administrative expenses of the office of commissioner of veterans' affairs and the veterans' aid commission, and transferring the balance in the adjutant general military records fund to the general fund.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$127,299.00, or so much thereof as may be necessary, to pay salaries and other administrative expenses of the office of commissioner of veterans' affairs and the veterans' aid commission, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 96,193.00
--------------------	--------------

(Including salary of commissioner of veterans' affairs, not to exceed \$20,400.00 for the biennium)

Fees and services	24,086.00
-------------------	-----------

Supplies and materials	5,000.00
------------------------	----------

Equipment	2,020.00
-----------	----------

Total	\$127,299.00
-------	--------------

**Section 2. Transfer of Funds.)** The sum of \$15,439.57, or such balance upon the effective date of this Act as may exist in the adjutant general military records fund, as created by the appropriation contained in chapter 3 of the 1957 Session Laws, is hereby transferred to the general fund in the state treasury.

Approved March 29, 1969.

CHAPTER 10

S. B. No. 10  
 (Committee on Appropriations)

NORTH DAKOTA SOLDIERS' HOME

AN ACT

Making an appropriation for the general maintenance, improvements, and special projects for the North Dakota soldiers' home at Lisbon, North Dakota.

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

**Section 1. Appropriation.)** There is hereby appropriated the sum of \$212,000.00 out of interest and income and federal aid funds of the home hereafter named, and the sum of \$189,605.00 out of the state treasury, not otherwise appropriated, or so much thereof as may be necessary, to pay the general maintenance, improvements and special projects for the North Dakota soldiers' home at Lisbon, North Dakota, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$293,655.00
(Including salary of the commandant, not to exceed \$16,800.00 for the biennium)	
Fees and services	28,450.00
Supplies and materials	73,500.00
Land, structures, and major improvements:	
Re-roofing	6,000.00
Total for the biennium	\$401,605.00
Less estimated income	212,000.00
Total general fund	\$189,605.00

Approved March 29, 1969.



## CHAPTER 11

S. B. No. 11  
(Committee on Appropriations)

## PUBLIC WELFARE BOARD

## AN ACT

Making an appropriation for the disbursement by the public welfare board in providing public assistance to dependent children and to needy blind, and providing child welfare services and services to crippled children; also providing assistance to the needy aged, and general assistance for relief to destitute and necessitous persons, aid to permanently and totally disabled, medical aid to the aged, and for the necessary costs of administration of all the programs above-mentioned, and providing a statement of legislative intent.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the public welfare board operating fund in the state treasury the sum of \$58,755,226.00, of which \$42,050,509.00 is derived from income and collections and \$16,704,717.00 from the general fund in the state treasury, to be expended by the public welfare board in providing public assistance to dependent children and to needy blind and providing child welfare services and services to crippled children, also providing assistance to the needy aged and general assistance for relief to destitute and necessitous persons, aid to permanently and totally disabled, medical aid to the aged, and for the necessary costs of administration of all programs above-mentioned, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 1,754,628.00
Fees and services	294,550.00
Supplies and materials	63,000.00
Equipment	10,000.00
Data processing	115,000.00
Total administration	<u>\$ 2,237,178.00</u>

Grants to and for recipients	53,566,688.00
Child welfare services	1,622,610.00
Crippled children's services	1,028,750.00
Older American's Act	300,000.00
Total for biennium	<u>\$58,755,226.00</u>
Less estimated income	<u>42,050,509.00</u>
Total general fund	\$16,704,717.00

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

**Section 3. Legislative Intent.)** It is the intent of the legislative assembly in providing the appropriation contained in this Act that the state public welfare department shall take such action as may be necessary to limit the average monthly caseload during each year of the 1969-71 biennium to a minimum level of cases in the aid to families with dependent children program.

It is the further intent of the legislative assembly that adjustments be made in the caseload in all programs to remain within the appropriation.

Approved March 29, 1969.

## CHAPTER 12

S. B. No. 12  
(Committee on Appropriations)

## CIVIL DEFENSE

## AN ACT

Making an appropriation to continue the operation of the North Dakota civil defense as provided for by chapter 37-17 of the North Dakota Century Code.

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

**Section 1. Appropriation.)** There is hereby appropriated the sum of \$102,950.00 from federal aid matching funds, and the sum of \$102,950.00 out of the general fund in the state treasury, not otherwise appropriated, or so much thereof as may be necessary, to carry out the provisions of chapter 37-17 of the North Dakota Century Code, pertaining to the operation of civil defense for North Dakota, as follows:

Salaries and wages	\$164,500.00
Fees and services	31,500.00
Supplies and materials	7,900.00
Equipment	<u>2,000.00</u>
Total for the biennium	\$205,900.00
Less federal share	<u>102,950.00</u>
Total general fund	\$102,950.00

Approved March 19, 1969.



CHAPTER 13

S. B. No. 13  
 (Committee on Appropriations)

REGISTRAR OF MOTOR VEHICLES

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the department of the registrar of motor vehicles, 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 state treasury in the motor registration fund, not otherwise appropriated, the sum of \$1,601,419.00, or so much thereof as may be necessary, for the purpose of defraying the expenses of the maintenance and operation of the department of registrar of motor vehicles, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 365,126.00
(Including salary of registrar, not to exceed \$21,600.00 for the biennium)	
Fees and services	266,970.00
Supplies and materials	605,000.00
Equipment	10,000.00
Data Processing	339,323.00
Refunds	<u>15,000.00</u>

The above line item of this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Total	\$1,601,419.00
-------	----------------

No refunds of registration fees shall be made, other than for

the current registration period. Exception: Claims for refunds predicated upon alleged errors in the determination of the fee schedule applicable to the vehicle for which the refund is sought, may be considered upon their merits, if the claim is made prior to July 1, 1971.

Section 2.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval on such items or subdivisions as are designated to be made available immediately on passage and approval.

Approved March 25, 1969.

---

CHAPTER 14

S. B. No. 14

(Committee on Appropriations)

STATE HIGHWAY DEPARTMENT

AN ACT

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

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

**Section 1. Appropriation for Administrative, Maintenance, and Construction Expense.)** There is hereby appropriated out of any unappropriated funds in the state highway fund in the state treasury, the sum of \$113,453,982.00, or so much thereof as may be necessary, for the purpose of defraying the expenses of administration, maintenance, and construction of the state highway department, and cooperating with the federal government under the Act of Congress known as the "Federal Highway Act", for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages

\$ 21,465,866.00

(Including salary of commissioner, not to exceed \$40,000.00 for the biennium)

Fees and services	3,303,223.00
Contracts	77,515,833.00
Supplies and materials	4,564,185.00
Equipment	1,831,045.00
Land, structures, and major improvements:	
Right-of-way	3,465,880.00
Land purchase, other than highway right-of-way	69,000.00
Material storage facilities	82,000.00
Fargo district shop	290,000.00
Minot storage building	20,000.00
Eight storage buildings	144,000.00
Data processing	603,300.00
Grants, benefits, and claims	99,650.00
Total	<u>\$ 113,453,982.00</u>

Approved March 29, 1969.



## CHAPTER 15

S. B. No. 15  
(Committee on Appropriations)

## WORKMEN'S COMPENSATION BUREAU

## AN ACT

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

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

**Section 1. Appropriation.)** There is hereby appropriated out any moneys in the state treasury in the workmen's compensation fund, not otherwise appropriated, the sum of \$995,465.00, or so much thereof as may be necessary for the purpose of paying salaries and miscellaneous expenses of the workmen's compensation bureau for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 738,700.00
(Including total salaries of members of the bureau, not to exceed \$20,400.00 each for the biennium)	
Fees and services	143,365.00
Supplies and materials	56,100.00
Equipment	17,000.00
Data Processing	30,300.00
Emergency	10,000.00
Total	<u>\$ 995,465.00</u>

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

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

Approved March 25, 1969.

---

CHAPTER 16

S. B. No. 16  
(Committee on Appropriations)

GAME AND FISH DEPARTMENT

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the game and fish department.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury in the game and fish fund, not otherwise appropriated, the sum of \$2,572,638.00, or so much thereof as may be necessary, for the purpose of defraying the expenses of the maintenance and operation of the game and fish department and in carrying out the provisions and purposes of all game laws imposing duties or conferring powers on the game and fish commissioner, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$1,289,418.00
(Including salary of commissioner, not to exceed \$26,000.00 for the biennium - salary of deputy commissioner, not to exceed \$22,000.00 for the biennium)	
Fees and services	340,000.00
In lieu of taxes	60,000.00
Supplies and materials	309,220.00
Equipment	194,000.00

---

 Land, structures, and major improvements:

Land purchases	280,000.00
Grants, benefits, and claims	50,000.00
Emergency	50,000.00
	<hr/>
Total	\$2,572,638.00

Approved March 19, 1969.

---

## CHAPTER 17

S. B. No. 17

(Committee on Appropriations)

## TEACHERS' INSURANCE AND RETIREMENT FUND

## AN ACT

Making an appropriation for the purpose of operating and maintaining the teachers' insurance and retirement fund.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury in the teacher's insurance and retirement fund, the sum of \$115,951.00 for the purpose of operating and maintaining the teachers' insurance and retirement fund, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 82,601.00
Fees and services	26,850.00
Supplies and materials	4,500.00
Equipment	2,000.00
	<hr/>
Total	\$ 115,951.00

Approved March 14, 1969.



## CHAPTER 18

S. B. No. 18  
(Committee on Appropriations)

## SCHOLARSHIPS FOR NURSES

## AN ACT

Making an appropriation to provide for nurse preparation scholarships for qualified residents of North Dakota who express an intent to prepare for nursing, as provided for in chapter 43-12 of the North Dakota Century Code.

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

**Section 1. Appropriation.)** There is hereby appropriated to the nurses' scholarship loan fund out of any moneys in the state general fund in the state treasury, not otherwise appropriated, the sum of \$88,000.00, or so much thereof as may be necessary for the purpose of paying nursing preparation scholarships and administration costs, as provided for in chapter 43-12 of the North Dakota Century Code, for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

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

Approved March 14, 1969.

## CHAPTER 19

S. B. No. 19  
(Committee on Appropriations)

## POULTRY IMPROVEMENT BOARD

## AN ACT

Making an appropriation for the operation, maintenance and miscellaneous expenses of the poultry improvement board.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury in the poultry improvement fund, the sum of \$126,156.00, or so much thereof as may be necessary, for the operation, maintenance and miscellaneous expenses of the poultry improvement board, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 89,435.00
Fees and services	20,121.00
Supplies and materials	7,352.00
Equipment	3,000.00
Grants, benefits, and claims	1,248.00
Emergency fund	5,000.00
<b>Total</b>	<u>\$126,156.00</u>

Approved March 19, 1969.

CHAPTER 20

S. B. No. 20  
 (Committee on Appropriations)

THE BANK OF NORTH DAKOTA

AN ACT

Making an appropriation for the purpose of defraying the expenses of maintenance and operation of the Bank of North Dakota and of the Judge A. M. Christianson Project.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury in the Bank of North Dakota fund created by transfer of profits from said institution and by transfer of proper portions of fees, interest, rents, and royalties collected in handling residual assets of the North Dakota real estate bond trust by the Bank of North Dakota, and by transfer of proper portions of rents and other income of the Judge A. M. Christianson project, the sum of \$1,287,181.00, or so much thereof as may be necessary, for the purpose of defraying the expenses of the maintenance and operation of the Bank of North Dakota and of the Judge A. M. Christianson project therein, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

BANKING DEPARTMENT

Salaries and wages	\$ 915,421.00
Fees and services	127,000.00
Supplies and materials	56,800.00
Equipment rental	60,000.00
Equipment	55,000.00
Emergency	40,000.00
	<hr/>
Total	\$ 1,254,221.00



---

**JUDGE A. M. CHRISTIANSON PROJECT**

Salaries and wages	\$ 12,960.00
Fees and services	10,000.00
Supplies and materials	9,000.00
Emergency	1,000.00
	<hr/>
Total	\$ 32,960.00
	<hr/>
Grand total	\$ 1,287,181.00

Approved March 29, 1969.

---

**CHAPTER 21**

S. B. No. 21

(Committee on Appropriations)

**STATE MILL AND ELEVATOR ASSOCIATION**

**AN ACT**

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state of North Dakota doing business as the North Dakota mill and elevator association.

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

**Section 1. Appropriation.)** There is hereby transferred out of any moneys in the state treasury in the North Dakota mill and elevator association fund, the sum of \$ 3,967,600.00, or so much thereof as may be necessary to pay the general maintenance, repair, salaries, operating expenses, equipment and miscellaneous items of the North Dakota mill and elevator association, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 2,719,900.00
Fees and services	940,000.00

Supplies and materials	78,200.00
Emergency	229,500.00
Total	\$3,967,600.00

Approved March 14, 1969.

---

CHAPTER 22

S. B. No. 22  
(Committee on Appropriations)

STATE WHEAT COMMISSION

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state wheat commission fund in the state treasury, not otherwise appropriated, the sum of \$600,620.00 for the purpose of defraying the expenses of the maintenance and operation of the state wheat commission, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 135,000.00
Fees and services	338,520.00
Supplies and materials	30,600.00
Equipment	4,000.00
Grants, benefits, and claims	2,500.00
Research-wheat and durum quality and economic research through North Dakota experiment station	80,000.00

Contingency fund	10,000.00
	<hr/>
Total	\$ 600,620.00

**Section 2. Intent.)** \$25,000.00 was included in the wheat commission budget category of fees and services to be used for a rate study. In the event that a lesser amount is expended for such study, the difference shall be returned to the wheat commission fund on June 30, 1971.

Approved March 29, 1969.

---

## CHAPTER 23

### S. B. No. 23 (Committee on Appropriations)

## STATE WATER CONSERVATION COMMISSION

### AN ACT

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

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the state water conservation commission operating fund in the state treasury the sum of \$1,197,401.00, of which \$82,000.00 is derived from income and collections, and \$1,115,401.00 from the general fund, or so much thereof as may be necessary, for the general administrative expenses of the commission; maintenance and construction of dams; expenses of planning, surveying, and construction of multiple purpose water projects; expenses of organizing water conservation districts; and for cooperating with agencies of the federal government and local government agencies of this state in planning and construction of water conservation projects; for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 811,901.00
--------------------	---------------



Fees and services	140,000.00
Supplies and materials	150,500.00
Equipment	35,000.00
Compensation of state representative to, and state's share of expenses of, Red-Souris- Rainy River basins commission.	60,000.00
Total for biennium	\$ 1,197,401.00
Less estimated income	82,000.00
Total general fund	\$ 1,115,401.00

**Section 2. Appropriations for Water Project Contract Payments.)** There is hereby appropriated out of any unappropriated funds in the state water commission contract operating fund in the state treasury, the sum of \$1,700,000.00, of which \$700,000.00 is derived from income and collections, and \$1,000,000.00 from the general fund, of which \$430,000.00 is carryover from the 1967-1969 biennium appropriation, or so much thereof as is necessary, to be available for water project contract obligations for the biennium beginning July 1, 1969, and ending June 30, 1971. The sum herein appropriated shall be transferred as needed by the director of the department of accounts and purchases and the state treasurer to the state water commission contract fund in the state treasury. Any moneys paid to the state water commission by any department, agency or political subdivision of this or another state or of the United States or any person or corporation to meet its part of the cost of a water project, shared with the commission on a matching or participating basis, and as determined by a written contract entered into with the commission, shall be deposited with the state treasurer and are hereby appropriated out of the state treasury and shall be credited to the contract fund.

**Section 3.)** It is the intent of the legislature that the Red-Souris-Rainy River basins commission appropriation shall not exceed \$60,000.00 or equal to the amount appropriated by the state of Minnesota, whichever is less.

Approved March 25, 1969.

## CHAPTER 24

S. B. No. 24  
(Committee on Appropriations)

## PUBLIC HEALTH DEPARTMENT

## AN ACT

Making an appropriation for the operating and maintenance expenses of the public health department.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the public health department operating fund in the state treasury the sum of \$3,553,251.00, of which \$2,634,840.00 is derived from income and collections, and \$918,411.00 from the general fund, or so much thereof as is necessary, to pay the salaries, clerkhire and all miscellaneous items and expenses of the public health department, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$2,080,341.00
Fees and services	406,657.00
Supplies and materials	205,000.00
Equipment	63,235.00
Grants, benefits and claims:	798,018.00
Total for biennium	\$3,553,251.00
Less estimated income	2,634,840.00
Total general fund	\$ 918,411.00

**Section 2. Appropriation.)** There is hereby appropriated to the state health department out of any unappropriated funds in the general fund in the state treasury, the sum of \$363,380.00, or so much thereof as is necessary for the purpose of provid-

ing financial assistance in maintaining mental health and retardation units.

Approved March 29, 1969.

---

CHAPTER 25

S. B. No. 25  
(Committee on Appropriations)

CAPITOL GROUNDS IMPROVEMENT

AN ACT

Making an appropriation to the capitol grounds planning commission out of the general fund for the purpose of defraying the expenses of the commission.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$24,000.00, or so much thereof as is necessary, to the capitol grounds planning commission for the purpose of the preparation of a comprehensive landscaping and site development plan and defraying the expenses of the commission in carrying out its duties during the biennium beginning July 1, 1969, and ending June 30, 1971.

Approved March 25, 1969.



## CHAPTER 26

S. B. No. 26  
(Committee on Appropriations)

## LAW ENFORCEMENT COUNCIL

## AN ACT

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

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

**Section 1. Appropriation.)** There is hereby appropriated the sum of \$2,000,000.00 from federal funds available to North Dakota under the Omnibus Crime Control and Safe Streets Act and the Juvenile Delinquency Prevention and Control Act, and the sum of \$10,000.00 out of the state general fund, or so much thereof as may be necessary, for administering the provisions of chapter 12-61 of the North Dakota Century Code, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 225,000.00
Fees and services	85,000.00
Supplies, materials and equipment	100,000.00
Grants, benefits, and claims	<u>1,600,000.00</u>
Total for the biennium	\$ 2,010,000.00
Less estimated income	<u>2,000,000.00</u>
Total general fund	\$ 10,000.00

Approved March 25, 1969.

CHAPTER 27

S. B. No. 27  
 (Committee on Appropriations)

GOVERNOR'S COUNCIL ON HUMAN RESOURCES

AN ACT

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

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury the sum of \$45,600.00, or so much thereof as is necessary, for salaries and expenses of the governor's council on human resources, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$27,600.00
Fees and services	15,333.00
Supplies and materials	2,067.00
Equipment	<u>600.00</u>
Total	\$45,600.00

Approved March 29, 1969.

## CHAPTER 28

S. B. No. 28  
(Committee on Appropriations)

## NORTH DAKOTA HERITAGE COMMISSION

## AN ACT

Making an appropriation to the North Dakota heritage commission for the planning and designing of a heritage center.

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

**Section 1. Appropriation.)** There is hereby appropriated the sum of \$10,000.00 from the general fund to the North Dakota heritage commission for the purpose of carrying out the duties in accordance with section 55-09 of the North Dakota Century Code.

Approved March 14, 1969

## CHAPTER 29

S. B. No. 29  
(Committee on Appropriations)

**EXTRAORDINARY EXPENSES OF LAW ENFORCEMENT****AN ACT**

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

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, the sum of \$20,000.00, or so much thereof as may be necessary, for the purpose of meeting the extraordinary expenses of counties in law enforcement arising by reason of the location of Indian reservations in such counties. This appropriation shall be used for extraordinary expenses of law enforcement incurred from the effective date of this Act to and including June 30, 1971, and also shall be used for the payment of any claims for extraordinary expenses of law enforcement for any prior biennium for which there was not sufficient funds appropriated to meet all the claims for such extraordinary expenses of law enforcement.

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

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

Approved March 29, 1969.



## CHAPTER 30

S. B. No. 30  
(Committee on Appropriations)

## DEPARTMENT OF PUBLIC INSTRUCTION - GRANTS

## AN ACT

Making an appropriation for the purpose of defraying the expenses of public schools, specifying the amount and time for which such appropriations shall be available, and repealing all Acts, or parts of Acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same purposes provided for herein.

**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 \$51,307,200.00, or so much thereof as may be necessary, to defray the expenses to be incurred in and about the purpose of public instruction herein set out, during the fiscal period of two years, beginning July 1, 1969, and ending June 30, 1971, to wit:

Special education	\$ 1,061,000.00
Foundation payments	50,200,000.00
Walsh County agricultural school	21,000.00
Indian scholarships	<u>25,200.00</u>
Totals	\$ 51,307,200.00

**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 herein.

Approved March 29, 1969.

## CHAPTER 31

S. B. No. 109  
(Committee on Appropriations)

BOARD OF ADMINISTRATION-STATEWIDE  
COMMUNICATIONS FUND

## AN ACT

Making an appropriation for the purpose of defraying the expenses of the services of the statewide communications fund in the office of the board of administration.

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

**Section 1. Appropriation.)** There is hereby appropriated out of the moneys in the statewide communications fund in the state treasury, the sum of \$931,376.00 of which \$322,150.00 is derived from income and collections and \$609,226.00 from the general fund in the state treasury, or so much thereof as is necessary for defraying the expenses of the services of the statewide communications fund, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Fees and services	\$ 881,376.00
Contingent - Emergency	<u>50,000.00</u>
Total	\$ 931,376.00
Less estimated income	<u>322,150.00</u>
Total general fund	\$ 609,226.00

Approved March 14, 1969.

## CHAPTER 32

S. B. No. 110  
(Committee on Appropriations)

## STATE FAIR ASSOCIATION

## AN ACT

Making an appropriation to the North Dakota state fair association, and declaring an emergency.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the state fair association operating fund in the state treasury the sum of \$392,605.00, of which \$317,605.00 is derived from income and collections and \$75,000.00 from the general fund in the state treasury, or so much thereof as is necessary, for the state fair association, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 93,350.00
Fees and services	227,055.00
Supplies and materials	19,700.00
Equipment	2,500.00
Land, structures, and major improvements:	
Livestock barn and equipment	50,000.00
Total	<u>\$392,605.00</u>
Less estimated income	317,605.00
Total general fund	<u>\$ 75,000.00</u>

**Section 2.)** It is the intent of the legislature that \$50,000.00 general fund appropriation by the state will be used for

premiums. It is the further intent of the legislature that \$25,000.00 of the general fund appropriation shall be used for the construction of a pole barn and a second pole barn may be constructed and the income from non-fair usage of the two buildings is to be used to amortize construction costs of the second pole barn.

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

Approved March 29, 1969.

---

CHAPTER 33

S. B. No. 111  
(Committee on Appropriations)

STATE POTATO COUNCIL

AN ACT

Making an appropriation for paying the salaries and other expenses of the state potato council.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the spud fund to the state potato council for the purpose of paying the salaries and other expenses of the state potato council for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 6,441.00
Fees and services	199,317.00
Supplies and materials	2,760.00
Total	<u>\$208,518.00</u>

Approved March 19, 1969.



## CHAPTER 34

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

## BUDGET

## AN ACT

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

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

**Section 1. Appropriations for the Executive Department of the State Government, and for Subdivisions Thereof.)** The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

**Section 2. The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriation herein made shall be available for the expenses to be incurred in and about these several purposes herein set out, during the fiscal period of two years, beginning July 1, 1969, and ending June 30, 1971, to wit:

**Section 3. Appropriations.)**

Subdivision 1.

**EXECUTIVE OFFICE**

Salaries and wages	\$ 129,924.00
Fees and services	15,180.00
Supplies and materials	5,000.00
Equipment	1,500.00
National governors' conference	4,000.00
Governor's contingent	<u>4,000.00</u>
Total	\$ 159,604.00

Subdivision 2.

COUNCIL OF STATE GOVERNMENTS

Fees and services	\$ 15,700.00
Total	\$ 15,700.00

Subdivision 3.

LIEUTENANT GOVERNOR

Salaries and wages	\$ 6,100.00
Fees and services	3,250.00

The above line item of this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Supplies and materials	<u>300.00</u>
Total	\$ 9,650.00

Subdivision 4.

SECRETARY OF STATE

Salaries and wages	\$ 169,414.00
Fees and services	24,600.00
Supplies and materials	10,000.00
Equipment	<u>6,000.00</u>
Total	\$ 210,014.00

Subdivision 5.

SECRETARY OF STATE-PUBLIC PRINTING

Fees and services	\$ 1,500.00
Supplies and materials	<u>55,000.00</u>
Total	\$ 56,500.00

Subdivision 6.

STATE AUDITOR

Salaries and wages	\$ 463,968.00
Fees and services	144,400.00

Supplies and materials	9,000.00
Equipment	4,939.00
Total	\$ 622,307.00

Subdivision 7.

#### STATE TREASURER

Salaries and wages	\$ 147,327.00
Fees and services	16,400.00
Supplies and materials	5,750.00
Equipment	1,500.00
Total	\$ 170,977.00

Subdivision 8.

#### ATTORNEY GENERAL

Salaries and wages	\$ 435,377.00
Fees and services	40,400.00
Supplies and materials	13,750.00
Contingency fund price fixing prosecution	15,000.00
Equipment	3,700.00
Total	\$ 508,227.00

Subdivision 9.

#### BOARD OF ADMINISTRATION

Salaries and wages	\$ 748,333.00
Fees and services	360,000.00
Supplies and materials	81,000.00
Equipment	40,000.00
Land, structures, and major improvements	60,000.00
Revolving door for west entrance	2,000.00
Air condition central data processing area	13,000.00

The above line item of this Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Total	\$ 1,304,333.00
-------	-----------------

## Subdivision 10.

## STATE INDUSTRIAL COMMISSION

Salaries and wages	\$	8,742.00
Fees and services		7,600.00
Supplies and materials		<u>250.00</u>
Total	\$	16,592.00

## Subdivision 11.

## DEPARTMENT OF ACCOUNTS AND PURCHASES

Salaries and wages	\$	387,310.00
Job classification		8,440.00
Fees and services		16,800.00
Supplies and materials		23,100.00
Equipment		5,515.00
Data processing		<u>81,760.00</u>
Total	\$	522,925.00

## Subdivision 12.

## EMERGENCY COMMISSION—STATE CONTINGENCY FUND

State contingency fund	\$	<u>300,000.00</u>
Total	\$	300,000.00

## Subdivision 13.

## MISCELLANEOUS REFUNDS

Grants, benefits, and claims	\$	<u>30,000.00</u>
Total	\$	30,000.00
Grand total	\$	3,926,829.00

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

Approved March 29, 1969.

## CHAPTER 35

H. B. No. 2  
(Committee on Appropriations)

## EDUCATIONAL DEPARTMENT'S BUDGET

## AN ACT

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

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

**Section 1. Appropriations for the Educational Departments of State Government, and for Subdivisions Thereof.)** The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

**Section 2. The Period During Which the Appropriations Made Herein Shall be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1969, and ending June 30, 1971, to wit:

**Section 3. Appropriations.)**

## Subdivision 1.

## STATE BOARD OF HIGHER EDUCATION

Salaries and wages	\$ 175,688.00
Fees and services	21,800.00
Supplies and materials	3,300.00

Equipment	1,400.00
	<u>                    </u>
Total	\$ 202,188.00

## Subdivision 2.

STATE BOARD OF HIGHER EDUCATION -  
SABBATICAL LEAVE

Sabbatical leave	\$ 100,000.00
	<u>                    </u>
Total	\$ 100,000.00

## Subdivision 3.

## STATE AID TO JUNIOR COLLEGES

Grants, benefits, and claims	\$1,733,850.00
	<u>                    </u>
Total	\$1,733,850.00

## Subdivision 4.

## NATIONAL DEFENSE STUDENT ASSISTANCE PROGRAM

Grants, benefits, and claims	\$ 200,000.00
	<u>                    </u>
Total	\$ 200,000.00

## Subdivision 5.

## RECIPROCAL AGREEMENTS

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

## Subdivision 6.

## STATE LAND COMMISSIONER

Salaries and wages	\$ 243,847.00
--------------------	---------------

(Including commissioner's salary not to exceed \$20,400.00 for the biennium.)

Fees and services	45,000.00
Supplies and materials	6,700.00
Equipment	5,000.00
Total	<u>\$ 300,547.00</u>

## Subdivision 7.

## BOYS' AND GIRLS' CLUBWORK — COUNTY FAIRS

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

## Subdivision 8.

## STATE COMMISSION ON ALCOHOLISM

Salaries and wages	\$ 86,388.00
Fees and services	24,000.00
Supplies and materials	10,550.00
Equipment	1,500.00
Total	<u>\$ 122,438.00</u>

## Subdivision 9.

## NORTH DAKOTA INDIAN AFFAIRS COMMISSION

Salaries and wages	\$ 32,716.00
Fees and services	6,142.00
Supplies and materials	542.00
Total	<u>\$ 39,400.00</u>
Grand Total	\$2,780,023.00



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

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

Approved March 25, 1969.

CHAPTER 36

H.B. No. 3  
(Committee on Appropriations)

REGULATORY DEPARTMENTS' BUDGET

AN ACT

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

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

**Section 1. Appropriations for the Regulatory Departments of the State Government, and for Subdivisions Thereof.)** The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following sections of this Act.

**Section 2. The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1969, and ending June 30, 1971, to wit:

**Section 3. Appropriations.)**

Subdivision 1.

ATTORNEY GENERAL LICENSING

Salaries and wages	\$ 109,979.00
Fees and services	37,108.00
Supplies and materials	5,120.00
Equipment	1,000.00
	<hr/>
Total	\$ 153,207.00

## Subdivision 2.

## ATHLETIC COMMISSION

Salaries and wages	\$	900.00
Fees and services		650.00
Supplies and materials		150.00
		<hr/>
Total	\$	1,700.00

## Subdivision 3.

## LABOR DEPARTMENT

Salaries and wages (Including commissioner's salary not to exceed \$24,000.00 for the biennium)	\$	102,765.00
Fees and services		28,411.00
Supplies and materials		3,000.00
Equipment		500.00
		<hr/>
Total	\$	134,676.00

## Subdivision 4.

## PUBLIC SERVICE COMMISSION

Salaries and wages	\$	629,457.00
Fees and services		91,213.00
Supplies and materials	\$	36,790.00
Equipment		27,700.00
		<hr/>
Total	\$	785,160.00

## Subdivision 5.

## PUBLIC SERVICE COMMISSION — UTILITY VALUATION

Fees and services	\$	20,000.00
		<hr/>
Total	\$	20,000.00

## Subdivision 6.

## AERONAUTICS COMMISSION

Salaries and wages	\$	62,141.00
Fees and services		25,943.00
Supplies and materials		10,371.00
Equipment		2,100.00
		<hr/>
Total	\$	100,555.00

## Subdivision 7.

## STATE EXAMINER

Salaries and wages (Including state examiner's salary not to exceed \$30,000.00 for the biennium)	\$	331,463.00
Fees and services		94,272.00
Supplies and materials		4,000.00
Equipment		8,000.00
		<hr/>
Total	\$	437,735.00

## Subdivision 8.

## SECURITIES COMMISSIONER

Salaries and Wages (Including securities commissioner's salary not to exceed \$28,000.00 for the biennium)	\$	90,719.00
Fees and services		20,000.00
Supplies and materials		4,000.00
Equipment		1,000.00
		<hr/>
Total	\$	115,719.00

## Subdivision 9.

## STATE LABORATORIES DEPARTMENT

Salaries and wages (Including director's salary not to exceed \$20,400.00, for the biennium)	\$	453,634.00
---	----	------------

Fees and services	94,200.00
Supplies and materials	40,400.00
Equipment	7,000.00
Data processing	10,500.00

Total	\$ 605,734.00
-------	---------------

Subdivision 10.

#### COAL MINE INSPECTOR

Salaries and wages	\$ 27,184.00
Fees and services	3,500.00
Supplies and materials	1,500.00
Equipment	2,000.00

Total	\$ 34,184.00
-------	--------------

Subdivision 11.

#### VETERINARY MEDICAL EXAMINER

Salaries and wages	\$ 1,200.00
Fees and services	1,500.00
Supplies and materials	200.00

Total	\$ 2,900.00
-------	-------------

Subdivision 12.

#### NORTH DAKOTA FIREMEN'S ASSOCIATION

Grants, benefits, and claims	\$ 10,000.00
Total	\$ 10,000.00

Subdivision 13.

#### COMMISSIONER OF INSURANCE

Salaries and wages	\$ 253,946.00
Fees and services	69,666.00
Supplies and materials	8,000.00



Equipment	2,000.00
Data processing	10,595.00
	<hr/>
Total	\$ 344,207.00

Subdivision 14.

STATE FIRE MARSHAL

Salaries and wages	\$ 63,129.00
Fees and services	21,000.00
Supplies and materials	3,000.00
Equipment	2,400.00
	<hr/>
Total	\$ 89,529.00
 Grand Total	 \$ 2,835,306.00

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

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

**Section 6.)** It is the intent of the legislature that the \$110,400.00 deleted from the budget of the state laboratories department be for reducing inspections and regulatory activities relating to petroleum and petroleum products under the provisions of chapter 19-10 of the North Dakota Century Code or any other provision of law.

Approved March 29, 1969.

## CHAPTER 37

H. B. No. 4  
(Committee on Appropriations)

## BUDGET

## AN ACT

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

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

**Section 1. Appropriations for Departments of the State Government, and for Subdivisions Thereof.)** The sums hereinafter named only, or so much thereof as may be necessary, are hereby appropriated out of the general fund in the state treasury, to the credit of each department and subdivision hereinafter named except as hereinafter specifically provided, not otherwise appropriated, for the purpose specified in the following section of this Act.

**Section 2. The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years, beginning July 1, 1969, and ending June 30, 1971, to wit:

**Section 3. Appropriations.)**

Subdivision 1.

PARDON BOARD

Salaries and wages	\$	600.00
Fees and services		2,000.00
Total	\$	<u>2,600.00</u>

## Subdivision 2.

## PAROLE OFFICE

Salaries and wages	\$ 226,389.00
Fees and services	59,700.00
Supplies and materials	4,000.00
Equipment	4,000.00
Total	\$ 294,089.00

## Subdivision 3.

## FUGITIVES FROM JUSTICE—ARREST AND RETURN

Fees and services	\$ 10,000.00
Supplies and materials	200.00
Total	\$ 10,200.00

## Subdivision 4.

## RADIO COMMUNICATIONS

Salaries and wages	\$ 197,923.00
Fees and services	54,736.00
Supplies and materials	35,505.00
Equipment	27,732.00
Total	\$ 315,896.00

## Subdivision 5.

## CIVIL AIR PATROL

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

## Subdivision 6.

## REWARD FOR APPREHENSION OF CRIMINALS

Grants, benefits, and claims	\$ 1,000.00
Total	\$ 1,000.00

## Subdivision 7.

## ADJUTANT GENERAL

Salaries and wages	\$ 105,376.00
Fees and services	1,248.00
Supplies and materials	3,120.00
Purchase of flags	2,000.00
Equipment	<u>832.00</u>
Total	\$ 112,576.00

## Subdivision 8.

## DEPARTMENT OF AGRICULTURE

Salaries and wages	\$ 265,719.00
Fees and services	87,800.00
Supplies and materials	20,800.00
Equipment	<u>6,000.00</u>
Total	\$ 380,319.00
Less estimated income	<u>43,491.00</u>
General fund transfer and appropriation	\$ 336,828.00

## Subdivision 9.

## SOIL CONSERVATION COMMITTEE AND DISTRICTS

Salaries and wages	\$ 35,941.00
Fees and services	39,325.00
Supplies and materials	3,175.00
Equipment	750.00
Grants, benefits, and claims	<u>40,000.00</u>
Total	\$ 119,191.00

## Subdivision 10.

## STATE GEOLOGICAL SURVEY

Salaries and wages	\$ 438,315.00
Fees and services	61,538.00
Supplies and materials	59,253.00
Equipment	<u>16,000.00</u>
Total	\$ 575,106.00

## Subdivision 11.

**THEODORE ROOSEVELT ROUGH RIDER AWARD**

Grants, benefits, and claims	\$ <u>2,000.00</u>
Total	\$ 2,000.00
Grand total	\$ 1,803,286.00

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

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

Approved March 29, 1969.



## CHAPTER 38

H. B. No. 5  
(Committee on Appropriations)

## JUDICIAL BUDGET

## AN ACT

To appropriate money for the expenses of the judicial branch of government, specifying the amount and time for which such appropriation shall be available, and repealing all Act, or parts of Acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein.

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

**Section 1. Appropriation for the Judicial Department of State Government.)** There is hereby appropriated out of the general fund in the state treasury to the judicial branch of state government, not otherwise appropriated, for the purpose specified in the following sections of this bill.

**Section 2. The Period During Which the Appropriations Made Herein Shall Be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about the several purposes herein set out, during the fiscal period of two years beginning July 1, 1969, and ending June 30, 1971, to wit:

**Section 3. Appropriation.)**

Subdivision 1.

## SUPREME COURT

Salaries and wages	\$ 370,234.00
Fees and services	7,500.00
Supplies and materials	3,200.00
Equipment	6,800.00
Total	<u>\$ 387,734.00</u>

## Subdivision 2.

## SUPREME COURT REPORTER AND LAW LIBRARIAN

Salaries and wages	\$	27,680.00
Fees and services		2,000.00
Supplies and materials		22,000.00
Equipment		2,000.00
Total	\$	<u>53,680.00</u>

## Subdivision 3.

## JUDGES OF DISTRICT COURT

Salaries and wages	\$	708,070.00
Fees and services		50,000.00
Judges' retirement		107,900.00
Total	\$	<u>880,630.00 **</u>
Grand total	\$	1,307,384.00

Approved March 29, 1969.

**\*\*Note:** This figure is in error but is shown exactly as it appears on the joint conference committee report.

## CHAPTER 39

H. B. No. 6  
(Committee on Appropriations)

## LEGISLATIVE BUDGET

## AN ACT

To appropriate money for the expenses of the legislative branch of government, specifying the amount and time for which such appropriation shall be available, and repealing all Acts, or parts of Acts, insofar as the same shall relate to appropriations conflicting herewith or to appropriations for the same matters or purposes provided for herein, and declaring an emergency.

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

**Section 1. Appropriation for the Legislative Department of State Government.)** There is hereby appropriated out of the general fund in the state treasury to the legislative branch of the state government, not otherwise appropriated, for the purpose specified in the following sections of this bill.

**Section 2. The Period During Which the Appropriations Made Herein Shall be Available.)** Unless otherwise specifically stated, the appropriations herein made shall be available for the expenses to be incurred in and about several purposes herein set out, during the fiscal period of two years beginning July 1, 1969, and ending June 30, 1971, to wit:

**Section 3. Appropriation.)**

Subdivision 1.

41st AND 42nd LEGISLATIVE ASSEMBLIES  
AND BIENNIUMS

Salaries and wages	\$ 231,777.00
Fees and services	585,783.00
Supplies and materials	174,440.00
Equipment	5,000.00
Total	<u>\$ 997,000.00</u>

Subdivision 2.

LEGISLATIVE ORGANIZATIONAL SESSIONS-  
1968 AND 1970

Salaries and wages	\$ 7,000.00
Fees and services	35,200.00
Supplies and materials	<u>2,000.00</u>
 Total	 \$ 44,200.00

Subdivision 3.

LEGISLATIVE AUDIT AND FISCAL REVIEW COMMITTEE

Salaries and wages	\$ 32,190.00
Fees and services	12,241.00
Development of institutional accounting systems	30,000.00
Supplies and materials	500.00
Equipment	<u>2,000.00</u>
 Total	 \$ 76,931.00

Subdivision 4.

LEGISLATIVE COUNCIL

Salaries and wages	\$ 264,892.00
Fees and services	194,000.00
Senate concurrent resolution 61-tax study	26,000.00
Supplies and materials	8,300.00
Equipment	<u>2,000.00</u>
 Total	 \$ 495,192.00
 Grand total	 \$1,613,323.00

Section 4. Appropriation.) The director of accounts and purchases and the state treasurer shall make such transfers of funds between lined items of appropriation for the legislative research committee as may be requested by the chairman of such committee upon a finding by such chairman that the nature of studies and duties assigned to the committee requires such transfers in properly carrying on the committee's functions.

**Section 5. Emergency.)** Subdivisions 1 and 2 of this Act are hereby declared to be emergency measures and shall be in full force and effect from and after their passage and approval.

Approved March 25, 1969.



CHAPTER 40

H. B. No. 7  
 (Committee on Appropriations)

SCHOOL FOR THE BLIND

AN ACT

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

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

**Section 1. Appropriation for the State School for the Blind.)** There is hereby appropriated out of the school for the blind operating fund in the state treasury the sum of \$317,290.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the school for the blind at Grand Forks for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 261,658.00
Fees and services	25,326.00
Supplies and materials	27,306.00
Equipment	<u>3,000.00</u>
<b>Total</b>	<b>\$ 317,290.00</b>
 Less estimated income	 <u>63,000.00</u>
 General fund transfer and appropriation	 \$ 254,290.00

**Section 2. Appropriation.)** If the sum available in the school for the blind operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$317,290.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

Approved March 18, 1969.

## CHAPTER 41

H. B. No. 8  
(Committee on Appropriations)

## SCHOOL FOR DEAF

## AN ACT

Making an appropriation for the general maintenance, improvements and repairs, and equipment of the school for the deaf at Devils Lake, North Dakota.

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

**Section 1. Appropriation for the State School for the Deaf.)** There is hereby appropriated out of the school for the deaf operating fund in the state treasury the sum of \$856,521.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the school for the deaf at Devils Lake for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 664,944.00
Fees and services	40,550.00
Supplies and materials	107,500.00
Equipment	26,850.00
Special Assessment, City of Devils Lake	682.00
Land, structures and major improvements:	
Chimney repair, road repaving	3,495.00
Campus lighting	<u>12,500.00</u>
 Total	 \$ 856,521.00
Less estimated income	<u>170,388.00</u>
 General fund transfer and appropriation	 \$ 686,133.00

**Section 2. Appropriation.)** If the sum available in the school for the deaf operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$856,521.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury, except that this section shall not apply to federal funds estimated but not received.

Approved March 18, 1969.

CHAPTER 42

H.B. No. 9  
 (Committee on Appropriations)

GRAFTON STATE SCHOOL

AN ACT

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

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

**Section 1. Appropriation for the Grafton State School.)** There is hereby appropriated out of the Grafton state school operating fund in the state treasury the sum of \$6,263,199.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the Grafton state school for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 4,608,639.00
Fees and services	274,060.00
Supplies and materials	1,068,800.00
Equipment	78,000.00
Land, structures, and major improve- ments:	
Replace two boilers in power plant	<u>233,700.00</u>
 Total	 \$ 6,263,199.00
Less estimated income	975,339.00
	<hr/>
General fund transfer and appropriation	\$ 5,287,860.00

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

Approved March 29, 1969.

## CHAPTER 43

H. B. No. 10  
(Committee on Appropriations)

## TUBERCULOSIS SANATORIUM

## AN ACT

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

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

**Section 1. Appropriation for the Tuberculosis Sanatorium.)**  
There is hereby appropriated out of the tuberculosis sanatorium operating fund in the state treasury the sum of \$2,824,816.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the tuberculosis sanatorium at San Haven for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$2,164,716.00
Fees and services	93,300.00
Supplies and materials	522,400.00
Roof repair	12,000.00
Equipment	32,400.00
<b>Total</b>	<b>\$2,824,816.00</b>
Less estimated income	184,700.00
<b>General fund transfer and appropriation</b>	<b>\$2,640,116.00</b>

Approved March 25, 1969.

## CHAPTER 44

H. B. No. 11  
(Committee on Appropriations)

## STATE HOSPITAL

## AN ACT

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

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

**Section 1. Appropriation for the State Hospital.)** There is hereby appropriated out of the state hospital operating fund in the state treasury the sum of \$11,637,754.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the state hospital at Jamestown for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 8,633,834.00
Fees and services	486,000.00
Supplies and materials	2,012,500.00
Equipment	245,420.00
Land, structures, and major improvements:	
Service road to adolescent treatment center	35,000.00
Equipment for adolescent treatment center	75,000.00
Remodeling projects	150,000.00
Total	<u>\$11,637,754.00</u>
Less estimated income	<u>5,800,000.00</u>
General fund transfer and appropriation	\$ 5,837,754.00

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

Approved March 26, 1969.

---

CHAPTER 45

H. B. No. 12  
(Committee on Appropriations)

STATE INDUSTRIAL SCHOOL

AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment, miscellaneous, and special projects for the state industrial school at Mandan, North Dakota.

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

**Section 1. Appropriations for the State Industrial School.)** There is hereby appropriated out of the industrial school operating fund in the state treasury the sum of \$1,505,349.00\*\*, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the state industrial school for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 1,002,191.00
Fees and services	149,772.00
Supplies and materials	173,222.00
Equipment	31,564.00
Land, structures, and major improvements:	
Washer-extractor for laundry	22,000.00
Replace powerhouse roof	25,000.00
Sidewalk repair and blacktop resealing	9,000.00
	<hr/>
Total	\$ 1,505,349.00**



Less estimated income	188,268.00
-----------------------	------------

---

General fund transfer and appropriation	\$ 1,317,081.00**
---	-------------------

**Section 2. Appropriation.)** If the sum available in the state industrial school operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$1,486,629.00\*\*, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

**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.)** Present annual individual salaries under \$3,600 shall be increased by 10% the first year of the biennium and 5% the second year of the biennium. The total amount of all present salaries between the \$3,600 and \$6,000 range may be increased by 5% each year of the biennium, the amount of individual raises to be determined by the department, agency or institution. The total amount of all present salaries exceeding \$6,000 per annum may be increased by 3% each year of the biennium, the amount of individual raises to be determined by the department, agency or institution.

It is not the intent of the legislature to manage or classify salaries. It is, however, the intent of the legislature to guarantee the salary increases specified for those employees now receiving an annual wage of less than \$3,600.00.

Approved March 29, 1969.

**\*\* Note:** These figures are in error but are shown exactly as they appear on the joint conference committee report.

## CHAPTER 46

H. B. No. 13  
(Committee on Appropriations)

## STATE PENITENTIARY

## AN ACT

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

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

**Section 1. Appropriation for the State Penitentiary.)** There is hereby appropriated out of the state penitentiary operating fund in the state treasury the sum of \$1,645,694.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the state penitentiary and state farm for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$1,106,794.00
Fees and services	235,900.00
Supplies and materials	268,000.00
Equipment	35,000.00
Total	<u>\$1,645,694.00</u>
Less estimated income	54,350.00
General fund transfer and appropriation	<u>\$1,591,344.00</u>

**Section 2. Appropriation.)** If the sum available in the state penitentiary operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$1,645,694.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

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

Approved March 18, 1969.

## CHAPTER 47

H. B. No. 14  
(Committee on Appropriations)

## PENITENTIARY TAG AND SIGN PLANT

## AN ACT

Making an appropriation for the general maintenance and operation of the tag and sign plant at the state penitentiary.

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

**Section 1. Appropriation for the Tag and Sign Plant.)** There is hereby appropriated out of the state penitentiary operating fund in the state treasury the sum of \$398,010.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the tag and sign plant at the state penitentiary for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 35,010.00
Fees and services	11,000.00
Supplies and materials	<u>352,000.00</u>
Total	\$ 398,010.00
Less estimated income	<u>398,010.00</u>
Total general fund transfer and appropriation	\$ - 0 -

**Section 2. Appropriation.)** If the sum available in the state penitentiary operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$398,010.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

Approved March 14, 1969.

## CHAPTER 48

H. B. No. 15  
(Committee on Appropriations)

## NORTH DAKOTA TWINE AND CORDAGE PLANT

## AN ACT

Making an appropriation for the general maintenance, improvements and repairs, equipment and miscellaneous expenses of the North Dakota twine and cordage plant at the state penitentiary.

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

**Section 1. Appropriation.)** There is hereby appropriated out of the state penitentiary operating fund in the state treasury the sum of \$256,676.00, or so much thereof as may be necessary, for the operation, maintenance, repairs, improvements, and general expense of the North Dakota twine and cordage plant at the state penitentiary for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 150,476.00
Fees and services	33,500.00
Supplies and materials	69,700.00
Equipment	3,000.00
Total	<u>\$ 256,676.00</u>
Less estimated income	<u>256,676.00</u>
General fund transfer and appropriation	\$ - 0 -

**Section 2. Appropriation.)** If the sum available in the state penitentiary operating fund, from income and the general fund appropriation in section 1 of this Act, is less than the total appropriation of \$256,676.00, the difference between the total appropriation and the sum available in such operating fund is hereby appropriated from any unappropriated funds in the general fund in the state treasury.

Approved March 14, 1969.

## CHAPTER 49

H. B. No. 17  
(Committee on Appropriations)

## STATE FIRE AND TORNADO FUND

## AN ACT

Making an appropriation for the purpose of operating and maintaining the state fire and tornado fund, to amend and reenact section 21-10-05 of the North Dakota Century Code, relating to powers and duties of the investment director, and to amend and reenact section 21-10-07 of the North Dakota Century Code, relating to legal investments for funds.\*

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

**Section 1. Appropriation.)** There is hereby appropriated out of the moneys in the state fire and tornado fund in the state treasury the sum of \$139,851.00, or so much thereof as may be necessary, to maintain and operate the state fire and tornado fund of the state of North Dakota, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 76,161.00
Fees and services	35,460.00
Supplies and materials	2,500.00
Data processing	6,230.00
Equipment	2,500.00
Premium refunds	17,000.00
<b>Total</b>	<u>\$139,851.00</u>

Approved March 26, 1969.

\*Note: Sections 21-10-05 and 21-10-07 are listed in the title of this Act as being amended, however, those sections were deleted by amendment from House Bill No. 17 prior to its final passage, but corresponding amendments were not made to the bill title.



## CHAPTER 50

H. B. No. 18  
(Committee on Appropriations)

## STATE BONDING FUND

## AN ACT

Making an appropriation for the purpose of operating and maintaining the state bonding fund.

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

**Section 1. Appropriation.)** There is hereby appropriated out of the moneys in the state bonding fund in the state treasury, the sum of \$29,422.00, or so much thereof as may be necessary, to maintain and operate the state bonding fund of the state of North Dakota, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 20,022.00
Fees and services	7,400.00
Supplies and materials	1,500.00
Equipment	500.00
Total	<u>\$ 29,422.00</u>

Approved March 26, 1969.

## CHAPTER 51

H. B. No. 19  
(Committee on Appropriations)

## VOCATIONAL EDUCATION

## AN ACT

Making an appropriation to the state board of public school education for the administration and supervision of grants for vocational agriculture, office and distributive education, vocational home economics, trade and industrial education, manpower development and training, rural area redevelopment, and work study.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the vocational education operating fund in the state treasury the sum of \$4,430,435.00, of which \$3,434,632.00 is derived from income and collections and \$995,803.00 from the general fund in the state treasury or so much thereof as is necessary for the administration and supervision of grants for vocational agriculture, office and distributive education, vocational home economics, trade and industrial education, manpower development and training, rural area redevelopment, and work study as provided for in section 15-40-04 as amended, of the North Dakota Century Code, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 423,327.00
Fees and services	144,627.00
Data processing	4,000.00
Supplies and materials	22,060.00
Equipment	6,271.00
Local directors	44,000.00
Grants, benefits, and claims:	
Vocational agriculture	708,787.00

Distributive education	178,698.00
Home economics	326,880.00
Office education	530,447.00
Trade and technical	1,220,684.00
Manpower development and training	590,654.00
Rural area redevelopment	160,000.00
Work study	70,000.00
Total for biennium	<u>\$ 4,430,435.00</u>
Less estimated income	3,434,632.00
Total general fund	<u>\$ 995,803.00</u>

Approved March 29, 1969.

H. B. No. 20  
(Committee on Appropriations)

## VOCATIONAL REHABILITATION DIVISION

## AN ACT

Making an appropriation for salaries and expenses of the division of vocational rehabilitation for rehabilitating disabled persons.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the vocational rehabilitation division operating fund in the state treasury the sum of \$4,711,120.00, of which \$4,085,376.00 is derived from income and collections and \$625,744.00 from the general fund in the state treasury, or so much thereof as is necessary, for the vocational rehabilitation of disabled persons, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 997,635.00
Fees and services	439,314.00
Supplies and materials	80,636.00
Equipment	67,200.00
Grants, benefits, and claims:	
Case services	3,126,335.00
Total	<u>\$4,711,120.00</u>
Less estimated income	4,085,376.00
Total general fund	<u>\$ 625,744.00</u>

Approved March 26, 1969.

## CHAPTER 53

H. B. No. 21  
(Committee on Appropriations)

## SURPLUS PROPERTY DIRECTOR

## AN ACT

Making an appropriation to the department of public instruction for the purpose of paying salaries and other expenses of the director of surplus property.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the surplus property special fund in the state treasury, not otherwise appropriated, the sum of \$137,406.00, or so much thereof as may be necessary, to the department of public instruction for the purpose of paying salaries and other expenses of the director of surplus property as provided for in chapter 15-61 of the North Dakota Century Code, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 86,614.00
Fees and services	45,800.00
Supplies and materials	<u>4,992.00</u>
Total	\$ 137,406.00

**Section 2.)** The handling costs shall be increased to cover the full costs of handling surplus property.

Approved March 14, 1969.

## CHAPTER 54

H. B. No. 22  
(Committee on Appropriations)

## DIVISION OF SUPERVISED CORRESPONDENCE STUDY

## AN ACT

Making an appropriation for the salaries and miscellaneous expenses of the division of supervised correspondence study.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury, the sum of \$347,389.00, or so much thereof as may be necessary, to supplement the appropriation for the division of supervised correspondence study provided for in section 2 of this Act, for the biennium beginning July 1, 1969, and ending June 30, 1971.

**Section 2. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the division of supervised correspondence study operating fund in the state treasury, the sum of \$329,250.00, or so much thereof as may be necessary, derived from income and collections, supplemented as needed by the appropriation in section 1 of this Act upon the approval of the director of the department of accounts and purchases, to pay salaries and miscellaneous expenses of the division of supervised correspondence study for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$402,684.00
Fees and services	163,955.00
Supplies and materials	72,000.00
Equipment	38,000.00
	<hr/>
Total	\$676,639.00
Less estimated income	329,250.00
	<hr/>
Total general fund	\$347,389.00

Approved March 26, 1969.

## CHAPTER 55

H.B. No. 23  
(Committee on Appropriations)

## DEAF-BLIND CHILDREN

## AN ACT

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

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$15,000.00 for the education of children who are deaf as well as blind, at any school or institution, outside the state of North Dakota, for which there are no facilities in the state, and which is under the sole supervision of the board of administration, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Fees and services	<u>\$15,000.00</u>
Total	\$15,000.00

Approved February 20, 1969.



## CHAPTER 56

H. B. No. 24  
(Committee on Appropriations)

## STATE SEED DEPARTMENT

## AN ACT

Making an appropriation for salaries and expenses for the state seed department.

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

**Section 1. Appropriation.)** There is hereby appropriated the sum of \$921,116.00 from the seed department fund, and the sum of \$46,700.00 out of the general fund in the state treasury, or so much thereof as may be necessary for salaries and expenses for the state seed department, as provided for in chapters 4-09, 4-10, and 4-11, North Dakota Century Code, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 609,396.00
Fees and services	233,920.00
Supplies and materials	63,500.00
Equipment	11,000.00
Emergency	<u>50,000.00</u>
Total	\$ 967,816.00
Less seed department income	<u>921,116.00</u>
General fund appropriation	\$ 46,700.00

Approved March 8, 1969.

## CHAPTER 57

H. B. No. 25  
(Committee on Appropriations)

NORTH DAKOTA NATIONAL GUARD —  
MAINTENANCE

## AN ACT

Making an appropriation for the maintenance of the North Dakota national guard as provided for by title 37 of the North Dakota Century Code.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the general fund in the state treasury, the sum of \$435,016.00, or so much thereof as may be necessary, to supplement the appropriation provided for in section 2 of this Act, for the biennium beginning July 1, 1969, and ending June 30, 1971.

**Section 2. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the national guard operating fund in the state treasury the sum of \$111,210.00, derived from income, collections and reimbursements of the North Dakota national guard from the United States and from armory rentals, supplemented as needed by the appropriation in section 1 of this Act upon request of the adjutant general and approval of the director of the department of accounts and purchases for the maintenance of the national guard as provided in title 37 of the North Dakota Century Code for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 147,158.00
Fees and services	318,600.00
Supplies and materials	69,600.00
Equipment	10,868.00
	<hr/>
Total	\$ 546,226.00
Less estimated income	111,210.00
	<hr/>
Total general fund	\$ 435,016.00

Approved March 29, 1969.

## CHAPTER 58

H. B. No. 26  
(Committee on Appropriations)

## STATE LIBRARY COMMISSION

## AN ACT

Making an appropriation for salaries and expenses of the state library commission.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the state library commission operating fund in the state treasury the sum of \$974,921.00, of which \$782,500.00 is derived from income and collections and \$192,421.00 from the general fund in the state treasury, to be expended as provided for in chapter 54-24 of the North Dakota Century Code, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$248,135.00
Fees and services	51,000.00
Supplies and materials	140,000.00
Equipment	25,786.00
Grants, benefits, and claims	<u>510,000.00</u>
Total for biennium	\$974,921.00
Less estimated income	<u>782,500.00</u>
Total general fund	\$192,421.00

Approved March 26, 1969.

## CHAPTER 59

H. B. No. 27  
(Committee on Appropriations)

## STATE BAR ASSOCIATION

## AN ACT

Making an appropriation to pay expenses and costs of legal research and education and supervision and improvement of the judicial system of the state of North Dakota activities of the state bar association.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state bar association fund in the state treasury, not otherwise appropriated, the sum of \$76,000.00, or so much thereof as may be necessary to pay salaries and expenses of the activities of the state bar association of North Dakota conducted in accordance with the provisions of sections 11-17-05, 27-03-05, 27-03-06, 27-07-40, 27-07-41, and 27-12-08, of the North Dakota Century Code, for the biennium starting July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 22,000.00
Fees and services	19,000.00
Supplies and materials	20,000.00
Grants, benefits and claims	<u>15,000.00</u>
Total	\$ 76,000.00

Approved March 8, 1969.

## CHAPTER 60

H. B. No. 28  
(Committee on Appropriations)

## UNSATISFIED JUDGMENT FUND

## AN ACT

Making an appropriation for salaries and other expenses for administering the provisions of chapter 39-17 of the North Dakota Century Code.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the unsatisfied judgment fund in the state treasury, the sum of \$70,000.00, or so much thereof as may be necessary, for salaries and expenses in administering the provisions of chapter 39-17 of the North Dakota Century Code, for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 41,000.00
Fees and services	21,400.00
Supplies and materials	2,000.00
Equipment	200.00
Contingent	5,400.00
Total	<u>70,000.00</u>

Approved March 26, 1969.

## CHAPTER 61

H. B. No. 29  
(Committee on Appropriations)

## PREDATORY ANIMAL CONTROL

## AN ACT

Making an appropriation for salaries and expenses for predatory animal control to the commissioner of agriculture.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the general fund of the state treasury, the sum of \$86,909.00, or so much thereof as may be necessary, for salaries and expenses for predatory animal control, to the commissioner of agriculture, for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 41,904.00
Fees and services	44,355.00
Supplies and materials	<u>650.00</u>
Total	\$ 86,909.00

Approved March 14, 1969.

## CHAPTER 62

H. B. No. 30  
(Committee on Appropriations)

## OUTDOOR RECREATION AGENCY

## AN ACT

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

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the state outdoor recreation agency fund in the state treasury, the sum of \$2,912,209.00, of which \$2,500,000.00 is derived from income and collections and \$412,209.00 from the general fund in the state treasury, or so much thereof as is necessary, for the funding, planning, acquisition and development of outdoor recreation and activities, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 76,271.00
Fees and services	53,200.00
Supplies and materials	14,600.00
Equipment	2,600.00
Grants, benefits and claims	<u>2,765,538.00</u>
Total for biennium	\$ 2,912,209.00
Less estimated income	<u>2,500,000.00</u>
Total general fund	\$ 412,209.00

Approved March 14, 1969.



CHAPTER 63

H. B. No. 82  
 (Committee on Appropriations)

STATE TAX COMMISSIONER

AN ACT

Making an appropriation for paying the salaries and other expenses of the state tax commissioner and for making an appropriation of motor vehicle fuel tax revenues to the general fund to cover the cost of administering the motor fuel tax laws.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$2,256,478.00, for the purpose of paying the salaries and other expenses of the state tax commissioner, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$1,613,116.00
Fees and services	248,536.00
Supplies and materials	113,022.00
Equipment	22,500.00
Data Processing	259,304.00
Total	<u>\$2,256,478.00</u>

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

**Section 3. Appropriation.)** There is hereby appropriated to the general fund out of the motor vehicle fuel taxes collected

pursuant to section 57-54-08 of the North Dakota Century Code, the sum of \$273,838.00, for the purpose of defraying the expenses of reimbursing the general fund for the payment of expenses of the collection of the motor vehicle fuels and special fuels taxes and the administration of the respective tax Acts.

Approved March 25, 1969.

---

CHAPTER 64

H. B. No. 83  
(Committee on Appropriations)

DEPARTMENT OF PUBLIC INSTRUCTION

AN ACT

Making an appropriation for the purpose of defraying the expenses of the maintenance and operation of the department of public instruction.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the department of public instruction operating fund in the state treasury the sum of \$2,059,557.00, of which \$1,362,498.00 is derived from income and collections and \$697,059.00 is derived from the general fund in the state treasury, or so much thereof as is necessary, for the department of public instruction, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 1,305,750.00
Special assistant, school lunch	19,000.00
Fees and services	529,668.00
Fees and services, school lunch	5,000.00
Supplies and materials	118,180.00
Supplies and materials, school lunch	480.00
Equipment	42,000.00

---

Equipment, school lunch	500.00
Data processing	38,979.00
Total	<u>\$ 2,059,557.00</u>
Less estimated income	1,362,498.00
Total general fund	<u>\$ 697,059.00</u>

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

Approved March 26, 1969.

## CHAPTER 65

H. B. No. 84  
(Committee on Appropriations)

UPPER GREAT PLAINS  
TRANSPORTATION INSTITUTE

## AN ACT

Making an appropriation for the purpose of paying salaries and other expenses of the upper great plains transportation institute.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the upper great plains transportation institute operating fund in the state treasury the sum of \$93,573.00, of which \$75,573.00 is derived from income and collections and \$18,000.00 from the general fund in the state treasury, or so much thereof as is necessary, for the upper great plains institute, for the biennium beginning July 1, 1969, and ending June 30, 1971, to wit:

Salaries and wages	\$ 79,233.00
Fees and services	7,040.00
Supplies and materials	6,300.00
Equipment	<u>1,000.00</u>
Total	\$ 93,573.00
Less estimated income	<u>75,573.00</u>
Total general fund	\$ 18,000.00

Approved March 29, 1969.

CHAPTER 66

H. B. No. 85  
 (Committee on Appropriations)

CENTRALIZED DATA PROCESSING

AN ACT

Making an appropriation for the expenses of the operation of the centralized data processing system.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any funds in the purchasing department operating fund, the sum of \$1,861,500.00, or so much thereof as may be necessary, for salaries, fees, supplies, and other expenses for the operation of a centralized data processing system for the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 988,700.00
Fees and services	735,800.00
Supplies and materials	82,000.00
Equipment	5,000.00
Contingent-emergency	<u>50,000.00</u>
<b>Total</b>	<b>\$1,861,500.00</b>

**Section 2.)** Upon notice to the director of the department of accounts and purchases by such consultant as may be employed by the state to design and implement data processing systems for the departments, agencies, and institutions utilizing or scheduled to utilize the services of the office of centralized data processing, that positions and other budgeted costs have been determined by the consultant to be no longer necessary in those departments, agencies, or institutions because the functions of such positions have been mechanized or eliminated through the use of data processing, the director of the department of accounts and purchases shall immediately transfer the amount budgeted for any such position or positions in addition to savings in other budgeted areas, to the purchasing department operating fund for the operation of a centralized data processing system.

Approved March 26, 1969.

## CHAPTER 67

H. B. No. 86  
(Committee on Appropriations)

STATE EMPLOYEES' RETIREMENT  
PROGRAM

## AN ACT

Making an appropriation for the operation of the public employees' retirement program.

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

**Section 1. Appropriation.)** There is hereby appropriated out of the administrative expense and benefit funds of the public employees' retirement fund the sum of \$244,515.00 for the period beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 97,946.00
Fees and services	93,569.00
Supplies and materials	9,500.00
Equipment	6,000.00
Contingent-emergency	37,500.00
Total	<u>\$ 244,515.00</u>

Approved March 29, 1969.

## CHAPTER 68

H. B. No. 87  
(Committee on Appropriations)

## MILK STABILIZATION BOARD

## AN ACT

Making an appropriation for paying the salaries and other expenses of the milk stabilization board.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the milk stabilization fund in the state treasury the sum of \$175,665.00, or so much thereof as may be necessary, for expenditure during the biennium beginning July 1, 1969, and ending June 30, 1971, as follows:

Salaries and wages	\$ 96,445.00
Fees and services	55,900.00
Supplies and materials	3,500.00
Equipment	5,000.00
Contingent-emergency	14,820.00
Total	<u>\$ 175,665.00</u>

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

Approved March 8, 1969.



## CHAPTER 69

S.B. No. 242  
(Longmire, Meschke)

EXPENSE PAYMENT TO  
PUBLIC SERVICE COMMISSIONER

## AN ACT

To provide for payment of expenses to a certain state officer elected in 1964 for a six-year term, making an appropriation and declaring an emergency.

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

**Section 1. Expense Account.)** The public service commissioner of the state of North Dakota, elected in 1964 for a six-year term, in order to properly discharge his official duties, shall be paid in addition to any other compensation or expense allowance, the additional sum of five thousand dollars for each calendar year in the years 1969 and 1970, for expenses and money expended while engaged in the discharge of official duties, to be paid in quarter payments by the department of accounts and purchases without the filing of any itemized voucher or statement.

**Section 2. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of ten thousand dollars, or so much thereof as may be necessary, to carry out the provisions of this Act.

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

Approved March 25, 1969.

## CHAPTER 70

S. B. No. 284  
(Kautzmann)

CONSTRUCTION OF EMPLOYMENT  
SECURITY BUREAU BUILDING

## AN ACT

To appropriate money out of funds made available under Section 903 (Reed Act) of the Social Security Act to the State of North Dakota unemployment trust fund, for acquiring land and erecting a building thereon for use by the North Dakota employment security bureau.

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

**Section 1. Appropriation.)** There is hereby appropriated out of funds made available to this state under section 903 of the Social Security Act, as amended, the sum of \$199,695.00, or so much thereof as may be necessary, to be used, under the direction of the North Dakota employment security bureau, for the purpose of acquiring land and erecting a building thereon for the use of the North Dakota employment security bureau and for such improvements, facilities, paving, landscaping, and fixed equipment as may be required for its proper use and operation by the North Dakota employment security bureau.

**Section 2. Time Limitation on Obligation of Appropriated Funds.)** No part of the money hereby appropriated may be obligated after the expiration of the 2-year period beginning on July 1, 1969.

**Section 3. Limitation of Amount Obligated During 12-Month Period.)** The amount obligated pursuant to this Act during any 12-month period beginning on July 1 and ending on the next June 30 shall not exceed the amount by which (a) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the Social Security Act during such 12-month period and the fourteen preceding 12-month periods exceeds (b) the aggregate of the amounts obligated for administration and paid out for benefits and charged against the amounts credited to the account of this state during such fifteen 12-month periods.

Approved March 25, 1969.

## CHAPTER 71

S. B. No. 469  
(Committee on Delayed Bills)

## STATE OFFICERS' EXPENSE PAYMENTS

## AN ACT

To provide payment of expenses to certain elected state officers, and making an appropriation.

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

**Section 1. Elected Officials' Expense Payments.)** In order to properly discharge their official duties, the following elected state officials shall be paid the sum set forth opposite their respective titles for each of the calendar years of 1969 and 1970:

<b>Official</b>	<b>Expense payment per year</b>
Governor	\$4,000.00
Lieutenant governor	\$2,000.00
Attorney general	\$4,000.00
Secretary of State	\$3,000.00
Superintendent of public instruction	\$4,000.00
Tax commissioner	\$4,000.00
Commissioner of insurance	\$3,000.00
Each public service commissioner	\$3,000.00
Commissioner of agriculture	\$3,000.00
State auditor	\$3,000.00
State treasurer	\$3,000.00

Such sums are for expenses and moneys expended while engaged in the discharge of official duty, and are to be paid quar-

terly by the department of accounts and purchases without the filing of any itemized voucher or statement. The expense payments provided by this Act shall be retroactive to January 1, 1969.

**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 \$84,000.00, or so much thereof as may be necessary, to carry out the provisions of this Act.

Approved March 29, 1969.

---

## CHAPTER 72

S. B. No. 470  
(Committee on Delayed Bills)

### TRANSFER OF BANK OF NORTH DAKOTA PROFITS

#### AN ACT

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

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

**Section 1. Transfer.)** There is hereby transferred to the general fund of this state the sum of \$5,500,000 from the accumulated undivided profits of the Bank of North Dakota, such transfers to be made during the 1969-1971 biennium upon order of the industrial commission.

Approved March 29, 1969.

## CHAPTER 73

S. B. No. 471  
(Committee on Delayed Bills)

TRANSFER OF FUNDS FROM STATE  
MILL PROFITS TO GENERAL FUND

## AN ACT

To transfer certain moneys from the accumulated profits of the state mill and elevator association to the general fund of this state.

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

**Section 1. Transfer.)** There is hereby transferred to the general fund of this state the sum of two million dollars from the accumulated profits of the state mill and elevator association, such transfers to be made during the 1969-1971 biennium upon order of the industrial commission.

Approved March 14, 1969.

## CHAPTER 74

## H. B. No. 35

(Bier, W. Erickson, Giffey, E. Johnson, Jones)

(Lang, Link, R. Peterson, Stone)

(From Legislative Research Committee Study)

## STATE BOARD FOR VOCATIONAL EDUCATION

## AN ACT

Making an appropriation to the state board for vocational education for the purpose of implementing and supplementing training programs in basic occupational and trade skills at the community colleges at Bismarck, Devils Lake, and Williston.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$500,000.00, or so much thereof as may be necessary, to the state board for vocational education for the purpose of implementing and supplementing training programs in basic occupational and trade skills within existing facilities at Bismarck junior college, Lake Region junior college, and the university of North Dakota, Williston center, for the biennium beginning July 1, 1969, and ending June 30, 1971.

**Section 2. Legislative Intent.)** Maximum public opportunity for educational development and advancement through training in occupational and trade skills is recognized by the legislative assembly as a highly desirable goal toward which all appropriate agencies of government are encouraged to exert their fullest continued and combined efforts.

The legislative assembly further recognizes that although public funds are available to meet certain immediate and essential requirements of the various existing occupational and trade training programs, such funds are less than necessary to finance a comprehensive, long-range program beginning with the 1969-1971 biennium at a level satisfactory to all persons, institutions and agencies dedicated to achieving the ultimate goal.

To ensure orderly progress toward this goal and to promote the most effective use of available public funds within the context

of a long-range program designed to provide maximum public opportunity at the earliest possible time for training in occupational and trade skills, the legislative assembly determines that it be the established policy of this state to initially foster in-depth training in occupational and trade skills at the post-secondary level, and the appropriate agencies of government are directed to allocate to post-secondary programs the substantially greater portion of public funds that are or become available this biennium, provided that such funds are not otherwise specifically committed or dedicated to existing and ongoing non-post-secondary programs. The legislative assembly further finds and determines that unless unforeseen circumstances arise, existing physical facilities at appropriate state and state-assisted institutions appear adequate to provide for such additional programs and any corresponding enrollment increase during this biennium; therefore, agencies responsible for allocating public funds to such institutions are strongly discouraged from allocating such funds for construction of specific occupational and trade training facilities except as unusual and compelling circumstances may require.

Further, the legislative assembly recognizes the desirability of reasonable area accessibility to post-secondary training programs in basic occupational and trade skills, particularly those skills considered important to sustain area and state growth and to provide for the general health and welfare of the citizens of this state, and to this end area needs for basic occupational and trade training programs should be given principal consideration in the formulation of long-range integrated occupational and trade training programs.

Approved March 24, 1969.



## CHAPTER 75

H. B. No. 125

(Haugland, Backes, Strinden, Aas, Wagner, Emerson)

(Bullis, Boyum, O. Solberg, J. Peterson, Freeman)

(Aamoth, Opedahl, Dornacker, Kingsbury)

PUBLIC WELFARE DEPARTMENT  
DEFICIENCY APPROPRIATION

## AN ACT

Making a deficiency appropriation to the public welfare department for the purpose of making payments to nursing homes and the state hospital, and declaring an emergency.

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

**Section 1. Deficiency Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$85,000.00, or so much thereof as may be necessary, and the sum of \$230,000.00 in federal and county funds, or so much thereof as may be necessary, said appropriations totalling the sum of \$315,000.00, to the public welfare department for the purpose of making payments to nursing homes and the state hospital for claims arising and payments first becoming due during the period beginning January 1, 1969, and ending June 30, 1969.

**Section 2.)** No part of the above appropriation may be used for partial payment to vendors for fees, supplies or services unless such payment is accepted by said vendors agreeable that any unpaid remainder does not become an unpaid liability of the state welfare board or any county welfare board or county in this state.

**Section 3. Intent.)** It is the intent of the legislative assembly that the public welfare board, from funds appropriated by the fortieth legislative assembly, reimburse nursing homes for the difference between the payments made by the public welfare board for services rendered to welfare patients from May 1, 1968, to December 31, 1968, at the rates of reimbursement which will become effective upon the passage of this Act, and that such reimbursement shall not exceed \$92,000.00 in state

funds and \$343,600.00 from all funds.

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

Approved March 29, 1969.

## CHAPTER 76

H. B. No. 232  
(Leibhan, Boustead, Olienyk)

## VETERANS' AID COMMISSION

## AN ACT

Making an appropriation for the veterans' aid commission revolving loan fund; providing that all funds outstanding from loans made to veterans shall be deposited in the veterans' aid fund; 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 state treasury, not otherwise appropriated, the sum of \$25,000.00 to the veterans' aid commission to be deposited in the permanent revolving fund of the veterans' aid fund. This appropriation shall not revert to the general fund but shall be used for the purpose of making loans to veterans as provided in chapter 37-14.

**Section 2. Funds Outstanding To Be Deposited in Veterans' Aid Fund.)** All funds outstanding from loans made to veterans pursuant to chapter 37-14, all funds outstanding from loans made from the general fund pursuant to chapter 284 of the 1967 Session Laws, and any balance remaining in the general fund from such appropriation, shall be deposited in the permanent revolving fund of the veterans' aid fund.

**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 29, 1969.

H. B. No. 250  
(Boustead, J. Peterson, O. Solberg)

MICROFILMING OF MILITARY RECORDS

AN ACT

Reappropriating to the adjutant general for the microfilming of military records a portion of the unexpended funds previously appropriated for the compilation of records of military service.

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

**Section 1. Appropriation.)** There is hereby reappropriated from the unexpended balance remaining in that appropriation for the compilation and publication of records of military service contained in chapter 70 of the 1967 Session Laws of the state of North Dakota, the sum of \$10,000.00 for the purchase and operation of microfilming equipment for the purpose of microfilming military records during the period beginning July 1, 1969, and ending June 30, 1971, to wit:

Supplies	\$ 5,000.00
Equipment	<u>5,000.00</u>
Total	\$ 10,000.00

Approved March 25, 1969.

## CHAPTER 78

H. B. No. 506  
(Streibel, Strinden, Link, Giffey, Reimers)  
(Committee on Delayed Bills)

## LEGISLATIVE PRINTING EXPENSES

## AN ACT

Providing an appropriation for the payment of printing expenses of the legislative assembly, 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 \$70,000.00, or so much thereof as may be necessary, to the legislative assembly for the purpose of paying printing expenses of the forty-first legislative session and for the payment of other printing expenses of the legislative assembly during the biennium ending June 30, 1969, and the biennium beginning July 1, 1969, and ending June 30, 1971.

**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved February 19, 1969.

## CHAPTER 79

H. B. No. 515  
(Committee on Delayed Bills)

COMPLETION OF BASEMENT OF  
GOVERNOR'S MANSION

AN ACT

Making an appropriation for the completion of the basement and other areas of the governor's mansion.

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

**Section 1. Appropriation.)** There is hereby appropriated to the state board of administration out of any moneys in the state capitol building fund not otherwise appropriated, the sum of \$25,000.00, for the purpose of completing the basement and other areas of the governor's mansion during the biennium beginning July 1, 1969, and ending June 30, 1971.

Approved March 29, 1969.

# GENERAL PROVISIONS

---

## CHAPTER 80

S. B. No. 92  
(Meschke)

### DESIGNATION OF HOLIDAYS

#### AN ACT

To amend and reenact sections 1-03-01, 1-03-02, and 15-38-04 of the North Dakota Century Code, relating to the designation and definition of holidays.

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

**Section 1. Amendment.)** Section 1-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**1-03-01. Holidays.)** Holidays are as follows:

1. Every Sunday;
2. The first day of January, which is New Year's Day;
3. The twelfth day of February, which is the birthday of Abraham Lincoln;
4. The third Monday in February, in recognition of the birthday of George Washington;
5. The fourth day of July, which is the anniversary of the Declaration of Independence;
6. The twenty-fifth day of December, which is Christmas Day;
7. The last Monday in May, which is Memorial Day;
8. The first Monday in September, which is Labor Day;

9. The second Monday in October, in recognition of Discovery Day commemorating the discovery of America by Leif Erickson about the year 1000 A.D., and by Christopher Columbus in the year 1492 A.D.;
10. The fourth Monday in October, which is Veterans Day;
11. The fourth Thursday in November, which is Thanksgiving Day;
12. The Friday next preceding Easter Sunday and commonly known as Good Friday;
13. Every day on which an election is held throughout the state; and
14. Every day appointed by the president of the United States or by the governor of this state for a public holiday.

Nothing in this section shall be construed to prevent the holding of legislative sessions or the taking of final action on any legislative matter upon any of such holidays other than Sunday. Any action heretofore taken upon any legislative matter upon any such holiday shall be valid and legal for all purposes.

**Section 2. Amendment.)** Section 1-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**1-03-02. When Day Following Holiday Shall Be a Holiday.)** If the first day of January, the twelfth day of February, the fourth day of July, or the twenty-fifth day of December falls upon a Sunday, the Monday following shall be the holiday.

**Section 3. Amendment.)** Section 15-38-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-38-04. "School Holidays" Defined—Schools To Be Taught—Exercises.)** Every day which is designated by the laws of this state as a legal holiday also shall be a school holiday, but unless the day shall fall upon a Saturday or Sunday, schools shall be in session as usual on the following holidays:



1. February twelfth, Lincoln's Birthday;
2. The third Monday in February, commemorating Washington's Birthday;
3. The first Monday in September, Labor Day;
4. The second Monday in October, Discovery Day;
5. The fourth Monday in October, Veterans Day; and
6. Every day upon which an election is held throughout the state.

On each of the days herein specified, at least one hour shall be devoted to patriotic exercises consistent with the day. School shall not be held on Veterans Day in communities in which community celebrations are held on that day, nor on election days in districts in which the schoolhouses are used for polling places, nor on any legal holiday not specified in this section. Each holiday upon which the schools are closed under this section, if it falls upon a day which otherwise would be a school day, shall be counted as a school day, and the teachers shall be paid therefor.

**Section 4. Effective Date.)** The amendments to sections 1-03-01, 1-03-02, and 15-38-04 of the North Dakota Century Code shall take effect on January 1, 1971.

Approved March 29, 1969.

# AERONAUTICS

---

## CHAPTER 81

H. B. No. 333  
(Backes, Wells, Haugland)

### AERONAUTICS COMMISSION MAY ACT AS AIRPORT AUTHORITY

#### AN ACT

To amend and reenact section 2-06-01.1 of the North Dakota Century Code, relating to the aeronautics commission exercise of the powers of an airport authority with exceptions.

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

**Section 1. Amendment.)** Section 2-06-01.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-06-01.1 Aeronautics Commission May Exercise Powers of Airport Authority—Exceptions.)** The North Dakota aeronautics commission shall have all powers of an airport authority as defined in this chapter, except powers to certify or levy taxes or issue bonds, for the purpose of constructing and operating a public airport near the International Peace Garden and for constructing and operating such other public airports or landing fields near international border ports of entry, and near state or national parks or near recreational areas as the aeronautics commission may determine to be in the public interest.

Approved March 25, 1969.

## CHAPTER 82

S. B. No. 300  
(Jacobson, Roen, Robinson)

## WEATHER MODIFICATION AUTHORITY

## AN ACT

To create and enact sections 2-07-06.1, 2-07-06.2, 2-07-06.3, and to amend and reenact sections 2-07-06 and 2-07-07 of the North Dakota Century Code, relating to the creation of a weather modification authority, and authorizing the counties to levy a tax for weather modification activities, and declaring an emergency.

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

**Section 1. Amendment.)** Section 2-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-07-06. Weather Modification Authority Created By Petition.)** A weather modification authority shall be created by resolution and five commissioners appointed thereto for five-year terms of office, by the board of county commissioners after fifty-one percent of the qualified electors of a county, as determined by the vote cast for the office of governor at the last preceding general election, shall petition the board of county commissioners of their county to create a countywide weather modification authority. The board of county commissioners shall appoint the five commissioners to the weather modification authority, who are residents of their county and whose names are set forth in the petition and designated by the petitioners to be appointed weather modification authority commissioners, provided that said petition has been found by the county commissioners to have met the requirements as to number of qualified electors attached to the petition as required in this Act. In the event any one of the five candidates named in the petition to be appointed weather modification authority commissioner is unable or refuses for any reason to accept appointment as commissioner, or is disqualified by not meeting residence requirements, as an elector in the county, the board of county commissioners shall name its own appointee for a five-year term of office in place of any disqualified candidate selected by the petitioners. If any weather modi-

modification authority commissioner submits his resignation in writing to the board of county commissioners or becomes unable or disqualified for any reason, after accepting office, the board of county commissioners shall name its appointee as a commissioner to the weather modification authority. All vacancies occurring otherwise than by expiration of term of office shall be filled for the unexpired term.

Any weather modification authority created pursuant to this section shall expire five years after the date of the initial appointment of the commissioners thereto. Any unexpended funds remaining in the name of the weather modification authority, after all proper bills and expenses have been paid, shall be transferred into the county general fund by the officers of the weather modification authority on or before the five-year termination date provided by this Act.

Nothing in this Act shall prevent continuation or reinstatement of a weather modification authority provided the authority is renewed for another five years by petition of the qualified electors in the same manner as the initial weather modification authority was created by petition of qualified electors as provided for in this Act.

In the event more than one petition is filed with the board of county commissioners on or about the same time, the petition with the highest percentage of the qualified electors of a county, contained in such petition, of the vote cast for the office of governor at the last preceding general election shall be selected by the board of county commissioners, provided the petition with the highest percentage has at least forty percent of the qualified electors in the county and the sum total of all qualified electors on all petitions filed equals at least sixty percent of the qualified electors in said county. In no case shall the name of the same elector appear on two or more petitions.

**Section 2.)** Section 2-07-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**2-07-06.1. Petition Contents.)** The petition for petitioning the board of county commissioners in any county of this state for the creation and appointment of commissioners to a weather modification authority shall under this Act contain:

1. A title with the heading: "Petition for Creation of (insert name of county) Weather Modification Authority";
2. The following paragraph: We, the undersigned qualified electors of (name of county), state of North Dakota, by this initiated petition request that the (name of county) board of county commissioners of said county create by resolution a (name of county) weather modification authority and to appoint for a term of office of five years the following five qualified electors of said county as the commissioners for the (name of county) weather modification authority:
  - a. The name and address of each proposed commissioner for the (name of county) weather modification authority;
3. The following paragraph: We, the undersigned qualified electors of the (name of county), state of North Dakota, are noticed herewith that the creation of (name of county) weather modification authority and the appointment of its commissioners by the (name of county) board of county commissioners will grant unto the authority by law the power to certify to the board of county commissioners a mill levy tax not to exceed two mills upon the net taxable valuation of property in said county for a weather modification fund which tax may be levied in excess of the mill levy limit fixed by law for taxes for general county purposes and that such fund shall be used for weather modification activities within the county, including research and investigation, or in conjunction with any other county or counties, and with federal, state, or other public agencies, or any private person, organization or corporation. We, the undersigned understand that the authority requested in this petition expires five years after the creation of the weather modification authority;
4. A heading: "Committee for Petitioners", followed by this statement: The following electors of (name of county), state of North Dakota, are authorized to represent and act for us, and shall constitute the "Committee for the Petitioners" in the matter of this petition and all

Acts subsequent thereto:

5. Petition details: All petitions' signatures shall be numbered, and dated by month, day and year. The name shall be written with residence address and post-office address including the county of residence followed by state of North Dakota;
6. An affidavit to be attached to each petition and sworn to under oath before a notary public by the person circulating each petition attesting to the fact that he circulated the petition and that each of the signatures to said petition is the genuine signature of the person whose name it purports to be, and that each such person is a qualified elector in the county in which the petition was circulated;
7. The petition must state the mills to be levied by the county for the purposes of this Act.

Section 3.) Section 2-07-06.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

**2-07-06.2. Commissioners—Compensation—Meetings—Officers.)** A commissioner of a weather modification authority shall receive no compensation for his services, but shall be entitled to the necessary expense, as defined in chapter 44-08-04, incurred in the discharge of his duties. Each commissioner shall hold office until his successor has been appointed and has qualified. The certificates of the appointment shall be filed with the weather modification authority.

The powers of each weather modification authority shall be vested in the commissioners thereof. A majority of the commissioners of an authority shall constitute a quorum for the purpose of conducting business of the authority and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of not less than a majority of all the commissioners.

There shall be elected a chairman and vice chairman from among the commissioners. A weather modification authority may employ an executive director, secretary, technical experts,

and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the county which created the authority. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Minutes shall be kept by the secretary of official meetings and shall include all official business such as contracts authorized and all authorizations for payment of weather modification authority funds to persons, organizations, companies and corporations. Official policies shall also be entered into the minutes. An annual report shall be compiled with complete disclosure of funds expended for contracts, services, fees, salaries and all other reimbursements, a copy of which shall be filed with the county auditor. Such report shall be given at a public meeting called for such purpose.

**Section 4.)** Section 2-07-06.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

**2-07-06.3. Tax Levy May Be Certified By Weather Modification Authority.)** The weather modification authority may certify annually to the board of county commissioners a tax of not to exceed two mills upon the net taxable valuation of the property in the county for a "weather modification" fund which tax shall be levied by the board of county commissioners and which tax may be levied in excess of the mill limit fixed by law for taxes for general county purposes. Such fund shall be used only for weather modification activities within the county, including research and investigation, or in conjunction with any other county or counties, and with federal, state, or other public agencies, or any private person, organization or corporation. The tax certified by the weather modification authority is limited to five years after the date of the resolution creating the authority, but such tax certification authority may be extended for similar five-year periods by petition of the qualified electors in the county in the same manner as the initial weather modification authority was created by petition of qualified electors provided for in this Act.

**Section 5. Amendment.)** Section 2-07-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-07-07. County Budget May Be Waived for First Appropriation—Conditions.)** The provisions of chapter 11-23 of the North Dakota Century Code shall not apply to appropriations made under the provisions of this chapter, provided, however, that only after the filing and approval of the "petitions" to create a weather modification authority by the board of county commissioners and certification of a mill levy by the weather modification authority and only for the initial or first appropriation of said "weather modification" activities, such county commissioners may, at their discretion, appropriate from moneys not otherwise appropriated in the general fund, such moneys as are necessary for carrying out the provisions of this chapter, provided that said appropriation shall not exceed an amount equal to two mill levy upon the net taxable valuation of the property in said county.

**Section 6. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 29, 1969.



# AGRICULTURE

---

## CHAPTER 83

H. B. No. 54

(Davis, Giffey, Opedahl, Wagner)

(Recommended by Legislative Audit and  
Fiscal Review Committee)

### STATE FAIR OPERATING FUND

#### AN ACT

To amend and reenact section 4-02.1-15 of the North Dakota Century Code, relating to the state fair operating fund.

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

**Section 1. Amendment.)** Section 4-02.1-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-02.1-15. State Fair Operating Fund—Maintained In State Treasury—Expenditures.)** A special fund for the North Dakota state fair association to be known as the state fair operating fund shall be maintained in the state treasury, and all income, fees, rents, interest, moneys which may be appropriated by the legislative assembly from time to time, and any other moneys, from whatever source derived by the state fair association, shall be placed in such fund for the use of the North Dakota state fair association; provided, however, that moneys which may be appropriated by the legislative assembly shall only be transferred from the general fund appropriation, and placed in the state fair operating fund by the state treasurer, upon order of the director of the department of accounts and purchases whenever the balance in such fund falls so low as to require supplementation. Any moneys or income in the state fair operating fund shall not revert or be canceled according to the provisions of section 54-44.1-11. All expenditures of the state fair association from the state fair operating fund shall be made upon vouchers signed by the secretary, or other person authorized by the board of directors,

and approved by the state auditing board, upon warrant-checks prepared by the department of accounts and purchases. The directors of the North Dakota state fair association may, not more than fifteen days in advance of the opening of any state fair, submit to the state auditing board a proposed budget of expenditures for operating the state fair, together with a signed voucher or vouchers for the withdrawal from the state fair operating fund of the total amount of the proposed expenditures. Upon approval of such proposed budget of expenditures by the state auditing board, the director of accounts and purchases shall prepare and issue a warrant-check or checks in such approved amount payable to the state fair association. Such warrant-checks shall be deposited to the account of the North Dakota state fair association in the Bank of North Dakota or a Minot area bank selected by a majority vote of the state fair board of directors and qualifying in accordance with law as a public depository, and shall be subject to being withdrawn by check for the payment of prizes and costs of operation of the state fair. Not later than sixty days after the closing day of the state fair, the association shall file with the state auditing board a detailed and itemized statement of expenditures together with copies of all checks issued, and shall immediately close such account at the Bank of North Dakota or Minot area bank and transfer any remaining balance to the state treasurer for deposit in the state fair operating fund. The treasurer, or other officer delegated such authority by the board, shall remit monthly all income, fees, rents, interest, or other moneys received by the state fair association, to the state treasurer who shall credit the same to the state fair operating fund and such moneys credited to the fund are hereby appropriated as a standing appropriation for the purposes provided in this chapter.

Approved February 3, 1969.

## CHAPTER 84

S. B. No. 462  
(Morgan, Wenstrom)

## REGULATION OF BEEKEEPERS

## AN ACT

To amend and reenact sections 4-12-03, 4-12-03.1, 4-12-04, 4-12-20, and 4-12-22 of the North Dakota Century Code, relating to beekeepers' licenses and fees, penalties for unlawful transportation of bees, and permits for shipping bees into the state, and declaring an emergency.

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

**Section 1. Amendment.)** Section 4-12-03 of the 1967 Supplement to 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 bees 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 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. The license certificate required by this section shall be non-transferable. He shall have obtained a permit to enter if bringing in bees and equipment from out-of-state.

**Section 2. Amendment.)** Section 4-12-03.1 of the 1967 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.)** No new commercial location may be established with-

in two miles of another commercial location. The noncommercial beekeeper with one to twenty-four colonies will have territorial rights on one location. Provided, however, if any seed grower requests the commissioner of agriculture to allow 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. The name and address of each apiary shall be displayed at each location. The property owner will be exempt from this section.

**Section 3. 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, upon making application for a license certificate, shall pay a license fee in accordance with the following schedule of fees for the total number of colonies owned or possessed by the applicant in North Dakota:

1 to 10 colonies of bees . . . . .	\$1.00
11 to 25 colonies of bees . . . . .	2.00
26 to 50 colonies of bees . . . . .	3.00
51 to 100 colonies of bees . . . . .	5.00
101 colonies and upward . . . . .	.05 per colony

Nonresident beekeepers shall, in addition to the above fees, pay an additional fee of ten cents per colony.

**Section 4. Amendment.)** Section 4-12-20 of the 1967 Supplement to the North Dakota Century Code shall be amended and reenacted to read as follows:

**4-12-20. Penalty—Confiscation for Unlawful Transportation or Maintenance.)** Any person who violates any of the provisions of this chapter, or any regulation or order made pursuant thereto, shall be guilty of a misdemeanor and any bees, brood, combs for breeding, or used beekeeping appliances and equipment unlawfully transported or maintained may be confiscated by the state bee inspector. Any items which are confiscated pursuant to this section shall be disposed of through a sheriff's

sale or destroyed if they constitute a disease hazard.

**Section 5. Amendment.)** Section 4-12-22 of the 1967 Supplement to the North Dakota Century Code shall be 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. 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 6. 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 28, 1969.

## CHAPTER 85

## H. B. No. 292

(Glaspey, Lillehaugen, Simonson, Diehl, Matheny)  
(Link, Haugland, Anderson, G. Larson, I. Solberg)  
(Leibhan, O. Solberg, Ganser, Lundene, Backes, Bier)  
(Sandness, Knudson, E. Johnson, Weber, Gackle, Rivinius)

## MILK STABILIZATION BOARD

To create and enact sections 4-18.1-22 and 4-18.1-23 of the North Dakota Century Code, and to amend and reenact subsections 4, 6, 8, 9, 10, 11, 12, and 13 of section 4-18.1-01, sections 4-18.1-02, 4-18.1-03, 4-18.1-04, 4-18.1-05, 4-18.1-06, 4-18.1-07, 4-18.1-08, 4-18.1-09, 4-18.1-10, 4-18.1-11, 4-18.1-12, 4-18.1-13, 4-18.1-14, 4-18.1-15, 4-18.1-16, 4-18.1-17, 4-18.1-18, 4-18.1-19, 4-18.1-20, and 4-18.1-21 of the North Dakota Century Code, relating to regulation of prices and trade practices within the milk industry by the milk stabilization board which regulation is declared to be within the police power and providing for administrative and civil procedures for enforcement thereof.

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

**Section 1. Amendment.)** Subsections 4, 6, 8, 9, 10, 11, 12 and 13 of section 4-18.1-01 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. That unfair, unjust, destructive, and demoralizing trade practices have been and are now being carried on in the production, transportation, processing, storage, distribution, and sale of milk, milk products and frozen dairy products, which trade practices constitute a constant menace to the health and welfare of the inhabitants of this state and tend to undermine the sanitary regulations and standards of content and purity of milk.
6. That it is the policy of this state to promote, foster, and encourage the intelligent production and orderly marketing of milk and cream, to eliminate speculation and waste, and to make the distribution thereof between the producer and consumer as direct as can be efficiently and economically done, and to stabilize the marketing of such commodities.
8. That milk is a perishable commodity, which is easily

- contaminated with harmful bacteria, which cannot be stored for any great length of time, which must be produced and distributed fresh daily, and the supply of which cannot be regulated from day to day, but, due to natural and seasonal conditions, must be produced on a constantly uniform and even basis.
9. That the demand for this perishable commodity fluctuates from day to day and from time to time making it necessary that dairy farmers, processors and distributors shall produce and carry on hand a surplus of milk in order to guarantee and ensure to the consuming public an adequate supply at all times, which surplus must of necessity be converted into byproducts of milk at great expense and at times at a loss to the dairy farmer, processor and distributor.
  10. That this surplus of milk, though necessary and unavoidable, unless regulated, tends to undermine and destroy the milk industry, which causes producers to relax their diligence in complying with the provisions of the health authorities and oftentimes to produce milk of an inferior and unsanitary quality.
  11. That investigation and experience have further shown that, due to the nature of milk and the conditions surrounding its production and marketing, unless dairy farmers, processors, distributors, and others engaged in the marketing of milk are guaranteed and ensured a reasonable profit on milk, both the supply and quality of milk is affected to the detriment of, and against the best interest of the citizens of this state whose health and well-being is hereby vitally affected.
  12. That, where no supervision and regulation is provided for the orderly and profitable marketing of milk, past experience has shown that the credit status of dairy farmers, processors and distributors of milk is adversely affected to a serious degree, thereby entailing loss and hardship upon all within the community with whom these dairy farmers, processors and distributors carry on business relations.
  13. That, due to the nature of milk and the conditions surrounding its production and distribution, the natural law

of supply and demand has been found inadequate to protect the industry in this and other states, and in the public interest it is necessary to provide state supervision and regulation of the milk industry in this state.

**Section 2. Amendment.)** Section 4-18.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-02. Purpose.)** The purpose of this chapter is to protect and promote public welfare and to eliminate unfair and demoralizing trade practices in the milk industry. It is enacted in the exercise of the police powers of the state.

**Section 3. Amendment.)** Section 4-18.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-03. Definitions.)** As used in this chapter, unless the context otherwise requires:

1. "Board" means the state agency created by this chapter, to be known as the North Dakota milk stabilization board.
2. "Person" means any individual, partnership, corporation, cooperative corporation or association, governmental agency, or other business entity.
3. "Dairy farmer" means any person who produces grade A raw milk for sale to a processor.
4. "Processor" means a person who processes or manufactures milk products or frozen dairy products, or a person who purchases raw milk from a grade A dairy farmer for resale to a person who processes or manufactures milk products or frozen dairy products, or a person who purchases bulk milk from anyone for resale to a person who processes or manufactures milk products or frozen dairy products. The term "processor" does not include a person who purchases ice cream mix, ice milk mix, or other frozen dairy products mix and whose processing activities are limited to converting such mix into a frozen dairy product, more than half the sales of which are then made by such person to



consumers at retail on the premises where such processing activities take place.

5. "Distributor" means a person, other than a processor, who sells to consumers on one or more retail (home delivery) routes or to retailers, or to both, If such person also operates one or more retail establishments at which milk products or frozen dairy products are sold to consumers, such person does not, thereby, lose his classification as a distributor.
6. "Dairy farmer-processor" means a person who is both a dairy farmer and a processor and who purchases no raw milk from other dairy farmers. For the purposes of this chapter, a dairy farmer-processor is a dairy farmer in any sale of raw milk produced by him to a processor, and is a processor in any processing, manufacturing or sale of milk products or frozen dairy products or in any receipt of bulk milk from a source other than his own production.
7. "Retailer" means any person who is engaged in transferring title to milk products or frozen dairy products to consumers at one or more fixed places of business (retail establishments) located in this state.
8. "Dealer" means any processor or distributor.
9. "Licensee" means any person who holds license from the board which has neither been suspended nor revoked.
10. "Distributor price" means the price at which any milk product or frozen dairy product, not intended for resale at a fixed location owned by a distributor, is purchased by a distributor.
11. "Wholesale price" means the price at which any milk product or frozen dairy product is purchased by a retailer.
12. "Retail price" means the price at which any milk product or frozen dairy product is purchased by any person who makes such purchase for purposes other than resale.

13. "Marketing area" means that geographical portion of the state of North Dakota within which minimum or maximum prices established by the board shall be uniform.
14. "Milk" means the lacteal secretion of a cow or cows (including such secretions when raw, cooled, pasteurized, standardized, homogenized, recombined, or concentrated) which meets applicable grade A requirements.
15. "Bulk milk" means milk which is purchased by a processor from a person other than a dairy farmer and which is purchased in a container other than the one in which the milk will be resold to a retailer or to a consumer.
16. "Milk product" means any of the following:
  - a. Raw milk, regular or creamline milk, standardized milk, whole pasteurized milk, special milk, homogenized milk, fortified milk, plain or creamed buttermilk, cottage cheese, creamed cottage cheese, flavored milk, flavored skim milk, sour cream, half and half, whipping cream, whipped cream, skim milk, low fat milk, fluid cream, concentrated milk, yogurt, and eggnog;
  - b. Any product which contains milk solids not fat, butterfat, or a milk derivative, and which is manufactured in the semblance of one of the products listed in subdivision a of this subsection, and which is found by the board to require regulation in order to effectuate the purposes of this chapter.
  - c. The term "milk products" shall not include the following: butter, cheese (other than cottage cheese or cream cottage cheese), non-fat dry milk, skim condensed milk, whole condensed milk, whole dry milk, dried cream, evaporated milk, sweetened condensed milk, or baked goods.
17. "Frozen dairy product" means any of the following:
  - a. Ice cream, fruit ice cream, nut ice cream, frozen malt ice cream (frosted malt ice cream), frozen

custard, French ice cream, ice milk, mellorine, olarine, sherine, fruit sherbets, fruit sherbines, the mix from which any such product is made, and those frozen products which contain milk solids not fat, or butterfat, and which are commonly referred to in the dairy industry as "novelties";

- b. Any frozen product (except baked goods) containing either milk solids not fat, butterfat, or a milk derivative and which is found by the board to require regulation in order to effectuate the purposes of this chapter.
18. "Decision" means the whole or any part of the final disposition (whether affirmative, negative, injunctive, or declaratory in form) by the board in any matter other than a rule-making matter. The term "decision" includes the final disposition of any matter involving the issuance, denial, suspension or revocation of a license. The term also includes any ruling by the board concerning the applicability of one or more provisions of a stabilization plan to a particular person, but does not include a ruling concerning the validity of any such provision.
  19. "Adjudicatory matter" means any proceeding which results in a "decision".
  20. "Rule-making matter" means any proceeding which results in the adoption, amendment or repeal of rules of practice, regulations or of any stabilization plan.
  21. "Rule of practice" means any statement by the board of general applicability and future effect prescribing matters relating to procedure and practice.
  22. "Regulation" means any statement by the board of general applicability and future effect that implements, interprets, carries into effect, or makes more specific, the provisions of this chapter. However, the term does not include any such statement which is properly a part of a stabilization plan, nor does it include any such statement that deals with matters of practice or procedure.

23. "Stabilization plan" means any plan of general applicability and future effect which contains the minimum and/or maximum prices that the board is authorized to establish and such ancillary requirements as are necessary and appropriate in order to make such minimums and/or maximums effective and meaningful. A stabilization plan may be of general applicability although effective within only one marketing area and although some provision of such plan is of immediate concern to only one person, provided the form of the stabilization plan (and of each of its provisions) is general so that others who may qualify in the future will fall within the provisions of such stabilization plan.

**Section 4. Amendment.** Section 4-18.1-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-04. Milk Stabilization Board.)** There is hereby created a milk stabilization board to consist of five members, who shall be appointed by the governor. The board shall consist of one person who is a dairy farmer selling to a processor, who shall be selected by the governor from two names submitted to him by the North Dakota milk producers association; one person who is a processor, who shall be selected by the governor from two names submitted to him by the North Dakota dairy industries association; one person who is a retailer, who shall be selected by the governor from two names submitted to him by the North Dakota association of food retailers; and two persons shall be selected by the governor who are consumers, and who are not otherwise engaged in the milk business. No appointee shall have held elective or appointive public office during the period of two years immediately preceding his appointment and no appointee shall hold any other public office, either elective or appointive, during his term of office as a member of the milk stabilization board; and not more than three members of the said milk stabilization board shall, at the time of the appointment or thereafter during their respective terms of office, be members of the same congressional district.

The members of said milk stabilization board shall be appointed within thirty days after passage and approval of this chapter. The term of office of one member shall expire on July 1, 1968; the term of office of one member shall expire on July 1, 1969; the term of office of one member shall expire on July 1, 1970; the term of office of one member shall expire

on July 1, 1971; the term of office of one member shall expire on July 1, 1972; and each succeeding member shall hold his office for a term of five years and until his successor shall have been appointed and qualified. Any vacancy shall be filled by appointment by the governor as heretofore stated.

Three members of the board shall constitute a quorum for the regular transaction of business. The board shall choose one of its members as the chairman, who shall hold office as a chairman for one year; provided, elections as chairman shall not interfere with the member's right to vote on all matters before the board.

Each member of the board shall receive twenty-five dollars per diem for each day actually spent in the performance of his official duties, plus mileage and expenses as are allowed to other state officers, but in no event shall a member's per diem payments exceed fifteen hundred dollars in any one year.

Each member of the board shall give bond conditioned for the faithful performance of his duties in the manner required by law in the sum of five thousand dollars.

The board shall employ an executive secretary who shall serve under the direction and at the pleasure of the board and whose qualifications, and duties, and compensation shall be determined by the board. The executive secretary shall serve as financial officer of the board and shall be authorized to accept money paid to the board in accordance with this chapter. Before entering upon the discharge of his duties, he shall execute and file a bond in an amount as may be fixed by the board or as may be provided by law for public officers.

The board shall employ, in addition to the executive secretary, such assistants and employees, permanent and temporary, as may be necessary to carry out the duties and responsibilities of the board under the provisions of this chapter. The board shall determine the qualifications, duties and compensation of such employees. The board may employ a licensed attorney of the state of North Dakota as its legal counsel, who shall serve on a full-time or a part-time basis, and the board may obtain the services of such additional attorneys as it deems necessary. The board may also contract for auditing, economic research, and other technical services, whenever it determines that such services are needed.

All expenditures under this chapter shall be paid from the receipts hereunder. Meetings of the board shall be had at least every sixty days at the call of the chairman or a majority of the board.

**Section 5. Amendment.)** Section 4-18.1-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-05. General Powers of the Board.)**

1. The board is hereby declared to be the instrumentality of the state of North Dakota for the purpose of administering the provisions of this chapter and of executing the legislative intent herein expressed. The board is hereby delegated the power to supervise, investigate, and regulate every segment of the state's dairy industry. However, nothing contained in this chapter shall be construed to limit, decrease, or amend in any respect the authority of the North Dakota department of agriculture, county boards of health, or municipal health officials, with respect to matters of health and sanitation; and nothing contained in this chapter shall be construed as giving the board any authority to regulate the sale of raw milk that is not Grade A.
2. The board may act as mediator or arbitrator in connection with any controversy or issue among or between dairy farmers, processors, distributors, retailers, or consumers if such controversy or issue pertains to the production, transportation, processing, storage, distribution, or sale of milk products or frozen dairy products.
3. The operation and effect of any provision of this chapter, conferring a general power upon the board, shall not impair or limit any specific power or powers granted to the board by this chapter or by some other constitutional or statutory provision.

**Section 6. Amendment.)** Section 4-18.1-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-06. Marketing Areas.)** The board shall designate such marketing areas which, together, shall embrace all the

geographical territory of the state. The board may, from time to time, increase or decrease the number of marketing areas, divide or combine one or more marketing areas, or alter the boundaries of such areas.

In establishing, as well as in changing the boundaries of such marketing areas, the board shall take into consideration the various conditions affecting the production, distribution and sale of milk products and frozen dairy products in such areas, the need for establishing area boundaries in a manner which will facilitate cooperation between the board and federal authorities engaged in regulating prices paid by processors for raw milk, and all other factors necessary to effectuate the purposes and policies of this chapter. Minimum or maximum prices established by the board pursuant to this chapter may vary from one marketing area to another.

**Section 7. Amendment.)** Section 4-18.1-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-07. Stabilization Plans.)**

1. The board shall establish for each marketing area the uniform minimum prices to be paid by processors to dairy farmers for raw milk.

Each stabilization plan issued by the board shall provide the means for determining which such plan is applicable to the raw milk purchases of a processor engaged in selling milk products in two or more marketing areas; and the applicability of any such plan to raw milk purchased by a processor from a particular dairy farmer shall in no way be dependent upon the location of the seller's dairy farm nor upon the location at which title passes.

In establishing or changing minimum prices to be paid by processors to dairy farmers for raw milk in each marketing area, the board shall take into consideration the following factors applicable to such area: the available supply of raw milk, the adequacy of the reserve supply of raw milk available to processors, the balance between production and consumption, the cost of dairy feed, farm wage rates, and such other

factors as will effectuate the purposes and policies of this chapter. All such minimum prices shall be those which will be beneficial to the public interest, protect the dairy farmers, and ensure an adequate supply of pure and wholesome milk to the inhabitants of the state.

Any stabilization plan issued by the board may provide for a classified pricing system predicated upon utilization, and may provide for a marketwide pooling arrangement, or a handler pooling arrangement, all as defined in the Agricultural Marketing Agreement Act of 1937 (as amended).

Any stabilization plan issued by the board for a marketing area, some portion of which is included within the marketing area of a federal milk marketing order, may require licensed processors subject to both the state stabilization plan and to the federal milk marketing order to pay minimum raw milk class prices which exceed the minimum raw milk class prices established by such federal order and may require such processors to pay all of the difference between the federal and state minimums direct to dairy farmers on a handler pool basis.

Any stabilization plan issued by the board may contain a formula to be used in computing minimum prices payable to dairy farmers. Such formula may be utilized by the board to bring about such automatic changes in minimum dairy farmer prices as are justified on the basis of changes in production costs, supply conditions, and in the other factors to be considered by the board in establishing such minimum prices.

Any stabilization plan may also contain provisions establishing the prices payable by a processor for raw milk purchased from sources other than dairy farmers and may contain such other provisions as are necessary and appropriate in order to ensure that prices paid for butterfat and milk solids not fat (whether in the form of raw milk or otherwise) shall be uniform for all processors whose raw milk purchases are regulated by the same stabilization plan.

If the board issues a stabilization plan containing



a marketwide pooling arrangement, it may require that raw milk produced by dairy farmer-processors be included in such pooling arrangement.

Any stabilization plan may provide for price adjustments based upon the butterfat content of the raw milk, location where received, location of plant to which a portion of the raw milk purchased is transferred or diverted by the processor from the plant where such raw milk is normally utilized, and other such factors for which price adjustments are provided in the Agricultural Marketing Agreement Act of 1937, as amended.

Notwithstanding the other provisions of this subsection, the board shall have no authority to regulate the price at which milk is purchased by a processor which is used in the manufacture of some product other than a milk product or a frozen dairy product.

2. For each marketing area, the board shall establish minimum prices for each of the following classifications of sales:
  - a. Sales of milk products by processors or distributors to retailers. Such minimum price for each item shall be applicable regardless of the location at which the retailer accepts delivery.
  - b. Sales of milk products by any person to consumers.
3. For any marketing area, the board may establish the minimum prices for each of the following classifications of sales:
  - a. Sales of milk products by processors to distributors.
  - b. Sales of frozen dairy products by a processor, distributor, or retailer to any person.
  - c. Sales of milk products by a processor to another processor or by a distributor to another distributor.
  - d. Sales of milk products or frozen dairy products not otherwise provided for in subsections 2 and 3 of this section.

4. For any marketing area, the board may establish the maximum prices for which milk products are sold by a processor, a distributor or a retailer to any person. However, in doing so the board shall take into account all of the economic factors which apply to the establishment of minimum prices for stabilization plans which factors are set out in subdivisions a, b, c, and d of subsection 6 of section 7 of this Act.
5. The stabilization plan for any marketing area may include a provision authorizing processors and distributors to give quantity discounts to retailers in connection with sales of milk products and frozen dairy products. In order to ensure the availability of a sufficient variety of brands to consumers purchasing from retailers having sufficient display space, and in order to avoid injury to small independent processors and distributors, the board shall, if quantity discounts are authorized, establish for each eligible retailer a quantity discount rate for purchases of milk products and a quantity discount rate for purchases of frozen dairy products, which discount rates shall be based upon such retailer's total purchases of milk products from all suppliers and upon his total purchases of frozen dairy products from all suppliers. All processors and distributors delivering milk products and frozen dairy products to such retailer shall be authorized to give quantity discounts in accordance with such rates regardless of the quantities of such products actually purchased by such retailer from each individual processor or distributor. The schedules of quantity discount rates established by the board shall be based upon a graduated scale of discounts proportionate to purchases made by retailers during a base period (one month, one quarter, six months, or one year) to be designated by the board.

When a retailer operates two or more separate places of business, the board shall base the quantity discount rate for each place of business upon the quantity of milk products or frozen dairy products purchased for resale at that place of business alone.

6. The minimum and maximum prices (other than dairy farmer prices) established by the board, as well as the other provisions included in a stabilization plan, shall

be those which will tend to maintain in the business of processing and distributing milk products and frozen dairy products such reasonably efficient processors, distributors, and retailers as are necessary to insure to consumers an adequate and continuous supply of high quality milk products and frozen dairy products at fair and reasonable prices; will tend to foster and encourage stability in the dairy industry and orderly and efficient marketing of milk products and frozen dairy products; will tend to prevent unfair trade practices, unfair methods of competition, conditions of monopoly or combinations in restraint of trade; and will enable the dairy industry to maintain the highest quality.

In establishing minimum prices (other than dairy farmer prices) for a marketing area, the board shall take into consideration all of the following economic factors that are operative in such marketing area:

- a. The prevailing raw milk prices in the marketing area regardless of whether such prices are state established, federally established or negotiated;
  - b. All reasonably necessary costs of processing and distribution incurred by representative processors, distributors, and retailers, including a reasonable return upon necessary investment;
  - c. Quantities of milk products and frozen dairy products consumed in such area; and
  - d. All other economic factors which substantially and directly affect market supply and demand for milk products and frozen dairy products in such area.
7. In exercising the authority contained in subsection 3 of this section, the board may establish minimum prices for some items in a category without the necessity for establishing minimum prices for the other items in such category and may establish one type of minimum price without establishing the other types of minimum prices applicable to a product. For example, the board may establish minimum prices for minimum standard ice cream, but may refrain from establishing minimum prices for ice cream which exceeds minimum standards;

the board may establish minimum prices for half-gallons and gallons of ice cream, but may refrain from establishing minimum prices for ice cream packaged in containers of other sizes; and the board may establish minimum wholesale prices for frozen dairy products without establishing minimum retail prices for such products.

8. In lieu of establishing minimum wholesale prices for one or more frozen dairy products items, the board may require dealers to file with the board the uniform wholesale price at which each such item will be sold by each such dealer within each marketing area.

If the board elects to require such price filings, the board:

- a. Shall prescribe the manner in which and the date on which initial price filings shall be made.
- b. Shall prescribe the procedure to be followed by dealers in amending and supplementing their initial price filings. The board's authority in this connection includes the power to prescribe how much time shall elapse between the filing of any supplemental price or any amended price and the date on which such filing becomes effective, provided that the board may not prohibit dealers from meeting lawful competition without delay in connection with the sale of any such frozen dairy product, but may require the dealer to file an amended price for the purpose of meeting competition before actually meeting such competition.
- c. Shall permit a dealer desiring to meet the lower prices of a competitor to do so in such portions of the marketing area as are specified in such dealer's amended price filing.
- d. May require that the wholesale prices filed for a processor for a marketing area shall automatically be applicable to sales by distributors of that processor's products within such area.
- e. May prescribe such other requirements relative to price filing as will tend to effectuate the purposes of

this chapter.

9. The minimum and maximum prices established by the board for products other than raw milk may reflect packaging cost differences; and minimum and maximum prices for home-delivered products may vary from minimum and maximum prices applicable to products sold to consumers by retailers.
10. The board shall take appropriate steps to insure that changes in minimum dairy farmer prices are accompanied by simultaneous changes in the other minimum and maximum prices as established by the board.

**Section 8. Amendment.)** Section 4-18.1-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-08. Licenses.)**

1. It shall be unlawful for a dairy farmer to sell milk without being licensed as a "dairy farmer" by the board if such milk is purchased by a processor who is required by this chapter to be licensed and who processes such milk at a plant located in the state of North Dakota. This provision shall be equally applicable to dairy farmers whose dairy farms are located outside the state of North Dakota as to dairy farmers whose dairy farms are located in the state.
2. It shall be unlawful for a processor to buy milk or to sell milk products or frozen dairy products without being licensed as a "processor" by the board if such processor:
  - a. Operates a processing plant located within the state of North Dakota; or
  - b. Sells milk products or frozen dairy products to a retailer for resale at a retail establishment that is located in North Dakota regardless of whether such processor's plant is located inside or outside the state of North Dakota and regardless of whether such retailer takes title to or possession of such products inside or outside the state of North Dakota; or

- c. Sells milk products or frozen dairy products to a distributor for resale to North Dakota consumers on home delivery or for resale to a retail establishment that is required by this chapter to have a "retailer" license.
3. It shall be unlawful for a distributor to sell milk products or frozen dairy products without being licensed as a "distributor" by the board if such distributor sells milk products or frozen dairy products to North Dakota consumers on one or more retail (home delivery) routes or to a retailer for resale at a retail establishment that is required by this chapter to have a "retailer" license.
4. It shall be unlawful for a retailer to purchase or transfer title to milk products or frozen dairy products without being licensed as a "retailer" by the board. It shall be unlawful for a dairy farmer, a processor, or a distributor to transfer title to milk products or frozen dairy products to consumers at a fixed place of business located within this state without obtaining for each such place of business a "retailer" license issued by the board.
5. The licensing of persons engaged in supplying milk products or frozen dairy products to consumers through the use of vending machines shall be in accordance with requirements prescribed by the board.
6. No charge shall be made by the board for any license. All licenses hereafter issued by the board shall remain in effect unless and until:
  - a. There is a change of ownership or of location; or
  - b. The license is suspended or revoked; or
  - c. The business is discontinued or is inactive for a period of more than thirty days.
7. A license shall be required for each separate place of business.
8. No processor or distributor shall be licensed by the board without first having obtained a license from the North Dakota department of agriculture. No dairy farmer

shall be licensed without furnishing proof of proper inspection by the department of agriculture or the health department as provided by law.

9. A dairy farmer-processor shall obtain a dairy farmer license and a processor license from the board.
10. All licenses issued by the board prior to April 1, 1969, shall expire automatically on April 1, 1969.
11. The board may decline to issue a "processor" license or a "distributor" license to an applicant for any such license if the board finds that persons licensed by the board prior to receipt of the application in question are supplying an adequate variety and quantity of high quality milk products and frozen dairy products to the state's retailers and consumers, that deliveries are being made with sufficient regularity and frequency, and that the issuance of additional licenses of the type sought:
  - a. Will result in an excess of processing plant capacity; or
  - b. Will tend to increase to unsatisfactory levels the average unit processing or average unit distribution costs for persons already licensed by the board; or
  - c. Will otherwise tend to prevent achievement of the objectives of this chapter.
12. Schools, hospitals, state institutions, and charitable institutions may obtain "retailer" licenses from the board regardless of whether they fall within the definition of "retailer" set forth hereinabove.

**Section 9. Amendment.)** Section 4-18.1-09 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-09. License Applications.)** Applications for licenses shall be made on forms prepared and furnished by the board. The board shall require the license applicant to set out in the application such facts concerning the applicant and the nature of the business that the applicant proposes to conduct as the board deems necessary for the administration of this chapter. The

board shall also require applicants for processor and distributor licenses to state in the application that such applicant will make no sales of milk products or frozen dairy products to persons required by this chapter to be licensed unless such persons have obtained the license required by this chapter.

Similarly, the board shall require applicants for distributor and retailer licenses to state in the application that the applicant will make no purchases of milk products or frozen dairy products from persons not licensed by the board.

The board shall require applicants for processor or distributor licenses to state in the application that each such applicant will sell such milk products or frozen dairy products as are customarily handled by such person to any retailer who desires to purchase any of such products from such dealer and who has his place of business in any community in which such dealer processes, distributes, or sells milk products or frozen dairy products; and each such applicant shall also be required to state in the application that he will offer to any such retailer the same frequency of delivery and the same in-store services as are customary in such community, and that he will provide home-delivery services to any consumer residing in such community upon request.

**Section 10. Amendment.)** Section 4-18.1-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-10. Prohibited Acts.)**

1. No licensee shall buy or sell any milk product or any frozen dairy product at less than the applicable minimum price established by the board nor more than the applicable maximum price established by the board.
2. If price filing is required by the board, no dealer shall sell, and no retailer shall purchase, a frozen dairy product at a price which varies from the filed price which is in effect on the date of such sale.
3. No licensee shall take any action which is contrary to commitments made by such licensee in the license application filed with the board.



4. It shall be unlawful for any licensee to use or attempt to use any method, device, or transaction intended to accomplish, or having the effect of accomplishing, the sale or attempted sale or the purchase or attempted purchase of milk products or frozen dairy products at less than the minimum prices established by the board pursuant to this chapter, or which is designed to circumvent the price requirements of the board, or which has the effect of substantially undermining the effectiveness of such pricing requirements, whether such method, device, or transaction applies directly to the milk product or frozen dairy product sold or purchased, or is used in connection with the sale or handling of any other product, commodity, article, or service.
5. The following arrangement, now in effect among a limited number of licensees in this state, is found to be discriminatory, unfair, and disruptive and is hereby prohibited: The purchasing by a distributor of milk products or frozen dairy products at prices which are less than minimum wholesale prices when such products are resold to consumers at a fixed place of business owned by such distributor. This subsection shall not be interpreted as prohibiting an arrangement in which a distributor purchases at wholesale prices those milk products or frozen dairy products that are to be resold at a fixed place of business owned by such distributor and purchases at distributor prices all of the other milk products and frozen dairy products that are to be resold by such distributor.
6. No retailer shall sell or offer to sell any milk products or frozen dairy products of one brand at a price which is different from the price charged by such retailer for an equal quantity of a product which is of the same type, quality, or grade, but of a different brand, unless such price differential is equal to the difference in the prices paid by the retailer for the products in question.

**Section 11. Amendment.)** Section 4-18.1-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-11. Authority of the Board to Regulate Disruptive Trade Practices.)** In order to implement subsection 4 of section

4-18.1-10, the board shall by regulation prohibit or regulate each of the following practices, which said practices are listed herein solely for the purpose of illustrating the board scope of the board's authority under the said subsection. Such listing is not intended to be an exclusive enumeration of those practices, methods, devices, schemes, arrangements and activities which the board is authorized to prohibit or regulate:

1. The giving of discounts, rebates or allowances in connection with the sale of milk products or frozen dairy products unless such discounts, rebates, or allowances are authorized by the board in accordance with subsection 5 of section 4-18.1-07.
2. The furnishing by a dealer of free equipment or services to a retailer. This provision shall not be interpreted as authorizing the board to prohibit the stocking by a dealer of the dairy case or frozen products cabinet of a retailer nor the stamping on each milk product or frozen dairy product by the dealer of the retail price at which the retailer desires to sell any such product.
3. The giving of advertising or display allowances.
4. The giving of a free milk product or a free frozen dairy product to a customer.
5. The making or renewal of loans, or the giving of financial assistance in any other form, by a dealer to a retailer.
6. The furnishing of signs by a dealer to a retailer.
7. Selling, offering to sell, or advertising any milk product or frozen dairy product in combination with any other product or service.
8. Selling, offering to sell, or advertising any product or service at a price which is available only to purchasers of a milk product or a frozen dairy product.
9. The giving of gifts by dealers to retailers.
10. The selling, leasing, renting, or lending of equipment by a dealer to a retailer. In connection with the sale of equipment by a dealer to a retailer, the board may pre-

scribe the minimum markup based upon the seller's invoice cost or depreciated value in the case of used equipment. This subsection shall not be interpreted as authorizing the board to prohibit the sale of equipment by dealers to retailers, but the board may prescribe a minimum markup based upon the seller's invoice cost (or depreciated value in the case of used equipment).

11. The requiring of deposits where milk products or frozen dairy products are purchased in returnable containers and the giving of allowances or credits in connection with the return of such containers.
12. Payments by dealers to franchisers, wholesale grocers, or any other person closely connected with a retailer for central billing, customer solicitation, or other services where the purpose or effect of such payment is to induce the recipient of any such payment to influence or attempt to influence the decision of one or more retailers relative to the brands of milk products or frozen dairy products to be purchased and resold by such retailer or relative to the amount of space to be allocated to any brand of milk products or frozen dairy products.

**Section 12. Amendment.)** Section 4-18.1-12 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-12. Assessments by the Board.)** In order to obtain funds for the administration and enforcement of the provisions of this chapter, the board shall levy an assessment upon all licensed processors of five cents per hundredweight on milk or milk equivalents used for the manufacture of milk products and frozen dairy products processed by such processors. However, this assessment shall not be applicable to milk products or frozen dairy products sold in other states.

This assessment shall be paid quarterly on or before the fifteenth of July, October, January, and April of each year. Each such payment shall be equal to the assessment due in connection with milk products and frozen dairy products processed during the calendar quarter which ends on the last day of the preceding month.

All such assessments shall be deposited by the board in the

state treasury in a special fund to be known as the "milk stabilization fund". All expenses incurred in connection with the enforcement and administration of this chapter, including the salaries of employees and assistants shall be paid out of the said "milk stabilization fund" within the limits of legislative appropriations.

**Section 13. Amendment.)** Section 4-18.1-13 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-13. Construction.)** Nothing contained in this chapter shall be construed to prohibit the issuing of trading stamps by retailers in connection with the sale of milk products or frozen dairy products except in those instances where a retailer offers trading stamp bonuses to purchasers of milk products or frozen dairy products.

If any portion of this chapter is held invalid or unconstitutional, such holding shall not affect the validity of the chapter as a whole, or of any part thereof which can be given effect without the part so held to be unconstitutional or invalid.

The authority of the board to regulate milk products or frozen dairy products moving in interstate commerce shall be construed to be as great as, but not to exceed, the limits imposed by the United States Constitution.

**Section 14. Amendment.)** Section 4-18.1-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-14. Entry, Inspection, and Investigation.)** Authorized representatives of the board shall have access to, and may enter at all reasonable hours, all places of business operated by licensees where raw milk, milk products or frozen dairy products are produced, stored, processed, manufactured, or sold, or where the licensee maintains books, papers, accounts, records, or other documents related to such activities. The board may subpoena, and any of its authorized representatives may inspect and make copies of, any of such books, papers, records, accounts, or documents and audit the same, all for the purpose of determining whether or not the provisions of this chapter and of any regulations and stabilization plans issued by the board are being complied with.

The board may subpoena, and any of its authorized representatives may inspect, audit, and make copies of, relevant books, papers, records, accounts, or other documents of persons doing business with licensees.

Any information gained by the board or its representatives through such entry, inspection, or investigation shall be treated as confidential by the board and its representatives and shall be used only for the administration of this chapter; provided, that such persons may divulge such information when called upon to testify in any duly noticed proceeding before the board or in any court proceeding wherein the board is a party, and provided further, that nothing contained in this chapter shall prevent the use of any information procured by the board or its representatives in the compiling and dissemination of general statistical data, containing information procured from a number of licensees, and compiled in such manner as not to reveal individual information for any licensee. Any person who divulges confidential information in violation of the provisions of this section to any person, other than members and employees of the board, shall be guilty of a misdemeanor.

The board may also subpoena and take the testimony under oath of persons believed by the board to have information needed by it in administering and enforcing the provisions of this chapter.

**Section 15. Amendment.)** Section 4-18.1-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-15. Records and Reports.)**

1. The board shall require licensees to maintain such records as the board deems necessary to effectuate the provisions of this chapter. The board may, by regulation, specify what records shall be maintained by each type of licensee. The board shall require licensees to maintain, among other records, the following:
  - a. A record of all raw milk received or purchased by the licensee, showing the names and addresses of the dairy farmers and others from whom such raw milk was purchased, the quantity, price paid, butter-fat test, and any deductions made.

- b. A record of all milk products and frozen dairy products sold or used, classified as to grade, use, location, market outlet, size and type of container, the composition of said product in terms of butterfat and solids, the quantity sold, and the prices received therefor. Such records shall also show the quantity of each milk product or frozen dairy product manufactured by a licensee, together with the composition of such product, the quantity sold, and the prices received therefor.
  2. The board may require licensees to maintain, among other records, the following:
    - a. A record of the shrinkage, wastage, or loss of raw milk and butterfat, and of skim milk and butterfat destroyed or used for special purposes such as livestock feed.
    - b. A record of the inventory of raw milk, other milk products, and frozen dairy products on hand at the end of a designated accounting period.
    - c. A record of all items of expense incurred by the licensee in procuring raw milk and other ingredients, and in processing, manufacturing, storing, distributing, and selling milk products and frozen dairy products, including overhead and general and administrative costs, and all other items of cost incurred by each licensee in the conduct of its business. No licensee shall be required to reveal his profit or loss. Such records shall be of a nature to permit the board to make statistical studies as it may deem necessary for the proper exercise of its authority under this chapter.
  3. Records required to be kept by licensees shall be preserved by the licensee for a period of not less than three years.

**Section 16. Amendment.)** Section 4-18.1-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-16. Cooperation With Other Governmental Agencies.)**

The board may, in compliance with section 4-18.1-18, cooperate with stabilization agencies in other states and with the secretary of agriculture of the United States in the manner provided in the Agricultural Marketing Agreement Act of 1937 (as amended), 7 USC 610 (i).

**Section 17. Amendment.)** Section 4-18.1-17 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-17. Remedies.)**

1. The board may refuse to license or may suspend or revoke the license of any person, except a dairy farmer, who violates any provision of this chapter, any provision of a stabilization plan issued by the board, or any regulation issued by the board. In lieu of a suspension or revocation the board may assess a civil penalty not to exceed five hundred dollars per day for each violation or continuing violation, and may collect such civil penalty by a civil proceeding in any appropriate court. Any moneys received by the board as the result of an election by a licensee to pay a penalty in lieu of a license suspension shall be placed in the milk stabilization fund. Such penalties shall be construed as civil and not criminal in nature.
2. The board or its authorized agent may institute such action at law or in equity as may appear necessary to enforce compliance with any provision of this chapter or to enforce compliance with any stabilization plan or regulation of the board or to obtain a judicial interpretation of any of the foregoing; and, in addition to any other remedy, the board, upon approval by a majority of its members, may apply to the district court for relief by injunction, mandamus or any other appropriate remedy in equity. In such actions the board shall not be required to give or post bond in any action to which it is a party whether upon appeal or otherwise. All legal actions may be brought by or against the board in the name of the North Dakota milk stabilization board, a state agency.

**Section 18. Amendment.)** Section 4-18.1-18 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-18. Adjudicatory Functions of the Board.)**

1. Within thirty days after receipt by the board of an application for license, the board shall either issue the license or notify the applicant of the date on which a hearing will be held for the purpose of receiving evidence relative to the eligibility of the applicant for the license sought. Such hearings should be held on a date which is not less than twenty days after the date on which such notice is given, unless the hearing is fixed for an earlier date by mutual agreement of the board and the applicant. Within a reasonable time after the close of such a hearing, the board shall notify the applicant of its decision in the matter. The board may deny the issuance of a license if it finds that the applicant has violated this chapter or a regulation or stabilization plan promulgated by the board.
2. Whenever the executive secretary has reason to believe that a licensee has violated this chapter or any regulation or stabilization plan issued by the board, he may file a complaint against such licensee with the board and shall serve a copy of the complaint on the licensee in which he shall set forth the nature of the alleged violation. The board after a hearing and after finding that the licensee has violated any provisions of this chapter, a provision of a stabilization plan or a regulation issued by the board may suspend or revoke his license.
3. The proceedings authorized or required by subsections 1 and 2 of this section shall be in strict conformity with sections 28-32-04 through 28-32-14 and rules of practice that are issued by the board and that are not inconsistent with said statutes.

**Section 19. Amendment.)** Section 4-18.1-19 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-19. Judicial Review of Adjudicatory Action by the Board.)** Judicial review of any decision rendered by the board in any proceedings authorized or required by section 4-18.1-18 of this chapter shall be in accordance with sections 28-32-15 through 28-32-21.



**Section 20. Amendment.)** Section 4-18.1-20 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-18.1-20. Rule-Making Functions of the Board.)**

1. The rules of practice, regulations and stabilization plans issued by the board are declared to be "rules and regulations" as that phrase is defined in chapter 28-32 of the North Dakota Century Code. The requirements of section 28-32-02 through 28-32-04 of the said chapter are applicable to any board proceeding which results in the adoption, amendment, or repeal of any rule of practice, regulation or stabilization plan.
2. The board may, at any time, on its own motion, initiate a proceeding in connection with the adoption, amendment, or repeal of rules of practice, regulations or stabilization plans. In addition, any person desiring to initiate such a proceeding shall file with the board a written petition which shall state clearly and concisely the substance or nature of the action requested and the reasons which prompted the request. Upon receipt of such petition, the board shall, within thirty days thereafter, deny the petition in writing or schedule the matter for public hearing pursuant to the requirements of this section.
3. Prior to the adoption, amendment or repeal of any rule of practice, regulation or stabilization plan, the board shall:
  - a. Give at least ten days' notice of its intended action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved and the time when, the place where, and the manner in which interested persons may make presentations in connection therewith. The notice shall be mailed to all persons who have made timely requests for advance notice of any such proceeding, and notice shall also be given by publication in accordance with the requirements set forth in the board's rules of practice.
  - b. Afford all interested persons reasonable opportunity

to submit data, views, or arguments, orally or in writing. In any proceeding involving regulations or stabilization plans, opportunity for oral presentation (a public hearing) must be granted. The board shall consider fully all such written and oral submissions.

4. The board may designate a hearing officer to conduct any public hearing required by this section.
5. The record of each rule-making proceeding, including the transcript of any public hearing held as a part thereof, shall be filed in the principal office of the board. Such record shall be available at all times for inspection by any interested person.
6. Any rule of practice, regulation, or stabilization plan adopted by the board, or the amendment or repeal thereof, shall be effective on the date on which notice of such action is given by the board, or such later date as may be specified in the notice. Notice of any such action shall be given by the board to all persons who have made timely requests for such a notice, and all persons who entered an appearance at the public hearing.

**Section 21. Amendment.)** Section 4-18.1-21 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-18.1-21. Judicial Review of Rule-Making Action by the Board.)**

1. The validity or applicability of any action taken by the board in its rule-making capacity may be determined in a suit for declaratory judgment in the district court for the county of Burleigh.
2. Any such suit must be filed within thirty (30) days after the date on which a copy of the notice of such action and the attorney general's opinion thereon are mailed by the board to the secretary of the state bar association pursuant to section 28-32-03.
3. The court shall declare the board action invalid if it finds that the action in question violates constitutional provi-

sions or exceeds the statutory authority of the board or was adopted without substantial compliance with rule-making procedures. The board shall be made a party to the suit.

4. No stay of a board stabilization plan or regulation properly adopted may be granted prior to final determination of any such matter by the court having jurisdiction thereof.

**Section 22.)** Section 4-18.1-22 of the North Dakota Century Code is hereby created and enacted to read as follows:

**4-18.1-22. Local Advisory Boards.)** Whenever a public hearing is scheduled by the milk stabilization board in any marketing area for the purpose of establishing prices, the board may, at least ten days prior to the date set for such hearing, appoint a local advisory board, the function of which shall be to assist and advise the milk stabilization board in matters pertaining to the production and marketing of milk in said marketing area. If a local advisory board is appointed, the local advisory board shall consist of two producers, two processors and two retailers who are actively engaged in milk production, processing and marketing in the area. Such local advisory board shall meet with the milk stabilization board at the call of the milk stabilization board before, during, or after such public hearing to establish prices. The members of such local advisory board shall receive twenty-five dollars per diem for each day actually spent in the performance of such duties, plus mileage and expenses in an amount equal to that received by state officers. In no event shall there be more than three meetings or conferences between the milk stabilization board and such local advisory board; and in all events such local advisory board shall cease to exist when the milk stabilization board promulgates its stabilization plan established prices following the public hearing heretofore mentioned.

**Section 23.)** Section 4-18.1-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

**4-18.1-23. Referendum on Continuance of Program—Petitions—Contents.)** Whenever a petition is presented to the commissioner of agriculture containing at least twenty-five percent of the total grade A dairy farmers in North Dakota covered by the provisions of this chapter, with the signature of at least one such dairy farmer in each of twenty-seven different

counties, the commissioner of agriculture shall conduct a referendum by secret ballot by mail, in accordance with rules established by the commissioner of agriculture, and shall report the results of the referendum to the next legislative assembly that meets thereafter.

Approved March 25, 1969.

---

## CHAPTER 86

H. B. No. 480  
(Giffey)

### ASSESSMENT OF WHEAT TAX IN CASES OF LIEN, PLEDGE, OR MORTGAGE

#### AN ACT

To amend and reenact section 4-28-07 of the North Dakota Century Code, relating to the state wheat tax levy, and to provide that the tax shall be levied and assessed at the time of final settlement in the case of a lien, pledge, or mortgage, and creating subsection 7 to section 4-28-02, defining final settlement.

**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, a tax of two mills per bushel by weight upon all wheat grown in this state and sold through commercial channels by a producer to a first purchaser, such tax to be levied and assessed at the time of sale, or final settlement in the case of a lien, pledge, or mortgage if title to the wheat is transferred, and deducted by the purchaser from the price paid. At the time of sale or final settlement, 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, make applica-

tion 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.

**Section 2.)** Subsection 7 to section 4-28-02 is hereby created and enacted to read as follows:

7. The term final settlement shall mean the date the wheat upon which a loan was obtained is sold to the elevator or to a private person or is assigned or transferred to an agency of the United States government; or the date upon which the payment for the wheat is made in instances when wheat is sold but payments are deferred.

Approved March 29, 1969.

H. B. No. 304  
(Reimers, Boyum, Jones, Anderson, Goodman)

## FLAX UTILIZATION RESEARCH TAX

### AN ACT

To levy a tax on the sale of flaxseed for the purpose of creating a fund to be used for flax utilization research, and appropriating money from the fund to the economic development commission to carry on such research.

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

**Section 1. Flax Tax Levy.)** There is hereby levied and imposed a tax of one-quarter cent per bushel by weight upon all flaxseed produced in this state and sold, for whatever purpose, through commercial channels to a first purchaser. The administration and manner in which the tax is collected and paid, as well as the procedure for making application for refunds and the requirements for the making of refunds shall be governed by the provisions of section 4-28-07 of the North Dakota Century Code, as amended, and shall apply as if same were fully recited herein.

### **Section 2. Definitions.)**

1. "Producer" means any landowner or tenant engaged in growing flax and receiving, in such capacity, any portion of the flaxseed crop produced.
2. "First purchaser" means any person, firm, corporation, association, or partnership buying or otherwise acquiring, after harvest, the property in or to flaxseed from the producer, and shall include a mortgagee, pledgee, lienor, or other claimant having a claim against the producer, where the loan or claim is secured by such flax, or where the flax is taken as part payment or in satisfaction of a mortgage, pledge, lien or claim.
3. "Commercial channels" means the sale of flaxseed, for any use, by the producer to any commercial buyer, dealer, processor, cooperative, or to any person, firm, corporation, association, or partnership which resells any

flaxseed or product produced therefrom.

4. Sale shall include any pledge or mortgage of flaxseed, after harvest, to any person, firm, corporation, association, or partnership.

**Section 3. Remittance of Tax—State Wheat Commission to Prescribe Forms—Flax Utilization Research Fund.)** Each first purchaser shall make quarterly reports and returns to the state wheat commission, on such forms as shall be prescribed by the commission, on or before the twentieth day of the month next succeeding each calendar quarterly period, commencing with the calendar quarter ending September 30, 1969, and with each report and return shall remit to the commission, in the form of a remittance payable to the state treasurer, the tax due. The commission shall transmit all such payments to the state treasurer to be deposited in the state treasury to the credit of a fund to be known as the “flax utilization research fund”.

**Section 4. Economic Development Commission to Carry Out Flax Utilization Research—Appropriation.)** There is hereby appropriated out of the flax utilization research fund the sum of fifty thousand dollars, or such portion of that amount as may be available in the fund, to the economic development commission for the purpose of carrying on research into the utilization of and prospective markets for flax and flax products, for the period beginning July 1, 1969, and ending June 30, 1971.

Approved March 29, 1969.

S. B. No. 334  
(Redlin)

## BONDING OF DAIRY PROCESSORS

### AN ACT

To amend and reenact section 4-30-03 of the North Dakota Century Code, relating to the filing of a surety bond or certified bank draft by milk processing or manufacturing plants.

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

**Section 1. Amendment.)** Section 4-30-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**4-30-03. Bonding of Purchasers of Dairy Products.)** Each applicant for license under section 4-30-02, who purchases milk or cream from a dairy producer, shall file with his application for license a surety bond or certified bank draft held in favor of the dairy department. The amount of such surety bond or certified bank draft shall be determined on the basis of average purchases of such milk or cream from dairy producers during the previous year, and in no event shall be less than one thousand dollars. Where payment for such milk or cream purchased from dairy producers is made on a weekly basis, the amount of such surety bond or certified bank draft shall be in an amount equal to the average weekly purchases of such milk or cream. Where payment for such milk or cream purchased from dairy producers is made on a semimonthly basis, the amount of such surety bond or certified bank draft shall be in an amount equal to the average semimonthly purchases of such milk or cream. Where the period of payment for such milk or cream purchased from dairy producers is made on a basis involving periods of time greater than semimonthly, the amount of such surety bond or certified bank draft shall be in an amount equal to the average purchases of such milk or cream for such periods of time. 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; provided, however,



that the aggregate liability of the bonding company or the dairy department to all such persons shall in no event exceed the amount of such a bond or draft. In lieu of the bond or draft required under the provisions of this section, the applicant shall file for approval with the dairy department and the state examiner a certified financial statement prepared by an independently certified public accountant in accordance with generally accepted accounting practices and principles and certified by him as fairly and 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, showing the following minimum standards of financial liquidity;

1. A ratio of current assets to current liabilities of 1:20 to 1:00.
2. Total assets in excess of total liabilities.

Where any reasonable doubt exists as to whether a plant meets these standards on basis of financial information submitted, security shall be required in accordance with section 4-30-03. Interim statements may be required at any time during the year as deemed necessary by the department.

Approved March 8, 1969.

S. B. No. 84  
(Morgan)

## QUARANTINE TO PREVENT PLANT PESTS

### AN ACT

Vesting in the commissioner of agriculture authority to quarantine and to carry out other measures to prevent the spread of plant pests within, from, and into this state, and providing a penalty.

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

**Section 1. Definitions.)** The following terms as used in this Act, except where the context otherwise requires, shall include both the singular and the plural and shall be construed, respectively, to mean:

1. Commissioner means the commissioner of the department of agriculture of this state or any officer or employee of said department to whom authority to act in his stead has been or hereafter may be delegated.
2. Pest means any insect, disease, or other organism of any character whatsoever, causing or capable of causing injury or damage to any plants or parts thereof or any processed, manufactured, or other products of plants.
3. Host means any plant or plant product upon which a pest is dependent for completion of any portion of its life cycle.
4. Infested means actually infested or infected with a pest or so exposed to infestation that it would be reasonable to believe that an infestation exists.
5. Person means any individual, corporation, company, society, or association, or other business entity.
6. Move means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or

allow to be moved.

7. Regulated article means any article of any character as described in the quarantine carrying or capable of carrying the plant pest against which the quarantine is directed.
8. Certificate means a document issued or authorized by the commissioner indicating that a regulated article is not contaminated with a pest.
9. Permit means a document issued or authorized by the commissioner to provide for the movement of regulated articles to restricted destinations for limited handling, utilization, or processing.

**Section 2. Administration, Rules and Regulations.)** The commissioner shall have the responsibility for administration of the provisions of this Act. The commissioner after consultation and advice with the state entomologist is authorized to assign functions provided for in this Act to any unit of his department and to delegate any authority provided for in this Act to any officer or employee thereof, to be exercised under his general supervision. The commissioner shall promulgate such rules and regulations as are necessary for the efficient execution of the provisions of this Act.

**Section 3. Authority for Voluntary Measures.)** The commissioner, either independently or in cooperation with counties or political subdivisions thereof, cities, towns, farmers' associations or similar organizations, individuals, federal agencies, or agencies of other states, is authorized to carry out operations or measures to locate; to suppress, control, or eradicate; or to prevent or retard the spread of pests with the consent of the owners of the property involved.

**Section 4. Authority for Plant Quarantine.)** The commissioner is authorized to quarantine this state or any portion thereof when he shall determine that such action is necessary to prevent or retard the spread of a pest within or from this state and to quarantine any other state or portion thereof whenever he determines that a pest exists therein and that such action is necessary to prevent or retard its spread into this state. Before promulgating his

determination that a quarantine is necessary, the commissioner shall, after due notice to interested parties, hold a public hearing under such rules as he shall promulgate, at which hearing any interested party may appear and be heard either in person or by attorney, provided, the commissioner may impose a temporary quarantine for a period not to exceed ninety days during which time a public hearing, as provided herein, shall be held if it appears that a quarantine for more than the ninety-day period will be necessary to prevent or retard the spread of the pest. The commissioner shall give notice of the establishment of the quarantine in such newspapers in the quarantined area as he may select. The commissioner may limit the application of the quarantine to the infested portion of the quarantined area and appropriate environs, to be known as the regulated area, and may, without further hearing, extend the regulated area to include additional portions of the quarantined area upon publication of a notice to that effect in such newspapers in the quarantined area as he may select or by direct written notice to those concerned.

\*Following establishment of the quarantine, no person shall move any regulated article described in the quarantine or move the pest against which the quarantine is established, within, from, into, or through this state contrary to regulations promulgated by the commissioner. Notice of the regulations shall be published in such newspapers in the quarantined area as the commissioner may select.

The regulations may restrict the movement of the pest and any regulated articles from the quarantined or regulated area in this state into or through other parts of this state or other states and from the quarantined or regulated area in other states into or through this state and shall impose such inspection, disinfection, certification, or permit and other requirements as the commissioner deems necessary to effectuate the purposes of this Act.

\*Note: The enrolled copy of Senate Bill No. 84 had the following paragraph inserted in section 4 due to clerical error:

“Following establishment of the quarantine, no person shall move any regulated article described in the quarantine or move the pest against which the quarantine is established, within, from, into, or through this state contrary to regulations promulgated by the commissioner. Notice of the regulations shall be published in such newspapers in the quarantined area as he may select or by direct written notice to those concerned.”

The original copy of the introduced bill contained no such language, and the journals of the Forty-first Legislative Assembly show no such amendment, therefore the language has been left out of section 4. See section 46-03-11, relating to correction of clerical and ministerial errors.

**Section 5. Authority for Abatement and Emergency Measures.)** Whenever the commissioner finds any article that is infested or reasonably believed to be infested or a host or pest exists on any premise or is in transit in this state, he may, upon giving notice to the owner or his agent in possession thereof, seize, quarantine, treat, or otherwise dispose of such pest, host, or article in such manner as the commissioner deems necessary to suppress, control, eradicate, or to prevent or retard the spread of a pest, or the commissioner may order such owner or agent to so treat or otherwise dispose of the pest, host, or article. Where large areas or metropolitan areas, involving many people, are to be treated, notice may be by means of newspaper, radio, or other news media. Such notice shall prominently appear, at least ten days prior to treatment, in at least three issues of a daily paper having local coverage.

**Section 6. Authority for Inspections—Warrants.)** To effectuate the purposes of this Act, the commissioner may with a warrant or the consent of the owner make reasonable inspection of any premises in this state and any property therein or thereon and may without a warrant with the assistance of any law enforcement agency provided for in this Code stop and inspect, in a reasonable manner, any means of conveyance moving within this state upon probable cause to believe it contains or carries any pest, host, or other article subject to this Act, and may make any other reasonable inspection of any premises or means of conveyance for which, under the Constitution of the United States and the Constitution of this state, no warrant is required.

The appropriate county courts in this state shall have authority to issue warrants for such inspections upon a showing by the commissioner that there is probable cause to believe that there exists in or on the property to be inspected a pest, host, or other article subject to this Act.

**Section 7. Cooperation.)**

1. The commissioner is authorized to cooperate with any agency of the federal government in such operations and measures as he deems necessary to suppress, control, eradicate, or to prevent or retard the spread of any plant pest including the right to expend state funds on federal lands.
2. The commissioner is authorized to cooperate with agencies of adjacent states in such operations and measures as he deems necessary to locate; to suppress, control, or eradicate; or to prevent or retard the spread of any pest, provided, that the use of funds appropriated to carry out this Act, for operations in adjacent states, must be approved in advance by the governor or his designee.

**Section 8. Penalties.)** Any person who shall violate any of the provisions of this Act or who shall alter, forge, or counterfeit, or use without authority any certificate or permit or other document provided for in this Act or in the regulations of the commissioner provided for in this Act, shall be deemed guilty of a misdemeanor and shall upon conviction thereof, be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding one year, or both, in the discretion of the court. Any person who has knowingly moved any regulated article into this state from any quarantined area of any other state, which article has not been treated or handled under provisions of the quarantine and regulations, in effect at the point of origin, shall be guilty of a misdemeanor and shall be subject to the foregoing penalty provision of this Act.

Approved March 8, 1969.

# ALCOHOLIC BEVERAGES

---

## CHAPTER 90

H.B. No. 511  
(Committee on Delayed Bills)

### PROHIBITING MANUFACTURE OF ALCOHOLIC BEVERAGES

#### AN ACT

To amend and reenact section 5-01-04 of the North Dakota Century Code, relating to the manufacture of alcoholic beverages.

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

**Section 1. Amendment.)** Section 5-01-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**5-01-04. Manufacture of Alcoholic Beverages Prohibited—Exception.)** Any person manufacturing alcoholic beverages within this state is guilty of a misdemeanor and property used for same is subject to disposition by the court except any person may establish a brewery for the manufacture of malt beverages or a distillery or other plant for the distilling, manufacturing, or processing of liquor within this state if he has secured a license from the state treasurer. Such license shall be issued on a calendar-year basis with a fee of five hundred dollars. Said license shall allow sale to only licensed wholesalers.

Approved March 25, 1969.

## CHAPTER 91

S. B. No. 286  
(Chesrown, Freed)

PROVIDING ASSISTANCE TO  
PUBLICLY INTOXICATED PERSONS

## AN ACT

To create and enact a section of the North Dakota Century Code to provide assistance and medical care for public intoxication; to provide a penalty for disturbing the public peace or disorderly conduct; to eliminate punishment for public intoxication; to repeal section 5-01-05, relating to the penalty for public intoxication; and to create subsection 6 to section 29-06-15 of the North Dakota Century Code, relating to arrest without a warrant for driving or having control of a motor vehicle while under the influence of alcoholic beverages.

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

**Section 1. Public Intoxication—Assistance—Medical Care.)**

A peace officer shall have authority to take any apparently intoxicated person to his home, to a local hospital, or, whenever such person constitutes a danger to himself or others, to a jail for purposes of detoxification. A duly licensed physician of such local hospital shall have authority to hold such person for treatment up to seventy-two hours. Such intoxicated person shall not be held in jail because of intoxication more than twenty-four hours. An intoxicated person shall not be placed in a jail unless a jailer is constantly present within hearing distance and medical services are provided when the need is indicated. Upon placing such person in a hospital or jail, said peace officer shall notify the intoxicated person's family as soon as possible. Any additional costs incurred by the city or county on account of an intoxicated person shall be recoverable from such person.

**Section 2. Disturbing the Peace—Disorderly Conduct—Penalty.)** Any person who commits an act which disturbs the public peace or constitutes disorderly conduct is guilty of a misdemeanor.

**Section 3. No Prosecution for Intoxication.)** No person shall be prosecuted in any court solely for public intoxication. Law enforcement officers may utilize standard identification



procedures on all persons given assistance because of apparent intoxication.

**Section 4.)** Subsection 6 of section 29-06-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. On a charge, made upon reasonable cause, of driving or being in actual physical control of a vehicle while under the influence of alcoholic beverages.

**Section 5. Repeal.)** Section 5-01-05 of the North Dakota Century Code is hereby repealed.

Approved March 29, 1969.

---

CHAPTER 92

S. B. No. 235  
(Wenstrom)

COUNTIES AND CITIES MAY PROVIDE  
SERVICES TO ALCOHOLICS

AN ACT

Authorizing counties and cities to provide services for alcoholics.

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

**Section 1. Informational, Counseling, and Referral Centers for Alcoholism.)** Any county or city within the state at the discretion of their governing bodies, either individually or jointly, may establish or provide office space, including personnel, for informational, counseling, and referral services for alcoholics and their families.

Approved March 5, 1969.

S. B. No. 456  
(Rait)

**ISSUANCE OF TOWNSHIP BEER  
AND LIQUOR LICENSES**

**AN ACT**

To amend and reenact section 5-01-07 of the North Dakota Century Code, to provide that no retail beer or liquor license shall be renewed in any organized township without the written consent of the board of township supervisors.

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

**Section 1. Amendment.)** Section 5-01-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**5-01-07. Township Beer or Liquor Licenses.)** No retail beer or liquor license shall be issued in any organized township without the written consent of the board of township supervisors. Every third renewal of such license shall be reviewed and subject to approval by the board of township supervisors.

Approved March 13, 1969.

## CHAPTER 94

H. B. No. 425  
(Hentges)

SALE OF ALCOHOLIC BEVERAGES  
ON SUNDAY

## AN ACT

To create and enact subsection 11 of section 12-21.1-03, subsection 29 of section 12-21.1-04 of the 1967 Supplement to the North Dakota Century Code, to amend and reenact section 5-02-05 of the 1967 Supplement to the North Dakota Century Code, relating to the sale of beer and alcoholic beverages during certain hours on Sundays.

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

**Section 1.)** Subsection 11 of section 12-21.1-03 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

11. Beer and alcoholic beverages but only until 1:00 a.m.

**Section 2.)** Subsection 29 of section 12-21.1-04 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

29. Premises licensed to dispense beer and alcoholic beverages within the limits prescribed in section 5-02-05 of the North Dakota Century Code.

**Section 3. Amendment.)** Section 5-02-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**5-02-05. Disposal Prohibited on Certain Days—Penalty.)** Anyone who dispenses or permits the consumption of alcoholic beverages on licensed premises after one o'clock a.m. on Sundays, before eight o'clock a.m. on Mondays, or between the hours of one o'clock a.m. and eight o'clock a.m. on all other days of the week, or who so dispenses or permits such consumption on Memorial Day, Good Friday, Christmas Day, or after six o'clock p.m. on Christmas Eve, or between the hours of one o'clock a.m. and eight o'clock p.m. on the day of any statewide,

county or other election provided for in this Code affecting the electors of any city or township within which such licensed premises are located is guilty of a misdemeanor.

Approved March 25, 1969.

---

## CHAPTER 95

S. B. No. 239  
(Becker, Wilhite)

### ALCOHOLIC BEVERAGE PRIVILEGE TAX

#### AN ACT

To amend and reenact sections 5-03-04 and 5-03-07 of the North Dakota Century Code to provide for a privilege tax on alcoholic beverage wholesalers computed on gallonage sold and to eliminate the tax on sales between wholesalers and retailers, and declaring an emergency.

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

**Section 1. Amendment.)** Section 5-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**5-03-04. Collection of Taxes.)** The taxes imposed by this chapter shall be paid by wholesalers to the state treasurer on or before the fifteenth day of each month. Liquor wholesalers shall make such payments based on the total gallonage sold the preceding calendar month. Beer wholesalers shall make such payments based on the total gallonage purchased from brewers the preceding calendar month. Sales of beer of an alcoholic content of not more than 3.2 percent by weight to military exchanges shall be excluded from the computation of gallonage tax due from wholesalers. Upon satisfactory proof a tax credit shall be allowed beer wholesalers for beer purchased, but which cannot be sold in North Dakota. A tax credit shall be allowed wholesalers on bad accounts which are charged off for income tax purposes, but a pro rata tax shall again be paid on any accounts subsequently collected. If any wholesaler makes an overpayment of taxes due, the state treasurer shall issue a credit applicable to future obligations

or certify such amount to the department of accounts and purchases for a refund. Any remittance within one dollar of the correct amount due may be accepted by the state treasurer as the correct amount due.

**Section 2. Amendment.)** Section 5-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**5-03-07. Imposition of Tax—Rate.)** A tax is hereby imposed upon all alcoholic beverage wholesalers for the privilege of doing business in this state. The amount of such tax shall be determined by the gallonage sold by wholesalers according to the following schedule:

Beer in bulk containers — per wine gallon	\$ .08
Beer in bottles and cans — per wine gallon	\$ .16
Wine containing less than 17% alcohol by volume — per wine gallon	\$ .50
Wine containing 17% — 24% alcohol by volume — per wine gallon	\$ .60
Sparkling wine — per wine gallon	\$1.00
Distilled spirits — per wine gallon	\$2.50
Alcohol — per wine gallon	\$4.05

**Section 3. Emergency.)** This Act is declared to be an emergency and shall be in effect from and after its passage.

Approved March 7, 1969.

# BANKS AND BANKING

---

## CHAPTER 96

S.B. No. 181  
(Hernett)

### SUPERVISION OF STATE DEPARTMENT OF BANKING AND FINANCIAL INSTITUTIONS

#### AN ACT

To amend and reenact section 6-01-01 of the North Dakota Century Code, relating to management and control of state department of banking and financial institutions.

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

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

**6-01-01. Management and Control—State Department of Banking and Financial Institutions.)** The state department of banking and financial institutions shall be under the supervision of the state banking board and a chief officer designated as the commissioner of banking and financial institutions, and known as the state examiner. Whenever the term state examiner is used in this Code, it shall mean the commissioner of banking and financial institutions. The state department of banking and financial institutions shall have charge of the execution of all laws relating to state banks, savings banks, trust companies, building and loan associations, mutual investment corporations, mutual savings corporations, banking institutions and other financial corporations, exclusive of the Bank of North Dakota and all credit unions, organized or doing business under the laws of this state. The same power granted herein to the state department of banking and financial institutions with reference to the corporations named in this section shall be granted to the state credit union board with reference to credit unions.

Approved February 25, 1969.

## CHAPTER 97

S. B. No. 446  
(Freed)

STATE BANKING BOARD AND  
STATE CREDIT UNION BOARD

## AN ACT

To amend and reenact section 6-01-03 of the North Dakota Century Code, relating to state banking board and state credit union board.

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

**Section 1. Amendment.)** Section 6-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-01-03. State Banking Board and State Credit Union Board.)**

1. The state banking board shall consist of the state examiner and five 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. The term of office of the members of such board, other than the state examiner, 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 Act, their replacements will be appointed as set forth herein. 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 shall be the chairman of such board and the attorney general shall be, ex officio, the attorney for

such board. The chief deputy examiner shall serve as its secretary. The board shall hold regular meetings in January, April, July, and October of each year in the office of the state examiner in the state capitol at Bismarck, and shall hold special meetings at the call of the state examiner in such place as he may designate within the state of North Dakota. The members of such board, other than the state examiner, shall receive twenty-five 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.

2. The state credit union board shall consist of the state examiner and two 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. Appointments of board members shall be for a term of five years. 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 shall be the chairman of such board and the attorney general shall be ex officio, the attorney for such board. The chief deputy examiner 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 June and December of each year in the office of the state examiner in the state capitol at Bismarck and shall hold special meetings at the call of the state examiner in such place as he may designate within the state of North Dakota.

3. The word "board" when used in this title shall include the state banking board and the state credit union board.

Approved March 14, 1969.



## CHAPTER 98

H. B. No. 120  
(Backes, Sanstead, J. Peterson)

BONDS OF STATE EXAMINER  
AND HIS DEPUTIES

## AN ACT

To amend and reenact section 6-01-12 of the North Dakota Century Code, relating to bonds of state examiner and deputies.

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

**Section 1. Amendment.)** Section 6-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-01-12. Bonds of State Examiner and Deputies.)** The state examiner and each of his deputies shall be bonded in the sum of fifty thousand dollars, as other civil officers are bonded. Such bonds shall be filed in the office of the secretary of state.

Approved March 5, 1969.

## CHAPTER 99

H. B. No. 122  
(Backes, Sanstead, J. Peterson)

## APPOINTMENT OF DEPUTY STATE EXAMINERS

## AN ACT

To amend and reenact section 6-01-13 of the North Dakota Century Code, relating to state examiner and appointment of deputies.

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

**Section 1. Amendment.)** Section 6-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-01-13. State Examiner—Appointment of Deputies.)** The state examiner may appoint, remove, and assign appropriate titles to such deputy examiners and such other employees as in his judgment may be necessary for the proper discharge of the business of the banking department. The state examiner may select and designate one of said deputy examiners to be chief deputy examiner and to act during the absence or disability of the state examiner, and in such cases the deputy examiner so designated shall have charge of the office and shall administer its affairs. He shall perform such duties as may be prescribed by the examiner.

Approved March 8, 1969.

## CHAPTER 100

S. B. No. 341  
(Hernett, G. Larson)

HEARING ON ESTABLISHMENT  
OF NEW BANK

AN ACT

To amend and reenact section 6-02-06 of the North Dakota Century Code, relating to hearing by board and conclusions.

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

**Section 1. Amendment.)** Section 6-02-06 of the 1967 Supplement to 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.

Approved March 14, 1969.

---

CHAPTER 101

S.B. No. 140  
(Goldberg)

PUBLICATION OF BANKING ASSOCIATION'S  
CERTIFICATE AND AUTHORIZATION

AN ACT

To repeal section 6-02-08 of the North Dakota Century Code, relating to certificate and authorization published of banking associations.

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

**Section 1. Repeal.)** Section 6-02-08 of the North Dakota Century Code is hereby repealed.

Approved February 22, 1969.

## CHAPTER 102

H. B. No. 114  
(Dahl)

## BOARD OF DIRECTORS OF BANKING ASSOCIATION

## AN ACT

To amend and reenact subsection 5 of section 6-03-02 of the North Dakota Century Code, relating to powers of banking associations.

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

**Section 1. Amendment.)** Subsection 5 of section 6-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. To elect or appoint directors, such board to consist of an uneven number of members, not less than three nor more than eleven, a majority of whom must be residents of the state of North Dakota, and, by such board of directors, to appoint a president, who shall be a member of said board, a cashier, and such other employees as may be required, to define their duties, to require bonds of them and fix the penalty thereof, and to dismiss such officers and employees, or any of them, and appoint others to fill their places;

Approved March 5, 1969.

## CHAPTER 103

H. B. No. 100  
(Hoghaug)

**BANK DIRECTOR'S OATH OF OFFICE**

## AN ACT

To amend and reenact section 6-03-04 of the North Dakota Century Code, relating to bank director's oath of office and filing.

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

**Section 1. Amendment.)** Section 6-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-03-04. Director's Oath of Office—Filing.)** Every director, when elected or appointed, shall take an oath that he, so far as the duty devolves upon him, diligently and honestly will administer the affairs of the association, that he will not knowingly violate or willingly permit to be violated any of the provisions of this title, that he is a bona fide owner of the number of shares of stock, required by this title to become a director, standing in his own name on the books of the association, and that said stock is in his possession and control and is not hypothecated or in any way pledged as security for any debt. Such oath, subscribed by the director making it and certified by the officer before whom it was taken, at once shall be transmitted to the state examiner to be filed in his office.

Approved March 5, 1969.

## CHAPTER 104

H. B. No. 113  
(Dahl)

**CONVERSION OF STATE BANK TO NATIONAL BANK****AN ACT**

To amend and reenact section 6-03-13 of the North Dakota Century Code, relating to conversion to national bank, sale of bank, and removal to new location.

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

**Section 1. Amendment.)** Section 6-03-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-03-13. Conversion to National Bank—Sale of Bank—Removal to New Location.)** An association organized to do business in any city in this state, and which has sold or converted its business to a national bank or to any other banking association which is continued at the same place, shall not use its charter to recommence business at another place without first obtaining the consent of the state banking board. When a banking association which has not so converted or sold its business is located at a place where there is not, or can reasonably project that there will not be, sufficient business for the profitable conduct of a bank, such association may apply to the state banking board for authority to remove its business to some other place within the state and to change its name if desired, and upon the approval of such application, by the board and the proper amendment of the articles of incorporation, the board may issue authority for such removal and change. No such association, however, shall be permitted to remove its business to any city unless it has the full amount of capital stock and surplus required by this title for a new organization in such city.

Approved March 10, 1969.

## CHAPTER 105

H. B. No. 101  
(Hoghaug)

ESTABLISHMENT OF BANK PAYING  
AND RECEIVING STATIONS

AN ACT

To amend and reenact section 6-03-15 of the North Dakota Century Code, relating to application to state banking board to establish stations.

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

**Section 1. 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 or 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 5, 1969.



## CHAPTER 106

S.B. No. 147

(Stroup, Wenstrom, Kautzmann)

RESERVE REQUIREMENTS OF BANKING  
ASSOCIATION

## AN ACT

To amend and reenact section 6-03-37 of the 1967 Supplement to the North Dakota Century Code, relating to banks' reserve requirements.

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

Section 1. Amendment.) Section 6-03-37 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6-03-37. Reserve Funds.) Every banking association shall have on hand at all times in available funds an amount which shall equal a percentage of its demand deposits and amounts due to other banks, plus a percentage of its time deposits. Such percentage shall be set by the state banking board. Such reserve funds may consist of cash on hand and balances due to the association from the Bank of North Dakota, or good solvent state or national banks, approved by the state examiner for such purposes and located in such cities as will facilitate banking exchange. The state examiner, whenever he deems it necessary, may require such banking association, on fifteen days' notice in writing, to increase such reserve requirements to not more than twenty percent of its demand deposits nor more than ten percent of its time deposits. Cash items shall not be included in computing reserve, and no association shall carry as cash, or as cash items, any paper or other matter except legitimate bank exchange which will be cleared on the same or the next succeeding day. Whenever its reserve funds are below the required amount, no dividend may be paid.

If on any one day, reserves shall not meet the requirements, it shall not be a violation of this section provided that the average reserve for the period starting on Thursday of the same calendar week and ending on the second

Wednesday following, shall equal or exceed the minimum requirements.

The state examiner must notify any association whose reserve is below the amount required to make good such reserve, and if such association shall fail to do so for a period of thirty days after such notice, the state banking board may impose a penalty of not less than one hundred dollars or an amount equal to seven percent per annum based on the average deficiency for the period of deficiency, whichever is greater, which shall be collected in the same manner as other penalties prescribed in this title.

Approved February 22, 1969.

---

## CHAPTER 107

S. B. No. 162  
(Kautzmann, Stroup)

### INVESTMENT OF ASSETS OF A BANK

#### AN ACT

To amend and reenact section 6-03-38 of the North Dakota Century Code, relating to banks' investments - violation a misdemeanor.

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

**Section 1. Amendment.)** Section 6-03-38 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-03-38. Assets Not To Be Used in Other Business—Exceptions—Violation a Misdemeanor.)** No bank, except as otherwise authorized in this title, shall employ its money or other assets as principal, directly or indirectly, in trade or commerce, nor shall it employ or invest any of its assets or funds in the stock of any corporation, bank, partnership, firm, or association, provided, however, that a state bank may to the extent that banks subject to the laws of the federal government are permitted to do so, purchase shares of stock in small business investment companies organized under Public Law. No. 85-699, 85th Congress, known as the Small Business

Investment Act of 1958, and any amendments thereto, or chapter 10-30 of the North Dakota Century Code, but in no event shall any state bank hold shares in small business investment companies in an amount aggregating more than two percent of the bank's capital and surplus, nor in speculative margins of stock, bonds, grain, provisions, produce, or other commodities, except that it shall be lawful for a bank to make advances for grain or other products in store or in transit to market, and to invest in stocks of subsidiary corporations, when the activities of such corporations are incidental to banking activities, with the specific approval of the state banking board for each such subsidiary. The state banking board shall have the same power to make rules and regulations for the subsidiary corporations, and to examine its records and affairs, as it has for other financial corporations under the provisions of section 6-01-04. In the event that the state banking board determines that such investments would be detrimental to the interests of a bank's depositors, it may direct the bank to divest itself of such subsidiary investments. In addition to the above, the state banking board shall have power to issue regulations authorizing state banks to engage in any banking activity in which such banks could engage where they operated as national banks at the time such authority is granted, notwithstanding any restriction elsewhere contained in this Code. Any officer, director, or employee of any bank who shall invest or use its funds contrary to the provisions of this title shall be guilty of a misdemeanor.

Approved February 25, 1969.

## CHAPTER 108

S.B. No. 141  
(Goldberg)

LIQUIDATION OF AGRICULTURAL CREDIT  
CORPORATION INVESTMENTS

AN ACT

To repeal section 6-03-40.1 of the North Dakota Century Code, relating to liquidation of investments in agricultural credit corporations and penalty of banking associations.

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

**Section 1. Repeal.)** Section 6-03-40.1 of the North Dakota Century Code is hereby repealed.

Approved February 22, 1969.

## CHAPTER 109

H. B. No. 108  
(Aamoth)

INCLUSION OF CAPITAL NOTES AND  
DEBENTURES IN CAPITAL

AN ACT

To amend and reenact section 6-03-42 of the North Dakota Century Code, relating to capital notes or debentures included in capital; retirement of banking associations.

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

**Section 1. Amendment.)** Section 6-03-42 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-03-42. Capital Notes or Debentures Included in Capital — Retirement.)** The term "capital" as used in this title shall embrace the amount of outstanding capital notes and debentures legally issued by any banking institution. The capital stock of a banking institution shall be unimpaired when the amount of such capital notes and debentures as represented by sound assets exceeds the impairment as found by the state examiner. The state examiner must approve of any retirement of any capital notes or debentures, and may require the bank to issue some other form of capital before retiring the capital notes or debentures.

Approved March 6, 1969.

## CHAPTER 110

H. B. No. 102  
(Hoghaug)

**EXCHANGE OF BANKS' PREFERRED STOCK  
FOR CAPITAL OBLIGATIONS**

AN ACT

To amend and reenact section 6-03-46 of the North Dakota Century Code, relating to exchange of preferred stock for capital notes or debentures.

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

**Section 1. Amendment.)** Section 6-03-46 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-03-46. Exchange of Preferred Stock for Capital Notes or Debentures.)** Any banking institution, after first obtaining the consent and approval of the state examiner, may exchange its preferred stock for its capital notes or debentures.

Approved March 5, 1969.

## CHAPTER 111

S. B. No. 209  
(Nothing, Forkner, Stroup)

INVESTMENT IN GOVERNMENT-SECURED LOANS AND  
OBLIGATIONS

AN ACT

To amend and reenact section 6-03-47 of the North Dakota Century Code, relating to investment in loans and obligations secured by federal and state government.

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

**Section 1. Amendment.)** Section 6-03-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-03-47. Investment in Loans and Obligations Secured by Federal or State Government.)** Banks, trust companies, the Bank of North Dakota, building and loan associations, insurance companies, and other organizations in this state whose mortgage lending is regulated by law are authorized to make, buy, or sell any loan, advances of credit, and obligations representing loans and advances of credit that are insured or guaranteed, or where there is a commitment to insure or guarantee, in part or in full, or conditionally, by the United States, its instrumentalities, this state, or its instrumentalities.

Approved March 13, 1969.

## CHAPTER 112

S. B. No. 207  
(Nething, Forkner, Stroup)

INVESTMENT IN GOVERNMENT  
SECURED OBLIGATIONS

## AN ACT

To repeal section 6-03-47.1 of the North Dakota Century Code, relating to investment in loans secured by federal or state government.

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

**Section 1. Repeal.)** Section 6-03-47.1 of the North Dakota Century Code is hereby repealed.

Approved March 13, 1969.



H. B. No. 445  
(Bunker)

**LOANS TO OFFICERS AND  
DIRECTORS OF BANKS**

**AN ACT**

To amend and reenact section 6-03-60 of the North Dakota Century Code, relating to loans to and purchases from directors, officers, and employees, restrictions, conditions, penalty and civil liability.

**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, officer, or employee of any state banking association, nor the state examiner, nor any deputy, shall be permitted to borrow any of the funds of 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 upon like and equal security, required of other borrowers 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 residence. 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 thirty thousand dollars.

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 misdemeanor. The state examiner may require, at any time, the payment, or repurchase of loans, securities or obligations herein referred to.

Approved March 14, 1969.

---

## CHAPTER 114

S.B. No. 128

(Jacobson, G. Larson, Nasset, Van Horn, Strinden, Pyle)

### SETTLEMENT OF CHECKS AT PAR

#### AN ACT

Relating to banks and banking and relating to payment or settlement of checks.

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

Section 1.) Except as to any check sent to it as a special collection item, no bank shall settle any check drawn on it otherwise than at par when such check is presented by or through a Federal Reserve Bank, or the Bank of North Dakota.

Section 2.) This Act shall be effective July 1, 1971.

Approved February 22, 1969.

## CHAPTER 115

H. B. No. 111  
(Bunker, Hilleboe, Thompson, Lang)

## SAVINGS BANKS

## AN ACT

To repeal chapter 6-04 of the North Dakota Century Code, relating to savings banks.

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

**Section 1. Repeal.)** Chapter 6-04 of the North Dakota Century Code is hereby repealed.

Approved March 5, 1969.

## CHAPTER 116

H. B. No. 56

(Davis, Giffey, Wagner)

(Recommended by Legislative Audit and  
Fiscal Review Committee)**REQUIRED DEPOSIT FOR ANNUITY  
OR TRUST COMPANY**

## AN ACT

To amend and reenact section 6-05-04 of the North Dakota Century Code, relating to required deposits to be made before entering into or engaging in the activities of an annuity, safe deposit, surety, and trust company, and to provide for a right of action against the deposits.

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

**Section 1. Amendment.)** Section 6-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-05-04. Surety Deposit Investments Required—Securities in Which Investment May Be Made.)** Every corporation organized under the provision of this chapter and not under the jurisdiction of the insurance commissioner and every foreign corporation before engaging in similar comparable activities excepting those foreign corporations qualified to act as surety or guarantor under the provisions of section 6-05-30 of the North Dakota Century Code within this state shall either deposit with the state treasurer or with any federal reserve bank, securities of the amount of at least fifty thousand dollars, and such deposit shall at no time be permitted to be less than said amount or less than one-sixth of the par value of the capital stock of the corporation, whichever is the greater, but no such corporation shall be required to deposit more than five hundred thousand dollars. Where such deposits are made with a federal reserve bank, the deposit certificate shall authorize the state treasurer to cause such deposits, in part or in whole, to be transferred to the state treasurer upon his demand. An original of such certificate of deposit shall be furnished to the state treasurer. The securities so deposited shall be:

1. Bonds of the United States or of the state of North Dakota;

2. Bonds of other states which shall have the approval of the state auditor and the state examiner;
3. Bonds or obligations of any township, school district, city, or county within this state, whose total bonded indebtedness does not exceed five percent of the then assessed valuation thereof;
4. Bonds or promissory notes secured by first mortgages or deeds of trust upon unencumbered real estate situated within the state of North Dakota worth two and one-half times the amount of the obligation so secured;
5. Obligations issued, assumed or guaranteed by international bank for reconstruction and development; or
6. United States treasury bills or notes or an agency thereof.

**Section 2. Right of Action Against Deposit.)** The security deposited with the state treasurer as provided in section 6-05-04 shall be held by the state treasurer for the benefit of any person making any transfer or deposit of money or property in the state of North Dakota to or with any trust company and who shall suffer loss or damage because of the breach of any trust committed by such trust company. Any judgment obtained by any such person from any court of competent jurisdiction may be satisfied from the security deposited with the state treasurer.

Approved March 12, 1969.

## CHAPTER 117

H. B. No. 400

(Thompson)

**PUBLICATION OF ANNUAL REPORTS  
TO STATE EXAMINER**

## AN ACT

To repeal section 6-05-18 of the North Dakota Century Code, relating to annual reports to state examiner and publication.

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

**Section 1. Repeal.)** Section 6-05-18 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.

## CHAPTER 118

H. B. No. 191  
(Sanstead, Emerson, Giffey)

## SUPERVISION OF CREDIT UNIONS

## AN ACT

To amend and reenact section 6-06-04, subsection 5a of section 6-06-06, and 6-06-14 of the North Dakota Century Code, relating to certificate of organization and bylaw amendments, investment of surplus funds, and loan limitations of credit unions.

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

**Section 1. Amendment.)** Section 6-06-04 of the 1967 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 recorded in the office of the register of deeds of the county in which the principal place of business of the credit union is located and the register of deeds shall after recording of the amendment return it with his certificate of recording attached, and it 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 state examiner with a true and

correct copy of the amendment to the certificate of organization or the amendments to the bylaws.

**Section 2. Amendment.)** Subsection 5a of section 6-06-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-06-06. Powers of Credit Unions.)** A credit union shall have the following powers:

5a. In bonds of the United States without limitation in securities issued as direct obligations by the United States government or any agency thereof and in any trust established for investing directly or collectively in such securities;

**Section 3. Amendment.)** Section 6-06-14 of the 1967 Supplement to 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. No loan in excess of twenty-five hundred dollars shall be made without adequate security and 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 and by all members of the committee who are present at the meeting at which the application is considered; 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 unsecured limit, 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 sev-



en 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 6, 1969.

---

CHAPTER 119

H. B. No. 278  
(Bullis, Kelsch)

LIABILITY OF BANK EMPLOYEE FOR  
PAYING OVERDRAFT

AN ACT

To repeal section 6-08-04 of the North Dakota Century Code, relating to penalties and liabilities of bank employees paying overdrafts.

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

**Section 1. Repeal.)** Section 6-08-04 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1969.

## CHAPTER 120

H. B. No. 413  
(Gackle)

ISSUING CHECK WITHOUT  
SUFFICIENT FUNDS

## AN ACT

To amend and reenact section 6-08-16 of the North Dakota Century Code, relating to the issuing of a check without sufficient funds or credit.

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

**Section 1. Amendment.)** Section 6-08-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-08-16. Issuing Check or Draft Without Sufficient Funds or Credit—Notice—Time Limitation—Penalty.)** 1. Any person who for himself or as the agent or representative of another, or as an officer or member of a firm, company, copartnership, or corporation makes or draws or utters or delivers any check, draft, or order for the payment of money upon a bank, banker, or depository, and at the time of such making, drawing, uttering or delivery, or at the time of presentation for payment if made within one week after the original delivery thereof, has not sufficient funds in or credit with such bank, banker, or depository to meet such check, draft, or order in full upon its presentation, shall be punished by a fine of not less than twenty-five dollars, and not more than two hundred fifty dollars, or by imprisonment in the county jail for not more than three months, or by both such fine and imprisonment. The word "credit" as used in this section shall mean an arrangement or understanding with the bank, banker, or depository for the payment of such check, draft, or order. The making of a postdated check knowingly received as such, or of a check issued under an agreement with the payee that the same would not be presented for payment for a time specified, shall not constitute a violation of this section. This section shall not be construed to nullify or supersede any of the provisions of chapter 12-38.

2. A notice of dishonor may be sent by the holder of the check upon dishonor, said notice to be in substantially the following form:

Notice of Dishonored Check

Date-----

Name of Issuer - - - - -

Street Address - - - - -

City and State - - - - -

You are according to law hereby notified that a check dated - - - - -, 19 - - -, drawn on the - - - - - Bank of - - - - - in the amount of - - - - - has been returned unpaid with the notation the payment has been refused because of nonsufficient funds. Within ten days from the receipt of this notice, you must pay or tender to - - - - - (Holder) sufficient moneys to pay such instrument in full. Such notice may also contain a recital of the penal provisions of this section.

The criminal complaint for the offense of issuing a check, draft, or money order without sufficient funds under this section must be executed within not more than ninety days after the dishonor by the drawee of said instrument for nonsufficient funds. The failure to execute a complaint within said time shall bar the criminal charge under this section.

Approved March 25, 1969.

## CHAPTER 121

S. B. No. 352  
(Ringsak, Hernet, Nothing)

PRESIDENT OF BANK OF NORTH  
DAKOTA

AN ACT

To amend and reenact sections 6-09-04, 6-09-05, 6-09-27 and 10-04-12.1 of the North Dakota Century Code and sections 21-10-02, 54-30-30, 54-30-32 and 54-30-33 of the 1967 Supplement to the North Dakota Century Code, making the chief executive of the Bank of North Dakota its president.

**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.

**Section 2. Amendment.)** Section 6-09-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-09-05. Removal and Discharge of Appointees.)** The industrial commission may remove and discharge any and all persons appointed in the exercise of the powers granted by this chapter, whether by the commission or by the president of the Bank, and any such removal may be made whenever in the judgment of the commission the public interests require it. All appointments and removals contemplated by this chapter shall be made as the commission shall deem fit to promote the efficiency of the public service.

**Section 3. Amendment.)** Section 6-09-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-09-27. Civil Actions on Bank Transactions—Name of Parties—Service—Venue—Audit Board Provisions Inapplicable.)** Civil actions may be brought against the state of North Dakota on account of causes of action claimed to have arisen out of transactions connected with the operation of the Bank of North Dakota upon condition that the provisions of this section are complied with. In such actions, the state shall be designated as "The State of North Dakota, doing business as the Bank of North Dakota," and the service of process therein shall be made upon the president of the Bank. Such actions may be brought in the same manner and shall be subject to the same provisions of law as other civil actions. Such action shall be brought, however, in the county where the Bank of North Dakota shall have its principal place of business, except as provided in sections 28-04-01, 28-04-02, 28-04-03, 28-04-04 and 28-04-06. The provisions of sections 54-14-01 and 54-14-06 shall not apply to claims against the state affected by the provisions of this section.

**Section 4. Amendment.)** Section 10-04-12.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**10-04-12.1. Board of Review.)** There shall be a board of review consisting of the attorney general, secretary of state, and the president of the Bank of North Dakota, which shall consider appeals made from the final orders entered by the commissioner under section 10-04-12. Any person adversely affected by an order of the commissioner entered under section 10-04-12 may, within twenty days after the date of the entry of the order of the commissioner, make application to the board of review asking review of such order. The board of review shall act upon such request for review of the order of the commissioner and shall enter a decision thereon in writing within forty-five days after receipt of the application which decision shall be accompanied by a findings of fact and conclusions of law supporting such decision. Notice of decisions of such board shall be remitted to the person applying to the board for review and to the commissioner. Decisions of the board shall be made from the records and transcripts prepared during the hearings provided for in section 10-04-12 and any additional evidence that may be submitted in writing by the commissioner or aggrieved person to the board. A majority of the board shall constitute a quorum and shall be sufficient to render a decision upon matters before it. No person may appeal to the district courts under the provisions of section 10-04-13 until he has made application to the board of review pursuant to the provisions of this section, and until a decision has been rendered by such board.

**Section 5. Amendment.)** Section 21-10-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-10-02. Board—Powers and Duties.)** The board shall be charged with the investment of the funds enumerated in section 21-10-06. It shall approve general types of securities for investment by these funds and set policies and procedures regulating securities transactions on behalf of the various funds. Representatives of the funds enumerated in section 21-10-06 may make recommendations to the board in regard to investments. The board or its designated agents shall be custodian of securities purchased on behalf of funds under the management of the board. The president of the Bank of

North Dakota shall be the investment director. Existing department facilities for making traditional investments within the state shall continue to function subject however to supervision and management of the board.

**Section 6. Amendment.)** Section 54-30-30 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-30-30. Transfer of Real Estate Bond Trust.)** With the exception of funds controlled by the provisions of section 54-30-29, all contracts for deed, tracts of real property, leases and miscellaneous assets and things of value belonging to the state real estate bond trust and owned and held in the name of the state treasurer, as trustee for the state of North Dakota, together with future increments, accruals and recoveries coming, arising or resulting from any of such things, or from dealing therewith in whatever form, are each and all hereby transferred, assigned, conveyed and granted and shall be by the state treasurer delivered to the president of the Bank of North Dakota in Bismarck, North Dakota. This transfer is self executing; no evidence other than the provisions of this chapter shall be required to establish the fact of transfer of the title to the president of the Bank of North Dakota thereunder. Proper and sufficient delivery of all title documents shall be presumed. Everything received by the president of the Bank of North Dakota under the provisions hereof shall be accepted and held by him in trust with power of sale. Further transfer or releases may be made by the president of the Bank of North Dakota for and in the name of the state treasurer, as trustee for the state of North Dakota as his agent, substitute and total successor. The expense of protecting, managing and conducting the trust herein provided shall be a paramount charge on the whole thereof, subject to the needs of the real estate series bonds and interest thereon.

**Section 7. Amendment.)** Section 54-30-32 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-30-32. Management of the Trust.)** During the intervals between remittances to the state treasurer for the state general fund, funds available therefor may be invested as other moneys of the Bank of North Dakota are invested. The president of the Bank of North Dakota shall collect upon and en-

force to the fullest extent all rights, things and properties belonging or accruing to the trust in his custody. He may foreclose mortgages by advertisement under power of sale in the manner that mortgages of the state school funds are foreclosed, and all remedies and procedures available to the state or any department thereof shall be available to him to protect, manage and conduct the trust. No special power of attorney nor affidavit as to attorney's fees shall be required.

**Section 8. Amendment.)** Section 54-30-33 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-30-33. Remittances to the State General Fund.)** Following each calendar quarter for which the president of the Bank of North Dakota receives funds of said trust over and above costs and expenses of the Bank of North Dakota incident thereto and exceeding a proper portion of the regular bank appropriation and a reasonable reserve for contingencies, the Bank of North Dakota shall remit such funds to the state treasurer for deposit in the general fund of the state. Such remittances shall be deemed credited against money borrowed to service and pay real estate bonds of the state of North Dakota heretofore issued.

Approved March 4, 1969.



## CHAPTER 122

S. B. No. 320  
(Ringsak, Hernett, Nething)

**BANK OF NORTH DAKOTA'S LENDING  
AND INVESTMENT POWERS**

AN ACT

To amend and reenact section 6-09-15 of the 1967 Supplement to the North Dakota Century Code, relating to lending and investment powers of the Bank of North Dakota:

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

**Section 1. Amendment.)** Section 6-09-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**6-09-15. Bank May Transfer Funds to Other State Departments—Loans—Real Estate Loans Limited.)** The Bank of North Dakota may transfer funds to other departments, institutions, utilities, industries, enterprises, or business projects of the state, and such funds shall be returned with interest to the Bank. It may make loans to counties, cities, or other political subdivisions of the state, or to state or national banks, and may participate with state or national banks in loans being made by them, on such terms and under such rules and regulations as the industrial commission may determine. It may invest its funds in bonds, notes or debentures of any corporation duly incorporated under the laws of any state of the United States rated at "A" or higher by a nationally recognized rating service approved by the industrial commission, provided that such investments shall not be made to exceed forty percent of the combined capital, surplus and undivided profits of the Bank. It shall not otherwise make loans or give its credit to any individual, association, or private corporation, except that it may make loans to actual farmers who are residents of this state, if such loans are secured by duly recorded first mortgages on real estate in the state of North Dakota in amounts not to exceed one-half the value of the security and except United States insured and guaranteed loans as specifically authorized by law. The Bank, however, shall not loan more than thirty percent of its capital, nor in addition thereto, more than twenty percent of its deposits on real estate security.

Approved March 4, 1969.

## CHAPTER 123

S. B. No. 373  
(Goldberg)

UTILIZING RESOURCES OF  
BANK OF NORTH DAKOTA FOR  
INDUSTRIAL DEVELOPMENT

## AN ACT

To provide for the enactment of authority to the industrial commission of North Dakota to further utilize the resources of the Bank of North Dakota, including its potential contacts and deposits in several of the large financial centers of the United States for the purpose of enlisting the help of private enterprise in exploring ways and means of creating more opportunities for increased employment and an expanded tax base in the rural and urban areas in each of the fifty-three counties of North Dakota.

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

**Section 1. Declaration and Finding of Public Purpose.)** The legislative assembly of the state of North Dakota hereby declares and adopts a policy of enlisting the help of private enterprise to create more employment, production, and purchasing power for its citizens and an enlarged tax base, and finds that it is and has been its purpose in operating and adopting the provisions of this chapter to sanction and authorize the expansion of the activities of the Bank of North Dakota and to encourage more active use of the purposes for which the Bank of North Dakota was created.

**Section 2. Additional Authority and Public Policy Granted to the Governor of North Dakota Related to the Bank of North Dakota.)** The governor of North Dakota shall appoint an advisory board of directors of five 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. The industrial commission shall fix compensation for the board on a daily or monthly basis.

**Section 3. Authority Granted to the Advisory Board of Directors of the Bank of North Dakota in the Declaration of**

**Policy for That Board.)** The advisory board of the Bank of North Dakota shall formulate recommendations to the industrial commission of North Dakota relative to the establishment of additional objectives for the operation of the Bank of North Dakota, including the sponsoring, coordination, and assistance to the activities of public officials and private individuals in creating a long-term first mortgage industrial development capital pool of one hundred million dollars; and such advisory board shall act in behalf of the Bank of North Dakota in such other capacity as may be approved by the industrial commission of North Dakota.

**Section 4. Minimum Standards To Be Followed by the Bank of North Dakota in Sponsoring a First Mortgage Industrial Development Capital Pool of One Hundred Million Dollars in Cooperation With Private Lenders for the Expansion or Creation of Additional Manufacturing Plants.)** The Bank of North Dakota is hereby directed to sponsor with private lenders a statewide program for the expansion or creation of additional enterprises engaged in or to be engaged in the assembling, fabricating, manufacturing, mixing, or processing of any agricultural, mineral, or manufactured product or any combination thereof, first mortgage loans to companies or sponsoring parent corporations who have been in business for at least five years and who can furnish certified balance sheets and profit and loss statements showing an operating profit for at least three consecutive years prior to the date of the loan application.

Approved March 25, 1969.

# CONTRACTS AND OBLIGATIONS

---

## CHAPTER 124

S. B. No. 309  
(Sands, Pyle, Ringsak)

### ERRORS AND OMISSIONS IN SPECIFICATIONS OF CONSTRUCTION CONTRACTS

#### AN ACT

To create and enact section 9-08-02.1 of the North Dakota Century Code, relating to liability for errors or omissions in plans and specifications of construction contracts.

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

**Section 1.)** Section 9-08-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**9-08-02.1. Contracts Against Liability for Errors or Omissions—Void.)** Any provision in a construction contract which would make the contractor liable for the error or omissions of the owner or his agents in the plans and specifications of such contract is against public policy and void.

Approved March 13, 1969.

# CORPORATIONS

---

## CHAPTER 125

H. B. No. 150  
(Hilleboe)

### REGULATION OF SECURITIES TRANSACTIONS

#### AN ACT

To create and enact subsection 11 of section 10-04-06 of the North Dakota Century Code, relating to exempt transactions in the Securities Act; and to amend and reenact subsections 8, 9 and 10 of section 10-04-06, subsections 1, 2, 3 and 5 of section 10-04-10 of the North Dakota Century Code, relating to division designations and to require certain applicants to be twenty-one years or older.

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

**Section 1. Amendment.)** Subsections 8, 9, and 10 of section 10-04-06 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

8. The sale by a registered dealer, acting either as principal or agent, of securities theretofore sold and distributed to the public, provided that:
  - a. Such securities are sold at prices reasonably related to the current market price thereof at the time of sale and if such registered dealer is acting as agent, the commission collected by such registered dealer on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics; and
  - b. Such securities do not constitute an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer, its officers or directors or by or through an underwriter; and

- c. Either Moody's, Fitch's, or Standard and Poor's securities manuals, or other recognized securities manuals approved by the commissioner contain the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than eighteen months prior to the date of such sale, and a profit and loss statement of the issuer for either the fiscal year preceding that date or the most recent year of operations; and
  - d. Such securities would qualify for registration by description pursuant to the provisions of section 10-04-07; and
  - e. Such securities are limited to issuers organized under the laws of any state or territory or insular possession of the United States; and
  - f. Provided, however, that even though the foregoing conditions might all be met, the exemption would not apply to the securities of open-end management companies, mutual funds, unit investment trusts, contractual plans and face amount certificate companies; and
9. The sale of preorganization subscriptions for share of stock of a corporation prior to the incorporation thereof is exempt provided each of the four following conditions are met:
- a. The number of persons solicited does not exceed fifteen people, or the amount raised by such subscription does not exceed twenty-five thousand dollars in the aggregate;
  - b. Such solicitation or sale is evidenced by a written agreement;
  - c. No commission or other remuneration is given, or promised, directly or indirectly, for or in connection with the sale of such securities;
  - d. No payment in any form is made by any subscriber; and no consideration is received, directly or indirectly, by any person from the purchasers of such securities until, either:

- (1) Registration by qualification of such securities, or registration of the securities provided for in the preorganization subscription, is made under section 10-04-08 of the North Dakota Century Code; or
  - (2) Until articles of incorporation are filed with the secretary of state, and the corporation has held its first organizational meeting; and
10. The sale of capital stock of a corporation may be exempted by the securities commissioner if the corporation is organized under chapter 10-30 of the laws of North Dakota or approved by the small business administration as qualifying for loans under section 502 of the Small Business Investment Act of 1958, as amended; and

**Section 2.)** Subsection 11 of section 10-04-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

11. Any investment contract issued in connection with an employees' stock purchase, savings, pension, profit-sharing, or similar benefit plan, provided that the securities which fund the plan or are the subject of the plan are otherwise exempt pursuant to section 10-04-05 of this Chapter.

**Section 3. Amendment.)** Subsections 1, 2, 3, and 5, of section 10-04-10 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. **DEALERS.** Application for registration as a dealer may be made by any person twenty-one years of age or older. Such application for registration shall be made in writing in a form prescribed by the commissioner, shall be signed by the applicant, duly verified by oath, shall be filed in the office of the commissioner, and shall contain the following information:
  - a. The name of the applicant.
  - b. The address of the principal place of business of the applicant and the addresses of all branch offices, if any, of the applicant in this state.

- c. The form of business organization and the date of organization of the applicant.
- d. The names and business addresses of all members, partners, officers, directors, trustees, or managers of the applicant; a statement of the limitations, if any, of the liability of any partner, member, manager, or trustee; and a statement setting forth in chronological order the occupational activities of each such partner, member, officer, director, trustee, or manager during the preceding ten years.
- e. A brief description of the general character of the business conducted or proposed to be conducted by the applicant.
- f. A list of any other states in which the applicant is registered as a dealer, and, if registration of the applicant as a dealer has ever been refused, canceled, suspended, or withdrawn in any state, full details with respect thereto.
- g. Whether the applicant is registered as a dealer under the Securities Exchange Act of 1934 or any Act in amendment thereof and whether any such registration of the applicant has ever been denied, revoked, or suspended or is then the subject of proceedings for revocation or suspension by the securities and exchange commission.
- h. The names of all organizations of dealers or brokers of which the applicant is a member or before which any application for membership on the part of the applicant is then pending, and whether any such membership of the applicant has ever been denied, revoked, or suspended or is then the subject of proceedings for revocation or suspension.
- i. The names of any securities exchange of which the applicant or any of its partners, officers, directors, trustees, members, managers, or employees is a member, and whether any such membership has ever been denied, revoked, or suspended or is then the subject of proceedings for revocation or suspension.



- j. A financial statement or balance sheet, prepared in accordance with standard accounting practice, showing the financial condition of the applicant as of the most recent practicable date prior to the date of such application, such financial statement or balance sheet to be certified to by an independent certified public accountant, or by a responsible officer or member of said applicant as the commissioner may require.
- k. Whether applicant or any officer, director, partner, member, trustee, or manager of the applicant, has ever been convicted of a felony or any misdemeanor other than minor highway traffic offenses and, if so, all pertinent information with respect to any such conviction.
1. Any other information, which the commissioner may by rule or order require.

The commissioner may also require such additional information as to the previous history, record, or association of the applicant, its officers, directors, employees, members, partners, managers, or trustees as he may deem necessary to establish whether or not the applicant should be registered as a dealer under the provisions of this law.

There shall be filed with such application a written consent to the service of process upon the commissioner in actions against such dealer, conforming to the requirements of section 10-04-14 and payment of the prescribed registration fee, which shall be returned if registration is refused.

When an applicant has fully complied with the provisions of this subsection the commissioner may register such applicant as a dealer unless he shall find that the applicant is not of good business reputation, or is not solvent, or does not appear qualified by training or experience to act as a dealer in securities.

The commissioner shall require an indemnity bond or a deposit of cash or other properties approved by the commissioner running to the state of North Dakota conditioned for the faithful compliance by the dealer, his agents, and his salesmen with all the provisions of

this law and for the faithful performance and payment of all obligations of the dealer and his agents and salesmen.

The bond or deposit shall be of such type as may be approved by the commissioner and shall be in such amount as he shall deem necessary to protect purchasers when there is taken into consideration the volume of business engaged in by the applicant and the number of salesmen employed by the applicant. Any such bond shall have as surety thereon a surety company authorized to do business in this state. When the commissioner has registered an applicant as a dealer he shall notify the applicant of such registration.

2. SALESMEN. Application for registration as a salesman may be made by any individual twenty-one years of age or older. Such application for registration shall be made in writing in a form prescribed by the commissioner, shall be signed by the applicant and by the registered dealer or issuer employing or proposing to employ such applicant, duly verified by oath, shall be filed in the office of the commissioner and shall contain the following information:
  - a. Name and residence and business address of the applicant.
  - b. Name of the dealer or issuer employing or proposing to employ the applicant, unless the applicant is to be self-employed.
  - c. Names and addresses of three persons of whom the commissioner may inquire as to the character and business reputation of the applicant.
  - d. Applicant's age and education.
  - e. The nature of employment and names and addresses of employers of the applicant for the period of ten years immediately preceding the date of application.
  - f. Other state or federal laws under which the applicant has ever been registered as a dealer or salesman of securities, and, if any such registration has ever

been refused, canceled, suspended or revoked, full details with respect thereto.

- g. Whether applicant has ever been convicted of a felony or misdemeanor other than minor highway traffic offenses, and if so, all pertinent information with respect to any such conviction.

The commissioner shall require as a condition of registration that the applicant, and, in the case of a corporation or partnership, all officers, directors or partners doing securities business in this state, pass a written examination as evidence of knowledge of the securities business; provided, that not more than two officers of an issuer may be registered as a salesman for a particular original offering of the issuer's securities without being required to pass such written examination; and provided, further, that no such officer may again register within five years as such salesman for this or any other issuer without passing the written examination; that all salesmen currently registered on June 30, 1961, who have been continuously registered as securities salesmen in the state of North Dakota since July 1, 1958, may have their registrations renewed without being required to pass such written examination. Such examination shall be given once each month in the capital city and at least once each quarter in other locations in the state; the time and place of such examination to be designated by the securities commissioner.

The commissioner may also require such additional information as to the applicant's previous business experience as he may deem necessary to determine whether or not the applicant should be registered as a salesman under the provisions of this law. If a salesman proposes to be self-employed he shall specifically state the particular security or securities he proposes to sell in this state in his application, and if said security or securities are exempt under section 10-04-05 of this chapter or have been registered by description under section 10-04-07, or have been registered by announcement under section 10-04-07.1, or have been registered by qualification under section 10-04-08, then the commissioner shall require, that said self-employed salesman file an indemnity bond running to the state of North Dakota con-

ditioned for the faithful compliance by said self-employed salesman with all the applicable provisions of this chapter and for the faithful performance and payment of all obligations hereunder. The bond shall be in a form approved and in the amount required by the commissioner. There shall be filed with such application payment of the prescribed registration fee, which shall be returned if registration is refused.

When an applicant has fully complied with the provisions of this subsection the commissioner may register such applicant as a salesman unless he finds that such applicant is not of good business reputation, or that the dealer named on the application is not a registered dealer. When the commissioner has registered an applicant as a salesman he shall immediately notify the applicant of such registration.

Every registered dealer or issuer shall promptly notify the commissioner of the termination of the employment by him of a registered salesman; and the registration of such salesman shall automatically be suspended from the time of termination of such employment until such time as he shall notify the commissioner of his employment by another registered dealer or issuer.

3. INVESTMENT COUNSEL. No person, partnership, corporation, or association shall offer for sale or sell any investment service in this state except as provided by the provisions of this subsection. Application for registration as an investment counsel may be made by any person twenty-one years of age or older. Such application for registration shall be made in writing in a form prescribed by the commissioner, shall be signed by the applicant, duly verified by oath and shall be filed in the office of commissioner and shall contain the following information:
  - a. Name, residence, and business address of the applicant.
  - b. If the applicant is a corporation or association, give full information as to agents, partners, and managing officers.

- c. Statement showing each individual named is of good repute and possesses essential experience and education.
- d. The plan and character of business, and the proposed method of operation.
- e. Such other information as may be required.

If the applicant is a foreign corporation or association, it shall file with its application:

- f. A copy of its articles.
- g. Certificate showing authorization to transact business.

The commissioner may also require such additional information as to the previous history, record, or association of the applicant, its officers, directors, employees, members, partners, managers, or trustees, as he may deem necessary to establish whether or not the applicant should be registered as an investment counsel under the provisions of this chapter.

There shall be filed with such application:

- h. A written consent to the service of process upon the commissioner in actions against such investment counsel conforming to the requirements of section 10-04-14, and
- i. Payment of the prescribed registration fee, which shall be returned if registration is refused, and
- j. A financial statement or balance sheet, prepared in accordance with standard accounting practice showing the financial condition of the applicant as of the most recent practicable date prior to the date of such application, such financial statement or balance sheet to be certified to by an independent certified public accountant or by a responsible officer or member of said applicant.

When an applicant has fully complied with the provisions of this subsection the commissioner may reg-

ister such applicant as an investment counsel unless he shall find that the applicant is not of good business reputation, or is not solvent.

No investment counsel may be granted a dealer's or salesman's registration.

An investment counsel shall not take, hold or exercise any power of attorney on behalf of its clients, either to purchase or sell securities, or to collect or pay any consideration for securities of its clients.

An investment counsel shall not receive or hold any securities of its clients or receive or hold any consideration for such securities of its clients. He shall be limited to giving advice to buy or sell securities, but shall take no part, directly or indirectly, in consummating the purchase or sale of securities of its clients. A registrant as investment counsel shall notify the commissioner of any change of address.

5. RECORD AND RENEWAL OF REGISTRATIONS. The names and addresses of all persons who have been registered as dealers, salesmen, or investment counsels, and all orders with respect thereto, shall be recorded in a register of dealers, salesmen, and investment counsels in the office of the commissioner. Every registration under this section shall expire on the first day of May in each year. Registration of dealers, salesmen, and investment counsels may be renewed each year, at any time not less than fifteen and not more than sixty days before expiration thereof, by (1) the payment of the proper registration fee and (2) in the case of dealer, the filing of a financial statement, prepared in accordance with standard accounting practice and certified to by an independent certified public accountant or by a responsible officer or member, showing the financial condition of such dealer as of the most recent practicable date. Upon any change in the proprietors, partners, officers, or directors of a registered dealer or investment counsel such registered dealer or investment counsel shall promptly notify the commissioner in writing of such changes. The commissioner shall record such changes, without fee, in the register of dealers, salesmen, and investment counsels.

Approved March 14, 1969.

## CHAPTER 126

S. B. No. 323  
(Ringsak, Nething)

EXEMPTION OF SALE OF  
SECURITY BY EMPLOYEE  
OF ISSUING BODY

AN ACT

To create and enact subsection 12 of section 10-04-06 of the North Dakota Century Code, relating to exempt transactions.

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

Section 1.) Subsection 12 of section 10-04-06 of the North Dakota Century Code is hereby created and enacted to read as follows:

12. The sale of a security issued by the United States of America, or the state of North Dakota, or any political subdivision or instrumentality of the state of North Dakota, provided that the offer for sale and sale is made by an official or employee of the issuing body or by an official of the Bank of North Dakota acting in his official capacity and not for his personal pecuniary profit.

Approved March 25, 1969.

## CHAPTER 127

H. B. No. 407  
(Dahl, Thompson, Halcrow)

NONSTOCKHOLDER MEMBERS' LOAN  
LIMITATIONS TO DEVELOPMENT CORPORATIONS

## AN ACT

To amend and reenact section 10-30-08 of the North Dakota Century Code, relating to nonstockholder members' development corporations.

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

**Section 1. Amendment.)** Section 10-30-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**10-30-08. Nonstockholder Members—Loan Limitation.)** The nonstockholder members of the corporation shall consist of such national or state banks, savings banks, savings and loan associations, trust companies, stock or mutual insurance companies, the Bank of North Dakota, and other financial institutions as may make application for membership in said corporation, and membership shall become effective upon the acceptance of such application by the board of directors. Each such member of the corporation shall lend money to the corporation as and when called upon by it to do so on such terms and other conditions as shall be approved from time to time by a majority of the directors. The total amount of loans by any member at any one time shall not exceed the following limit, to be determined as of the time such member becomes a member (on the basis of the balance sheet of such member at the close of its preceding fiscal year, certified by its proper officers); two and one-half percent of the capital and surplus of commercial banks and trust companies, and the Bank of North Dakota; two and one-half percent of one-half of the total surplus accounts of savings banks; two and one-half percent of the guaranty funds, surplus, and undivided profits of savings and loan associations and two and one-half percent of the capital and surplus of stock insurance companies; two and one-half percent of the guaranty funds or of the surplus, whichever is applicable, of mutual insurance companies and comparable limits approved by the board of directors of the corporation for other banking, financing, and insurance



companies and related corporations, partnerships, foundations, and other institutions. All loan limits shall be established at the thousand dollar amount nearest to the amount computed in accordance with the aforesaid percentages. All calls of funds which nonstockholder members are committed to lend to the corporation shall be prorated by the corporation among the nonstockholder members in the same proportion that the individual lines of credit bear to the aggregate lines of credit. Upon sixty days' written notice, a member of the corporation may withdraw from membership in the corporation at the expiration date of such notice, and after said expiration date shall be free of obligations hereunder except those accrued prior to said expiration date.

Approved March 25, 1969.

# COUNTIES

---

## CHAPTER 128

H. B. No. 88  
(Aamoth)

### COUNTY REDISTRICTING

#### AN ACT

To provide a deadline for redistricting and to amend and reenact sections 11-07-01, 11-07-02, 11-07-03, and 11-07-04 of the North Dakota Century Code, relating to the redistricting of counties and the election of county commissioners.

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

**Section 1. Amendment.)** Section 11-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-07-01. County Redistricting Board—Membership—Powers.)** The redistricting board shall be composed of the following members:

1. The chairman of the board of county commissioners, who shall act as chairman of the redistricting board;
2. The state's attorney;
3. A citizen or member of the governing body selected by the governing body of the city having the largest population, according to the most recent federal decennial census, in the county;
4. A township supervisor selected by the township supervisors at a meeting called by the county auditor, if more than one-half of the townships are organized, whose service upon the board shall be contingent upon his service in office as a township supervisor or a citizen member at large appointed by the county commission if less than one-half of the townships are organized;

5. A citizen at large selected by representatives of each of the cities of the county, excluding the largest city, if there is a total of at least three incorporated cities in such county. Such representatives shall consist of one member of and selected by the governing body of each of the cities in the county, other than the largest city. The selection of the member of the redistricting board shall be made at a meeting called by the county auditor for such purpose. In the event there is not a total of three cities in the county, or that the selection is not made at the meeting called by the county auditor, such citizen at large shall be selected by the redistricting board at their first meeting. Such citizen at large shall serve until the time of the next decennial redistricting.

Vacancies upon the board shall be filled in the same manner as in the case of original selection. Such board may change the boundaries of the commissioners' districts of the county in accordance with the provisions of this chapter.

**Section 2. 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—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 Act and to consider redistricting and 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, 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 3. 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 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 each district exceeds the population of the district area outside the cities. 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. 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 of an accurate description of the approved geographical boundaries and a statement of the population of the new districts with the county auditor by the chairman of the board. 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 Act.

**Section 4. Amendment.)** Section 11-07-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-07-04. Commissioners' Terms of Office—Staggered Terms.)** When redistricting is completed or if failure to redistrict requires at-large election of commissioners as provided in section 11-07-03, all commissioners then holding office shall continue in such office until the next general election. At the first general election following redistricting of the county or election of commissioners at large, if required, as provided in this Act, all county commissioner offices shall be open for election. The newly elected commissioners shall be divided into two classes. If the county has been redistricted, those elected in commissioners' districts designated by even numbers shall constitute one class, and those elected in commissioners' districts designated by odd numbers shall constitute the other class. If election of commissioners at large is required, classes of such commissioners shall be determined by assigning a number to their respective offices according to the numerical total of

the votes cast for them at the general election at which they were elected. The commissioners of one class elected in the first election held under the provisions of this Act shall hold office for two years and those of the other class shall hold office four years. The determination of the two classes shall be by lot so that one-half of the commissioners, as nearly as practicable, may be elected biennially. The county judge shall perform the lot in the presence of all of the newly elected commissioners within thirty days after the date of the first general election following redistricting or election of commissioners at large, if required, and shall certify in writing the results of such lot to the county auditor within five days after its performance.

**Section 5. First Redistricting Under Act.)** The first redistricting of county commissioners' districts under this Act shall be completed as required in this Act no later than December 31, 1971, and 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 Act, 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 Act, and shall continue to be elected at large at succeeding elections until a proper redistricting plan is so filed.

**Section 6. Petitions—Signers Required—Submission of Question to Voters.)** The board of county commissioners upon receipt of a petition signed by at least ten percent of the electors of the county as determined by the number of votes cast for the office of governor at the preceding general election, shall, in accordance with applicable provisions of title 16, cause the question of whether commissioners shall be elected at large to be submitted to the voters of the county at the next succeeding primary or general election and if approved by sixty percent of the electors voting at such election, all county commissioner districts in such county shall be immediately dissolved, and thereafter as the term of office of each member of the board of county commissioners expires, such office shall be filled by an election at large.

**Section 7. Certain Counties to Redistrict by December 31, 1969.)** Notwithstanding the provisions of sections 2 and 5 of this Act, the redistricting board in all counties having a population of twenty thousand or more inhabitants as determined by the most recent federal decennial census, shall within fifteen

days after the effective date of this Act, meet at the call of the chairman to organize as otherwise provided in section 2 of this Act and shall proceed to redistrict the county commissioner districts in the manner provided by this Act if any one district in the county varies more than ten percent from the average population per commission as determined in accordance with section 2 of this Act. All procedures and requirements in regard to the redistricting of county commissioners' districts following each federal decennial census shall apply to the redistricting required by this section, except that such redistricting shall be completed by December 31, 1969. In the event that redistricting is required but not completed in each county having a population of twenty thousand or more inhabitants in the manner prescribed in this Act by December 31, 1969, all commissioners' districts in any such county shall be abolished and thereafter all county commissioners for such county shall be elected at large as otherwise provided in this Act without regard to district representation in the manner and at the time provided for in Title 11, and shall continue to be elected at large until a proper redistricting plan is filed as required by this Act.

Approved March 28, 1969.

## CHAPTER 129

S. B. No. 312  
(Ringsak, Chesrown, Forkner, Nething)

## SALARIES OF COUNTY OFFICERS

## AN ACT

To amend and reenact subsections 1 and 2 of section 11-10-10 of the North Dakota Century Code, relating to salaries of county officers, and stating legislative intent.

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

**Section 1. Amendment.)** Subsections 1 and 2 of section 11-10-10 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The salary of the county auditor, county treasurer, sheriff, county superintendent of schools, register of deeds, county judge, state's attorney, and clerk of district court shall be regulated by the population in the respective counties according to the last preceding official federal census from and after the date when the official report of such census shall have been published by the director of the census or such other official as may be charged with the duty of making such official publication;

2. The county auditor, county treasurer, sheriff, county superintendent of schools, register of deeds, county judge, state's attorney, and clerk of the district court each shall receive the following annual salary, payable monthly, for official services rendered:

- a. Five thousand six hundred dollars in counties having a population not exceeding eight thousand;
- b. Five thousand eight hundred dollars in counties having a population exceeding eight thousand population plus additional compensation of one hundred dollars per year for each one thousand additional population or major fraction thereof, but not to exceed the total sum of seven thousand dollars, and provided, however, that in counties

where the population consists of more than twenty-five percent Indians who have not severed tribal relations, the county commissioners may adjust the salaries provided for herein within the limitations contained in this subdivision;

- c. In counties having a population in excess of thirty thousand the sum of eight thousand five hundred dollars.

In counties having a county court of increased jurisdiction the salaries of the judges of county courts of increased jurisdiction shall be as set out in section 27-08-08. The county superintendent of schools shall receive for any trips necessarily made within his county in the performance of school district reorganization duties the same mileage as he receives under the provisions of section 11-10-15. The board of county commissioners of any county may, by resolution, increase the salary of any full-time county official by an amount not to exceed ten percent above the salary provided in this section or section 27-08-08, if, in the judgment of such board, by reason of duties performed, the official merits the increase. Any county official performing duties on less than a full-time basis may be paid a salary set by the board of county commissioners in any amount up to ten percent less than the salary provided for that official in this section.

**Section 2. Legislative Intent in Regard to County Salaries.)**

It is the intent of the legislative assembly that the several boards of county commissioners shall exercise the responsibility of setting the salaries of county officials within the limits imposed by section 11-10-10. A board of county commissioners, in making a decision in regard to a county official's salary, should take into account the financial status of the county; the responsibilities of the position; and any other factors which the board may deem relevant in arriving at such decision.

Approved March 29, 1969.



## CHAPTER 130

S. B. No. 166  
(Trenbeath, Becker)

## COUNTY DIRECTORS OF TAX EQUALIZATION

## AN ACT

To provide for county directors of tax equalization and prescribing the duties and procedures thereof; to amend and reenact subsections 4 and 6 of section 57-01-05 of the North Dakota Century Code, relating to sales ratio studies; and to repeal sections 4-01-04, 4-01-05, 4-01-08, 4-01-09, and 11-10-02.2 of the North Dakota Century Code, relating to the obtaining of statistical information by assessors and appointment of county directors of tax equalization.

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

**Section 1. County Director of Tax Equalization.)** Prior to October 1 of either 1969 or 1970, the board of county commissioners of each county in this state shall appoint a county director of tax equalization who shall be qualified and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. The county director of tax equalization shall serve at the pleasure of the board of county commissioners and may be employed on a full or part-time basis.

**Section 2. Bond—Oath of Office.)** Each county director of tax equalization and his deputy, before entering upon his duties, shall take and subscribe the oath required of public officials and shall give bond in such sum as may be prescribed by the board of county commissioners for the faithful performance of the duties of his office. County directors of tax equalization and their deputies shall be bonded through the state bonding fund.

**Section 3. Deputies—Clerks.)** The county director of tax equalization, within budgetary limits prescribed by the board of county commissioners, may appoint such full or part-time deputies and clerks as may be necessary for the proper performance of the duties of his office and they shall receive such compensation as may be authorized by the board of county commissioners.

**Section 4. Payment of Expenses.)** A county director of tax equalization and his deputies and clerks shall receive mileage as provided in section 11-10-15 and their actual and necessary traveling expenses at the rate and in the same manner as provided for other county officials. The board of county commissioners shall furnish to the county director of tax equalization and his staff suitable office space and supplies as may be necessary for the proper discharge of the duties of his office. The salary and expenses of the county director of tax equalization, his clerks and deputies, and the expense of his office shall be paid from the general fund of the county.

**Section 5. Powers and Duties of County Director of Tax Equalization.)** The county director of tax equalization shall have the power, duty and responsibility to call upon and confer with township and city assessors in the county and to instruct them in the preparation and proper use of land maps and property record cards, the preparation of assessment books, the changes in assessment laws and regulations, the determination of proper standards of value, the use of proper classifications of property, and the authority to require attendance at meetings, to the end that a uniform assessment of all personal and real property in the county will prevail.

**Section 6. Assumption of Certain Duties by County Director of Tax Equalization and Township Clerks.)** The county director of tax equalization shall succeed to all the powers and duties of the county auditor pertaining to the administration and enforcement of the mobile homes tax prescribed in chapter 57-55, assist the county auditor in preparation of assessment lists for taxing purposes, in obtaining statistical information as defined in chapter 4-01, and in the correction and omission procedures as defined in chapter 57-14, assist local equalization boards and assessors by providing information and instruction in the use of all methods and procedures to obtain uniform property assessments and spot check all property assessments.

**Section 7. Joint County Director of Tax Equalization.)** the respective boards of county commissioners of two or more counties may by agreement and resolutions of the respective boards of county commissioners employ a joint county director of tax equalization who shall act as county director of tax equalization for each of the counties participating in such agreement. The salary and expense of such joint county director of tax equalization and that of his office and staff shall be prorated

among the counties participating in accordance with the assessed valuation of the counties concerned or upon such other basis as may be agreed upon by the respective boards of county commissioners. The respective boards of county commissioners, acting jointly, shall appoint such joint county director of tax equalization on the same basis and in the same manner as a county director of tax equalization may be appointed for a single county. Such joint county director of tax equalization may be discharged upon the resolution of the board of county commissioners of any county participating in the agreement. Any participating county may withdraw from such joint agreement upon resolution of the board of county commissioners and by giving written notice to the boards of county commissioners of the other participating counties at least ninety days in advance of July first of the year of withdrawal. The joint county director of tax equalization shall have all the powers and duties of the county director of tax equalization of a single county and shall keep all records of assessment for each county entirely separate from the records of other counties which he serves.

**Section 8. Amendment.)** Subsections 4 and 6 of section 57-01-05 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

4. He may make sales ratio and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any sales ratio study made according to section 57-01-06 of the North Dakota Century Code, the county directors of tax equalization or city assessors, as the case may be, shall be responsible for compiling a record of sales of property made in such county or city, and in conjunction with the county commissioners shall analyze such sales for the purpose of advising the state supervisors of assessments as to the value of using such sales in any sales ratio study. Such compilations shall be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number

of sales of properties is insufficient for making a sales ratio study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or his assistants shall make appraisals of properties in order to determine the ratio of market value to assessment value.

6. He shall have general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and shall have authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.

**Section 9. Repeal.)** Sections 4-01-04, 4-01-05, 4-01-08, 4-01-09, and 11-10-02.2 of the North Dakota Century Code are hereby repealed.

Approved March 29, 1969.

## CHAPTER 131

H. B. No. 308

(Lundene, Opedahl, DeKrey, O. Solberg, Hoghaug, Haugland)

TAX LEVY FOR PROMOTION OF  
HISTORICAL WORKS

## AN ACT

To amend and reenact subsection 2 of section 11-11-53 of the 1967 Supplement to the North Dakota Century Code, providing for the submission to the voters of a county the question of whether a tax should be authorized for the promotion of historical work by the county historical society and, if so, appropriation of such tax for historical purposes.

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

**Section 1. Amendment.)** Subsection 2 of section 11-11-53 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The board of county commissioners is hereby authorized to levy a tax, in addition to all levies now authorized by law, of not exceeding one-quarter of one mill upon all taxable property in the county, for the promotion of historical works within the borders of such county and in general defray the expense of carrying on historical work in the county including, but not limited to, the maintenance of any historical room or building, and furthering the work of the historical society of such county. Such levy shall be in addition to any moneys appropriated from the general fund of the county for historical work as provided in subsection 1 of this section.

If the tax provided by this subsection is not levied by the board of county commissioners, upon the receipt of a petition signed by eight percent of the electors of the county that voted in the last gubernatorial election, the question of whether such tax shall be levied shall be submitted to the electors of the county at the first special or regular countywide election. If such levy shall be approved by the majority of the electors voting thereon, the tax shall be levied by the board of county commissioners.

Approved March 25, 1969.

## CHAPTER 132

H. B. No. 468  
(Link, J. Peterson, Opedahl)

## COUNTY IMPROVEMENT OF PRIVATE ROADS

## AN ACT

To provide that county commissioners shall have the power to enter into agreements with private landowners for the purpose of making improvements on private roads, and to provide that the costs of such improvements shall constitute a lien upon the real estate of the landowner.

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

**Section 1. County May Agree to Make Improvements on Private Roads—Costs of Improvements to Constitute Lien on Real Estate.)** The board of county commissioners shall have the power to enter into agreements with private landowners for the purpose of making improvements on private roads. The board shall charge the landowner for the improvements made pursuant to such agreement, and such charges shall constitute a lien upon the real estate of the landowner in the same manner as personal property taxes are made a lien upon real estate as provided in chapter 57-22.

Approved March 25, 1969.

## CHAPTER 133

H. B. No. 422  
(Emerson, Connolly, J. Peterson)

## DESTRUCTION OF CERTAIN COUNTY RECORDS

## AN ACT

To amend and reenact section 11-13-17 of the North Dakota Century Code, to provide that certain county records shall be destroyed by any suitable means as determined by the board of county commissioners.

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

**Section 1. Amendment.)** Section 11-13-17 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-13-17. Destruction of County Records.)** After the same have first been offered to the state historical society, the county auditor shall destroy by any suitable means as determined by the board of county commissioners any of the following record books, forms or blanks after the same have become ten years old:

1. Election poll books;
2. Election registration books;
3. Petitions of candidates;
4. All election forms, blanks, books, and records of every kind and description except abstracts of votes;
5. Assessment slips;
6. Crops statistics books;
7. Hail insurance books;
8. Hail insurance applications and withdrawals;
9. Collection sheets for writing up tax collections;

10. Tax certificates which have been paid or redeemed;
  11. Tax levy blanks of school districts, townships, and cities;
  12. Tax receipts;
  13. Township board of review records and school district posting books;
  14. Claims vouchers which have been audited and paid;
  15. Certificates of officials' bonds;
  16. Insurance policies which have become obsolete;
  17. Applications for abatement of taxes, approved or rejected;
  18. Warrants and warrant-checks when a microfilm record thereof has been made;
- and the following, after the same have become thirty years old:
1. Assessment rolls;
  2. Warrants and warrant-checks.

Approved March 25, 1969.



## CHAPTER 134

H. B. No. 482  
(Giffey, Matheny)

**APPOINTMENT AND COMPENSATION OF  
SPECIAL SHERIFF'S DEPUTIES**

**AN ACT**

To amend and reenact section 11-15-02 of the North Dakota Century Code, relating to compensation for special deputies.

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

**Section 1. Amendment.)** Section 11-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-15-02. Sheriff May Appoint Special Deputies—Compensation.)** In case of any emergency, the sheriff may appoint and qualify special deputies in such numbers as in his judgment are required by the conditions. Each special deputy shall receive as compensation for his services the sum of not to exceed twelve dollars per day and the same mileage as is allowed to regular deputies, such amounts to be paid by the county. The sheriff shall have the sole power of appointing such special deputies and may remove them at pleasure.

Approved March 25, 1969.

## CHAPTER 135

S. B. No. 369  
(Jacobson)

## FEES FOR SERVICE OF PROCESS

## AN ACT

To amend and reenact subsection 2 of section 11-15-07 of the North Dakota Century Code, relating to county fees.

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

**Section 1. Amendment.)** Subsection 2 of section 11-15-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For serving a summons, warrant of attachment, order of replevin, injunctive order, citation, or other mesne process and making a return thereon, two dollars, and for service on each defendant besides the first, two dollars;

Approved March 13, 1969.

## CHAPTER 136

S. B. No. 261  
(Doherty, Freed, Wenstrom, Kelly)

## STATE'S ATTORNEY'S CONTINGENT FUND

## AN ACT

To amend and reenact section 11-16-09 of the North Dakota Century Code, relating to state's attorney's contingent fund.

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

**Section 1. Amendment.)** Section 11-16-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-16-09. State's Attorney's Contingent Fund.)** The board of county commissioners shall set aside from any funds in the county treasury not specifically appropriated or set aside for any other purpose the following sum of money to be used by the state's attorney of the county as a contingent fund for the purpose of defraying the necessary expenses that are not otherwise provided for in securing evidence, in the investigation of criminal cases and the furthering of justice:

1. Not less than five hundred dollars and not more than one thousand dollars in counties having a population of ten thousand inhabitants or less;
2. Not less than one thousand dollars and not more than fifteen hundred dollars in counties having a population of more than ten thousand and not more than twenty thousand inhabitants; or
3. Not less than fifteen hundred dollars and not more than two thousand dollars in counties having a population of more than twenty thousand inhabitants.

Approved March 17, 1969.

## CHAPTER 137

S. B. No. 484  
(Committee on Delayed Bills)

DISPOSAL OF BUILDINGS FINANCED  
BY MEMORIAL FUNDS

AN ACT

To amend and reenact section 11-32-03 of the North Dakota Century Code, relating to disposal of buildings partially financed with memorial funds by school districts which have acquired such buildings through reorganization.

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

**Section 1. Amendment.)** Section 11-32-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-32-03. May Join With Cities, School Districts, and Other Agencies in Erection and Operation.)** The board of county commissioners, in carrying out the provisions of sections 11-32-01 and 11-32-02, may join with a city, school district, or other public or private nonprofit corporation or agency, or any or all of same, in the erection and operation of said memorial, or memorials, or other suitable recognition in any proportion deemed advisable by said board. Said board in conjunction with the other cooperating body or bodies may provide for the operation and administration of said memorial, memorials, or other suitable recognition. In the event that a school building, gymnasium, or other school-related building is constructed by a school district and wholly or partially financed through moneys from the memorial fund created by this chapter, and, due to a reorganization of such school district, is transferred to another school district, such other school district shall be authorized to sell and transfer title to such building in the same manner provided by law notwithstanding the provisions of chapter 11-32 of the North Dakota Century Code.

Approved March 28, 1969.

## CHAPTER 138

H. B. No. 455  
(Strinden, Hensrud)

## COUNTY PLANNING COMMISSION

## AN ACT

To amend and reenact section 11-33-05 of the North Dakota Century Code, relating to the compensation of county planning commission members; and to repeal section 11-33-15 of the North Dakota Century Code, relating to the listing of nonconforming uses and occupancies.

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

**Section 1. Amendment.)** Section 11-33-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**11-33-05. Meetings—Officers.)** The commission shall meet within thirty days after its appointment and elect a chairman and other necessary officers from its membership. The commission may adopt rules and bylaws not inconsistent with the provisions of this chapter. A majority of the members of the commission shall constitute a quorum. Members of the commission may be compensated for their actual expenses in the same manner as members of the board of county commissioners. The county auditor shall serve as secretary to the commission and shall keep all of the records and accounts of the commission.

**Section 2. Repeal.)** Section 11-33-15 of the North Dakota Century Code is hereby repealed.

Approved March 25, 1969.

# CRIMES AND PUNISHMENTS

---

## CHAPTER 139

S. B. No. 203

(Forkner, Torgerson, Pyle, Robinson, Doherty)

### PUBLIC OFFICER HAVING PERSONAL INTEREST IN GOVERNMENT CONTRACT

#### AN ACT

To amend and reenact section 12-10-06 of the North Dakota Century Code, relating to personal interest in a contract by a public officer.

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

**Section 1. Amendment.)** Section 12-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-10-06. Personal Interest in Contract by Public Officer—Punishment—Exception.)** Every public officer authorized to sell or lease any property, or make any contract in his official capacity, who contrary to law voluntarily becomes interested individually in such sale, lease, or contract, directly or indirectly, is guilty of a misdemeanor. Provided, however, that contracts of purchase or employment, by a political subdivision may be entered into with an officer of such political subdivision if such contracts are unanimously approved by the other members of the governing body of the political subdivision by a finding unanimously adopted by such other members and entered in the official minutes of the governing body, to be necessary for the reason that the services or property obtained is not otherwise available at equal cost.

Approved March 13, 1969.

## CHAPTER 140

S. B. No. 275  
(Meschke)

## PUNISHMENT FOR PERJURY

## AN ACT

To amend and reenact section 12-14-13 of the North Dakota Century Code, relating to punishment for perjury.

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

**Section. 1. Amendment.)** Section 12-14-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-14-13. Punishment of Perjury.)** Perjury is punishable by imprisonment in the penitentiary as follows:

1. When committed on the trial of an information or indictment for felony, by imprisonment for not to exceed ten years;
2. When committed on any other trial or proceeding in a court of justice, by imprisonment for not to exceed five years;
3. In all other cases, by imprisonment for not to exceed three years.

Approved March 17, 1969.

## CHAPTER 141

S. B. No. 347  
(Freed, Sands, Mutch, Ringsak, Nething)

PUNISHMENT FOR ASSAULT  
AND BATTERY

AN ACT

To amend and reenact section 12-26-04 of the North Dakota Century Code, relating to the punishment for assault or assault and battery.

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

**Section 1. Amendment.)** Section 12-26-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-26-04. Assault—Assault and Battery—Assault and Battery Upon a Peace Officer—How Punished.)** Any person convicted of an assault or assault and battery shall be guilty of a misdemeanor, except that if such offense is committed upon a peace officer who is performing his official duties, such crime shall be a felony.

Approved March 25, 1969.



## CHAPTER 142

S. B. No. 62  
(Unruh)

## WILLFUL INJURY TO PROPERTY OF ANOTHER

## AN ACT

To amend and reenact section 12-41-11 of the North Dakota Century Code, relating to trespass by damage to produce or anything attached to lands of another.

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

**Section 1. Amendment.)** Section 12-41-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-41-11. Willful Injury to Property of Another—Misdemeanor.)** Every person who willfully commits any trespass by:

1. Cutting down, severing, destroying, or carrying away anything that is standing or growing upon, attached to, or that has been cut down on the land of another;
2. Driving or riding through, into, or across any cultivated hedge or tree row, or any grove of ornamental trees or orchard of fruit trees growing or standing upon the land of another, or in any other manner injuring the same;
3. Digging, taking, or carrying away from any lot situated within the bounds of any incorporated city, without the license of the owner or legal occupant thereof, any earth, soil, or stone which is a part of the lot or severed therefrom at some previous time, under such circumstances as would render the trespass a larceny, if the thing so severed or carried away were personal property;
4. Digging, taking, or carrying away from any land in any incorporated city of this state, laid out on the map or plat of said city as a street or avenue, or

otherwise established or recognized as a street or avenue without the license of the governing body of such city, or owner thereof, any earth, soil, or stone, under such circumstances as would render the trespass a larceny if the thing so severed or carried away were personal property; or

5. Hauling or depositing upon public property or upon the real estate, lot, or farm of another any dead horse, dog, cow, or other animal, or any manure, offal, putrid or unsound beef, pork, fish, hides, or skins, or flesh of any kind or description, or any tin cans, bottles, paper, filth, offal, vegetables, or other unsound or offensive matter or thing whatsoever, or any matter or thing which by putrefaction or decomposition will produce offensive smells or effluvia, or any other substance of any kind, nature, or description, without first obtaining the consent of the owner or occupant thereof in writing,

is guilty of a misdemeanor.

Approved March 14, 1969.

## CHAPTER 143

H. B. No. 228  
(Boustead, Lang)

**BURIAL EXPENSES OF DECEASED  
PENAL INSTITUTION INMATES**

AN ACT

To amend and reenact section 12-45-06 of the North Dakota Century Code to increase the amount allowed for burial expenses of deceased inmates of penal institutions.

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

**Section 1. Amendment.)** Section 12-45-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-45-06. Expenses of Inquest—Report of Officer—Payment—Burial Expense Limited.)** The officer holding the inquest shall make an itemized statement and report, verified by his oath, showing in detail the expenses of the inquest and for what and to whom all items of fees, services, or supplies are payable. The fees of the officer holding the inquest and of the jurors, witnesses, and physicians shall be the same as in other cases of inquest, but no officer or inmate of the penitentiary or state training school shall be entitled to any fee or other allowance on account of any service rendered at the inquest. The expense of the burial of the body, exclusive of the fees allowed by law to officers, jurors, physicians, and witnesses shall not exceed the sum allowed to bury public welfare cases in accordance with section 23-06-03. All claims arising out of such inquest shall be audited and separate warrants shall be drawn upon the state treasurer for the amount allowed to each person named in the statement and report of the officer conducting the inquest, and the warrants shall be paid out of the state treasury.

Approved March 8, 1969.

## CHAPTER 144

H. B. No. 38

(Backes, Boustead, Dornacker, Gackle, K. Johnson, Powers)

(From Legislative Research Committee Study)

DISPOSAL OF EFFECTS OF DECEASED  
PENAL INSTITUTION INMATES

## AN ACT

To amend and reenact section 12-45-07 of the North Dakota Century Code, relating to the disposal of effects of deceased persons by the warden of the penitentiary and the superintendent of the state training school.

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

**Section 1. Amendment.)** Section 12-45-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-45-07. Effects of Deceased—Sale—Money Received.)** The warden of the penitentiary or superintendent of the state training school, within ten days after the decease of any person confined in the penitentiary or state training school, shall make a written report to the state treasurer of the money and effects in his hands belonging to the deceased, and he shall transmit with such report any such money or effects. The state treasurer shall execute and deliver a receipt for the money or effects to the warden or superintendent and may require the warden or superintendent to sell such effects of the deceased and, in such case, shall direct the manner of sale, or he may direct the warden or superintendent to deliver said effects to the legal representative of the deceased. The warden or superintendent shall carry out the requirements and directions of the state treasurer. If such effects are sold, all moneys received therefor shall be delivered to the state treasurer, and the state treasurer shall place all money received on account of any such deceased person to the credit of the general fund of the state treasury. If the money is claimed within six years by the dependent relatives of the deceased, the state treasurer shall pay it to them after deducting the expenses of the inquest and the burial of the body of the deceased.

Approved March 8, 1969.

## CHAPTER 145

S. B. No. 216  
(Freed, Sands, Redlin)

## WORK RELEASE PROGRAM AT PENITENTIARY

## AN ACT

To create and enact a chapter of the North Dakota Century Code to provide a program of work release, rehabilitation, and education for inmates at the state penitentiary and the state farm, and penalty for failure to comply with the terms of the program.

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

**Section 1. Board May Provide Certain Services for Inmates.)** The board of administration may participate in programs under which inmates sentenced to the penitentiary and the state farm may be gainfully employed or participate in an educational or other rehabilitation program either in or outside the institution. The board may obtain separate facilities with minimum security for the housing of inmates granted release privileges. In areas where facilities are not within reasonable proximity of the place of employment or training of an inmate so released, the board may arrange for the housing of the inmate in local confinement facilities.

**Section 2. Conditions of Eligibility for Release Programs.)** An inmate shall be eligible for programs outside the institution when the parole board determines the inmate is not a high security risk, not likely to commit a crime of violence and is likely to be rehabilitated by such program. An inmate may make application to the warden for permission to participate in such programs. The warden shall forward all applications to the parole board. The application shall include a statement that the inmate agrees to abide by all terms and conditions of the particular plan adopted for him, and shall state the name and address of the proposed employer, if any, and shall contain such other information as the parole board may require. The parole board may approve, disapprove, or defer action on the application. The plan shall be signed by the inmate prior to participation in the program. Approval may be revoked for

any reason by the warden or the parole board at any time after being granted. The parole board and warden shall prescribe rules of conduct and treatment for all inmates on release programs including the granting of short leaves for special purposes.

**Section 3. Use of Funds Earned on Work Release.)** The plan for the inmate shall provide that any funds earned in outside employment will be used in the following order: for necessary expenses of the inmate, including room and board costs of the institution; court costs or fine; restitution if a part of the sentence; necessary support of dependents; and credited to inmate's personal account to be paid him on release.

**Section 4. Willful Failure to Return.)** Any inmate released from actual confinement under a release plan who willfully fails to return to the designated place of confinement at the time specified in the plan shall be deemed to have escaped from the penitentiary.

Approved March 8, 1969.

## CHAPTER 146

S. B. No. 349  
(Nething, Sands)

MEMBERSHIP OF COMBINED  
LAW ENFORCEMENT COUNCIL

AN ACT

To amend and reenact section 12-61-01 of the North Dakota Century Code, relating to the membership of the North Dakota combined law enforcement council.

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

**Section 1. Amendment.)** Section 12-61-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-61-01. Creation of Council—Election of Members.)** The North Dakota combined law enforcement council shall consist of the attorney general, who shall be chairman; the superintendent of the bureau of criminal identification and apprehension; the superintendent of the highway patrol; the state parole officer; the warden of the penitentiary; a state's attorney; a sheriff; a chief of police; a district judge; a juvenile supervisor; the superintendent of the state industrial school; a representative of the league of cities; a representative of the county commissioners association; and a representative of each house of the state legislature. Selection of other than ex officio members may be made by their respective associations. The legislative representative shall be chosen by the presiding officer of each chamber. Said members shall serve a term of two years, commencing July first of each odd-numbered year, provided they continue to hold the same office as when appointed to the council. The attorney general shall fill any vacancies.

Approved March 25, 1969.

## CHAPTER 147

S. B. No. 143  
(Nething, Ringsak, Morgan)

TRAINING FOR NEW JUDGES, PROSECUTORS,  
AND PEACE OFFICERS

AN ACT

To provide training for newly elected or appointed municipal judges, county justices, prosecuting attorneys, sheriffs and police officers.

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

**Section 1. Municipal Judges—Training.)** Every newly elected or appointed municipal judge shall attend a course of training conducted by the law enforcement council. The curriculum, location and date of such sessions shall be determined by the law enforcement council in cooperation with the judicial council. Such course shall be open to all judges.

**Section 2. County Justices—Training.)** Every newly elected or appointed county justice shall attend a course of training conducted by the law enforcement council. The curriculum, location and dates of such sessions shall be determined by the law enforcement council in cooperation with the judicial council. Such course shall be open to all county justices.

**Section 3. Prosecuting Attorneys—Training.)** Every newly elected or appointed prosecuting attorney shall attend a course of training conducted by the law enforcement council. The curriculum, location and dates of such sessions shall be determined by the law enforcement council in cooperation with the state's attorneys' association. Such course shall be open to all prosecutors.

**Section 4. Sheriffs—Training.)** Every newly elected or appointed sheriff shall attend a course of training on civil and criminal duties conducted by the law enforcement council. The curriculum, location and dates of such sessions shall be determined by the law enforcement council in cooperation with the sheriffs' association. Such course shall be open to all sheriffs and deputies.



**Section 5. Police Officers—Training.)** Every newly appointed police officer shall attend a course of training conducted by the law enforcement council. The curriculum, location and dates of such sessions shall be determined by the law enforcement council in cooperation with the police chiefs' association. Such course shall be open to all police officers.

Approved March 14, 1969.

# DEBTOR AND CREDITOR RELATIONSHIP

---

## CHAPTER 148

S. B. No. 256  
(Doherty, Unruh, Wenstrom)

### INSTALLMENT BANK LOAN CHARGES

#### AN ACT

To amend and reenact section 13-04-01 of the North Dakota Century Code, relating to installment bank loan charges.

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

**Section 1. Amendment.)** Section 13-04-01 of the 1967 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 eight thousand dollars repayable in installments, may make a charge for such loan computed at a rate not exceeding six dollars per one hundred dollars per annum upon the total amount of the loan from the date thereof until the stated maturity date of the final installment thereof, which shall not exceed seven years and thirty-two days from the date of the loan, notwithstanding that such loan is required to be repaid in installments or that the loan is secured by mortgage, pledge, or other collateral, except that this chapter shall not apply to loans secured by realty. Any charge authorized by this chapter may be deducted in advance from the proceeds of such loan or may be included in the principal amount of the note or other instrument evidencing said loan and the aggregate amount thereof be payable in installments.

The minimum charge for any loan hereunder may be fifteen dollars.

Approved March 5, 1969.

---

CHAPTER 149

S. B. No. 215  
(Kautzmann, Stroup, Decker, Wenstrom)  
(Meschke, G. Larson)

REGULATION OF COLLECTION AGENCIES

AN ACT

Providing for the regulation of collection agencies; administration; requiring license for such agencies; providing for fees and bonds therefor; prescribing manner of applying for collection agency license; powers of department of banking and financial institutions; providing for records and funds to be kept; revocation and suspension of license; and prescribing penalties.

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 Act. Any person or persons delegated to administer this Act shall not have financial interests directly or indirectly in any business which is subject to this Act.

**Section 2. Collection Agency License Required to Collect Claims.)** Except as otherwise herein provided, no person other than a collection agency licensed and authorized under this Act shall advertise or solicit either in print, by letter, in person, or otherwise, the right to collect or receive payment of any claim for another or sell or give away collection letters as demand forms in the state of North Dakota. As used in this Act, the term "collection agency" does not include attorneys at law, licensed real estate brokers, banks, trust companies, building and loan associations, abstract companies doing an escrow business, creditors collecting their own debts, individuals or firms who purchase or take accounts receivable for collateral purposes, individuals employed in the capacity

of credit man upon the staff of an employer not engaged in the business of a collection agency, or any public officer, receiver or trustee acting under the order of a court.

**Section 3. Application for Collection Agency License.)** Every application for collection agency license, or for a renewal thereof, shall be made upon blanks furnished by the department of banking and financial institutions and shall contain the following information:

1. The full name and proposed business name of the applicant.
2. The address where the business is to be conducted.
3. The names and addresses of the applicant and those associated with him. If the applicant is a corporation, the application shall contain the names of the officers of the corporation.
4. Such additional information which the department of banking and financial institutions shall require.

**Section 4. 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 fifty 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.

**Section 5. Expiration and Renewal of License.)** All licenses required herein shall expire on June 30th of each year and shall be renewed on the succeeding first day of July upon payment of required annual fees. 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 other 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. Conduct investigations and have authority to make an examination of any licensee or his place of business, including all records of such business, and to subpoena witnesses any time they have reason to believe such is necessary.
3. Establish codes of ethical conduct for licensees.
4. Adopt any and all rules and regulations necessary to carry out the purpose of this Act.

**Section 7. Manner in Which Records and Funds To Be Kept by Collection Agency.)** Every collection agency licensed under this Act shall keep a record of all sums collected by it, and of all disbursements made by it for a period of six years from the date of last entry thereon. No collection agency, or any employees thereof, shall intentionally make any false entry in any such collection agency record or intentionally mutilate, destroy, or otherwise dispose of any such record within the time limit provided in this section. No licensee under this Act may commingle the money of collection agency customers with other than collection funds and shall maintain a separate bank account for such customer's funds and shall keep such funds in the bank account until disbursed to the customer.

**Section 8. Revocation of License—Suspension of License—Surrender of License—Pre-Existing Contracts.)**

1. The department of banking and financial institutions may, if they have reason to believe that grounds for revocation of a license exists, 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 not be held less than ten nor more than thirty days from the date of mailing such notice. Within ten days after such hearing, the department of banking and financial institutions shall issue a written order either dismissing the charges or suspending or revoking the license and their grounds therefor.

A copy of such written order shall be sent to the licensee. A license may be revoked for one or more of the following reasons:

- a. The licensee has failed to pay the annual license fee; or
  - b. The licensee either knowingly or without the exercise of due care to prevent the same has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of this Act; or
  - c. Any fact or condition existing at the time of the original application for such license which clearly would have warranted the department of banking and financial institutions in refusing originally to issue such license.
2. If the department of banking and financial institutions finds that probable cause for revocation of any license exists and that enforcement of the Act 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 Act.
  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. Remedies not Exclusive.)** The remedies provided for in this Act are in addition to and not exclusive of any other remedies provided by law.

**Section 10. Penalty.)** Any person violating any of the provisions of this chapter is guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or imprisonment of not more than one year or both such fine and imprisonment.

Approved March 14, 1969.

# DOMESTIC RELATIONS AND PERSONS

---

## CHAPTER 150

H. B. No. 71  
(Wagner)

### MARRIAGE LICENSE APPLICATION

#### AN ACT

To amend and reenact section 14-03-17 of the North Dakota Century Code, relating to the examination of persons upon oath when making application for a marriage license.

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

**Section 1. Amendment.)** Section 14-03-17 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**14-03-17. Application for License.)** When application is made to any county judge of this state for a marriage license, he shall inquire of the applicant upon oath relative to the legality of the contemplated marriage. He may examine other witnesses upon oath. The facts relative to the legality of the marriage may be submitted to the county judge by affidavit. The county judge also shall require each applicant to submit the following facts upon blanks provided by the county:

1. An affidavit of some disinterested, credible person showing that the female is over the age of eighteen years and the male is over the age of twenty-one years. If the female is under the age of eighteen years or the male is under the age of twenty-one years, the county judge shall require the consent of the parents or guardian, if any, to be given personally, or by a certificate of consent signed by such parents or guardian under oath, and sworn to before a notary public or other officer qualified by law to administer oaths;
2. An affidavit showing whether or not either or both of the

parties have been divorced. If a decree of divorce has been granted to either or both of the parties a certified copy of the decree must be filed with the application. A license shall not be issued if it contravenes any provisions of the decree of divorce;

3. A certificate of a duly licensed physician other than the person seeking the license, showing that neither of the contracting parties is a person afflicted with any contagious venereal disease; and
4. An affidavit of a disinterested, credible person that the applicants are not habitual criminals.

All affidavits shall be subscribed and sworn to before a person authorized to administer oaths. The county judge shall retain on file in his office all papers and records pertaining to all marriage licenses. Anyone knowingly swearing falsely to the statements contained in any affidavit mentioned in this section shall be punished as provided in section 14-03-28.

Approved March 8, 1969.

---

## CHAPTER 151

S. B. No. 359  
(Ringsak, Nething)

### CHILD ABANDONMENT OR NONSUPPORT

#### AN ACT

To amend and reenact section 14-07-15 of the North Dakota Century Code, relating to the abandonment and nonsupport of a child.

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

**Section 1. Amendment.)** Section 14-07-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**14-07-15. Abandonment or Nonsupport of Child.)** Every parent or other person legally responsible for the care or support of a child who is under the age of eighteen years



and unable to support himself by lawful employment, who wholly abandons such child or willfully fails to furnish food, shelter, clothing, and medical attention reasonably necessary and sufficient to keep the child's life from danger and discomfort and his health from injury is guilty of a felony.

Any food, shelter, or clothing, or medical attentions, furnished by or through a welfare or charitable program of any governmental agency, civic or religious organization, or a combination thereof, or any intervening third party, on the basis of need, shall not avoid, excuse, relieve or discharge, either parent, or person legally responsible for care and support of a child, from the criminal penalty for the willful failure or neglect to provide such support.

Neither shall a parent be relieved, excused, or discharged from such responsibility and criminal penalty provided for herein, for the willful neglect or failure to provide such care and support, if the other parent is providing the child with care and support to the best of his or her ability, but where such care and support is not sufficient to keep the child's life from danger and discomfort, or its health from injury.

The fact, if it is a fact, that either parent may have secured a decree of divorce awarding the custody of such child, in no manner shall relieve either parent from the requirements and penalty of this section, except that compliance with the terms of such decree for support of such child shall be deemed a compliance herewith; provided, however, that if the parent or other person legally responsible for the care or support of a child who is under the age of eighteen years and unable to support himself, as hereinbefore provided, while in another state, and while such minor child is in this state, willfully and intentionally fails to furnish food, clothing, shelter, and medical attention as herein provided, such failure shall nevertheless be construed to have been committed in this state, and all of the laws of this state with reference to punishment shall apply with the same force and effect as if such abandonment and failure to support had occurred in this state.

Approved March 13, 1969.

## CHAPTER 152

H. B. No. 94  
(Dawson, Sanstead)

## PETITION FOR ADOPTION

## AN ACT

To provide the designation in a petition for adoption of the person to be adopted.

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

**Section 1. Designation of Person To Be Adopted—Previous Name Not To Be Disclosed in Petition, Notice of Hearing, or Decree of Adoption.)** In addition to indicating the venue of the proceeding, the caption of a petition for adoption shall be styled "In the Matter of the Adoption of \_\_\_\_\_". The person to be adopted shall be designated in the caption under the name by which he is to be known if the petition is granted. If a child is placed for adoption by a licensed child-placing agency, any name by which the child was previously known shall not be disclosed in the petition, in the notice of hearing, or in the decree of adoption.

Approved March 25, 1969.

## CHAPTER 153

H. B. No. 433  
(Linderman)

UNIFORM RECIPROCAL ENFORCEMENT  
OF SUPPORT ACT

AN ACT

To improve and extend by reciprocal legislation the enforcement of duties of support among the several states by the enactment of the Revised Uniform Reciprocal Enforcement of Support Act (1968) and to repeal chapter 14-12 of the North Dakota Century Code.

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

Part 1

General Provisions

**Section 1. Purposes.)** The purposes of this Act are to improve and extend by reciprocal legislation the enforcement of duties of support.

**Section 2. Definitions.)**

1. "Court" means the district court of this state and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.
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.
3. "Governor" includes any person performing the functions of governor or the executive authority of any state covered by this Act.
4. "Initiating state" means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. "Initiating court" means the court in which a proceeding is commenced.

5. "Law" includes both common and statutory law.
6. "Obligee" means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.
7. "Obligor" means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.
8. "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.
9. "Register" means to file in the registry of foreign support orders.
10. "Registering court" means any court of this state in which a support order of a rendering state is registered.
11. "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.
12. "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. "Responding court" means the court in which the responsive proceeding is commenced.
13. "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.
14. "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

**Section 3. Remedies Additional to Those Now Existing.)**

The remedies herein provided are in addition to and not in substitution for any other remedies.

**Section 4. Extent of Duties of Support.)** Duties of support arising under the law of this state, when applicable under section 7, bind the obligor present in this state regardless of the presence of residence of the obligee.

**Part 2****Criminal Enforcement**

**Section 5. Interstate Rendition.)** The governor of this state may

1. Demand of the governor of another state the surrender of a person found in that state who is charged criminally in this state with failing to provide for the support of any person; or
2. Surrender on demand by the governor of another state a person found in this state who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with this Act apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state.

**Section 6. Conditions of Interstate Rendition.)**

1. Before making the demand upon the governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of a person, the governor of this state may require any prosecuting attorney of this state to satisfy him that at least sixty days prior thereto the obligee initiated proceedings for support under this Act or that any proceeding would be of no avail.

2. If, under a substantially similar Act, the governor of another state makes a demand upon the governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the governor may require any prosecuting attorney to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective. If it appears to the governor that a proceeding would be effective but has not been initiated he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.
3. If proceedings have been initiated and the person demanded has prevailed therein the governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the governor may decline to honor the demand if the person demanded is complying with the support order.

### Part 3

#### Civil Enforcement

**Section 7. Choice of Law.)** Duties of support applicable under this Act are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

**Section 8. Remedies of State or Political Subdivision Furnishing Support.)** If a state or a political subdivision furnishes support to an individual obligee it has the same right to initiate a proceeding under this Act as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

**Section 9. How Duties of Support Enforced.)** All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this Act including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

**Section 10. Jurisdiction.)** Jurisdiction of any proceeding under this Act is vested in the district court.

**Section 11. Contents and Filing of Petition for Support—Venue.)**

1. The petition shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. The obligee may include in or attach to the petition any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his social security number.
2. The petition may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the petition on the ground that it should be filed with some other court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

**Section 12. Officials to Represent Obligee.)** If this state is acting as an initiating state the prosecuting attorney upon the request of the court, the executive director of the North Dakota public welfare board, a county commissioner, or the director of a county welfare board, shall represent the obligee in any proceeding under this Act. If the prosecuting attorney neglects or refuses to represent the obligee, the attorney general may undertake the representation.

**Section 13. Petition for a Minor.)** A petition on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem.

**Section 14. Duty of Initiating Court.)** If the initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property it shall so certify and cause three copies of the petition and its certificate and one copy of this Act

to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause the copies to be sent to the state information agency, or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

**Section 15. Costs and Fees.)** An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in this state when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the state or a county thereof. These costs or fees do not have priority over amounts due to the obligee.

**Section 16. Jurisdiction by Arrest.)** If the court of this state believes that the obligor may flee it may

1. As an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or
2. As a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his appearance at the hearing.

**Section 17. State Information Agency.)**

1. The North Dakota public welfare board is designated as the state information agency under this Act. It shall
  - a. Compile a list of the courts and their addresses in this state having jurisdiction under this Act and



transmit it to the state information agency of every other state which has adopted this or a substantially similar Act. Upon the adjournment of each session of the legislative assembly the agency shall distribute copies of any amendments to this Act and a statement of their effective date to all other state information agencies;

- b. Maintain a register of lists of courts received from other states and transmit copies thereof promptly to every court in this state having jurisdiction under this Act; and
  - c. Forward to the court in this state which has jurisdiction over the obligor or his property petitions, certificates and copies of the Act it receives from courts or information agencies of other states.
2. If the state information agency does not know the location of the obligor or his property in the state and no state location service is available it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the social security administration as permitted by the Social Security Act as amended.
  3. After the deposit of three copies of the petition and certificate and one copy of the Act of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently it shall inform the attorney general who may undertake the representation.

**Section 18. Duty of the Court and Officials of This State as Responding State.)**

1. After the responding court receives copies of the petition, certificate, and Act from the initiating court the clerk of

the court shall docket the case and notify the prosecuting attorney of his action.

2. The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of this state to enable the court to obtain jurisdiction over the obligor or his property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.
3. If the prosecuting attorney neglects or refuses to represent the obligee, the attorney general may undertake the representation.

**Section 19. Further Duties of Court and Officials in the Responding State.)**

1. The prosecuting attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of inaccuracies in the petition or otherwise the court cannot obtain jurisdiction the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the initiating court.
2. If the obligor or his property is not found in the county, and the prosecuting attorney discovers that the obligor or his property may be found in another county of this state or in another state he shall so inform the court. Thereupon the clerk of court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this Act apply to the recipient of the documents so forwarded. If the clerk of a court of this state forwards documents to another court he shall forthwith notify the initiating court.
3. If the prosecuting attorney has no information as to the location of the obligor or his property he shall so inform the initiating court.

**Section 20. Hearing and Continuance.)** If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon request of either party, shall continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

**Section 21. Immunity from Criminal Prosecution.)** If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

**Section 22. Evidence of Husband and Wife.)** Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Act. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

**Section 23. Rules of Evidence.)** In any hearing for the civil enforcement of this Act the court is governed by the rules of evidence applicable in a civil court action in the district court. If the action is based on a support order issued by another court a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity (section 27) or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by an interference by another obligee with rights of custody or visitation granted by a court.

**Section 24. Order of Support.)** If the responding court finds a duty of support it may 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 Act 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 im-

possible 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 25. Responding Court to Transmit Copies to Initiating Court.)** The responding court shall cause a copy of all support orders to be sent to the initiating court.

**Section 26. Additional Powers of Responding Court.)** In addition to the foregoing powers a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

1. Require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;
2. Require the obligor to report personally and to make payments at specified intervals to the clerk of the court; and
3. Punish under the power of contempt the obligor who violates any order of the court.

**Section 27. Paternity.)** If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise, the court may adjourn the hearing until the paternity issue has been adjudicated.

**Section 28. Additional Duties of Responding Court.)** A responding court has the following duties which may be carried out through the clerk of the court:

1. To transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and

2. To furnish to the initiating court upon request a certified statement of all payments made by the obligor.

**Section 29. Additional Duty of Initiating Court.)** An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the responding court. This duty may be carried out through the clerk of court.

**Section 30. Proceedings Not To Be Stayed.)** A responding court shall not stay the proceeding or refuse a hearing under this Act because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the petition being heard, the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention or jurisdiction for enforcement purposes by the court in the other action or proceeding.

**Section 31. Application of Payments.)** A support order made by a court of this state pursuant to this Act 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, 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 shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this state.

**Section 32. Effect of Participation in Proceeding.)** Participation in any proceeding under this Act does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.

**Section 33. Intrastate Application.)** This Act applies if both the obligee and the obligor are in this state but in different counties. If the court of the county in which the petition is filed

finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another county in this state may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the petition and a certification of the findings to the court of the county in which the obligor or his property is found. The clerk of the court of the county receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this state as a responding state.

**Section 34. Appeals.)** If the attorney general is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may

1. Perfect an appeal to the proper appellate court if the support order was issued by a court of this state, or
2. If the support order was issued in another state, cause the appeal to be taken in the other state. In either case expenses of appeal may be paid on his order from funds appropriated for his office.

#### Part 4

#### Registration of Foreign Support Orders

**Section 35. Additional Remedies.)** If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

**Section 36. Registration.)** The obligee may register the foreign support order in a court of this state in the manner, with the effect, and for the purposes herein provided.

**Section 37. Registry of Foreign Support Orders.)** The clerk of the court shall maintain a registry of foreign support orders in which he shall file foreign support orders.

**Section 38. Official to Represent Obligee.)** If this state is acting either as a rendering or a registering state the prosecuting attorney upon the request of the court, the executive director of the North Dakota public welfare board, a county commissioner, or the district of a county welfare board shall represent the obligee in proceedings under this part.

If the prosecuting attorney neglects or refuses to represent the obligee, the attorney general may undertake the representation.

**Section 39. Registration Procedure—Notice.)**

1. An obligee seeking to register a foreign support order in a court of this state shall transmit to the clerk of the court (a) three certified copies of the order with all modifications thereof, (b) one copy of the Reciprocal Enforcement of Support Act of the state in which the order was made, and (c) a statement verified and signed by the obligee, showing the post-office address of the obligee, the last known place of residence and post-office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the registry of foreign support orders. The filing constitutes registration under this Act.
2. Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post-office address of the obligee. He shall also docket the case and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.

**Section 40. Effect of Registration—Enforcement Procedure.)**

1. Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this state. It has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support order of this state and may be enforced and satisfied in like manner.
2. The obligor has twenty days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is confirmed.

3. At the hearing to enforce the registered support order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this state may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

**Section 41. Uniformity of Interpretation.)** This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**Section 42. Short Title.)** This Act may be cited as the Revised Uniform Reciprocal Enforcement of Support Act (1968).

**Section 43. Severability.)** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**Section 44. Repeal.)** Chapter 14-12 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.



## CHAPTER 154

H. B. No. 321  
(Bullis, Kelsch)

## UNIFORM CHILD CUSTODY JURISDICTION

## AN ACT

To provide for the modification by the courts of this state, under specified circumstances, of child custody determinations and decrees made by the courts of other states, to prescribe the procedure therefor and the effect thereof, to provide for the recognition and enforcement of out-of-state custody decrees, to provide for hearings and studies in other states, and to provide for the rendition of assistance to the courts of other states, and constituting the Uniform Child Custody Jurisdiction Act.

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

**Section 1. Purposes of Act—Construction of Provisions.)**

1. The general purposes of this Act are to:
  - a. Avoid jurisdictional competition and conflict with courts of other states in matters of child custody which have in the past resulted in the shifting of children from state to state with harmful effects on their well-being;
  - b. Promote cooperation with the courts of other states to the end that a custody decree is rendered in that state which can best decide the case in the interest of the child;
  - c. Assure that litigation concerning the custody of a child takes place ordinarily in the state with which the child and his family have the closest connection and where significant evidence concerning his care, protection, training, and personal relationships is most readily available, and that courts of this state decline the exercise of jurisdiction when the child and his family have a closer connection with another state;
  - d. Discourage continuing controversies over child custody in the interest of greater stability of home

- environment and of secure family relationships for the child;
- e. Deter abductions and other unilateral removals of children undertaken to obtain custody awards;
  - f. Avoid re-litigation of custody decisions of other states in this state insofar as feasible;
  - g. Facilitate the enforcement of custody decrees of other states;
  - h. Promote and expand the exchange of information and other forms of mutual assistance between the courts of this state and those of other states concerned with the same child; and
  - i. Make uniform the law of those states which enact it.
2. This Act shall be construed to promote the general purposes stated in this section.

**Section 2. Definitions.)** As used in this Act:

1. "Contestant" means a person, including a parent, who claims a right to custody or visitation rights with respect to a child;
2. "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including visitation rights; it does not include a decision relating to child support or any other monetary obligation of any person;
3. "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for divorce or separation, and includes child neglect, dependency, and deprivation proceedings;
4. "Decree" or "custody decree" means a custody determination contained in a judicial decree or order made in a custody proceeding, and includes an initial decree and modification decree;
5. "Home state" means the state in which the child im-

mediately preceding the time involved lived with his parents, a parent, or a person acting as parent, for at least six consecutive months, and in the case of a child less than six months old the state in which the child lived from birth with any of the persons mentioned. Periods of temporary absence of any of the named persons are counted as part of the six-month or other period;

6. "Initial decree" means the first custody decree concerning a particular child;
7. "Modification decree" means a custody decree which modifies or replaces a prior decree, whether made by the court which rendered the prior decree or by another court;
8. "Physical custody" means actual possession and control of a child;
9. "Person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody; and
10. "State" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

### Section 3. Jurisdiction.)

1. A court of this state which is competent to decide child custody matters has jurisdiction to make a child custody determination by initial decree or modification decree if:
  - a. This state (1) is the home state of the child at the time of commencement of the proceeding, or (2) had been the child's home state within six months before commencement of the proceeding and the child is absent from this state because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as parent continues to live in this state;
  - b. It is in the best interest of the child that a court of

this state assume jurisdiction because (1) the child and his parents, or the child and at least one contestant, have a significant connection with this state, and (2) there is available in this state substantial evidence concerning the child's present or future care, protection, training, and personal relationships;

- c. The child is physically present in this state and (1) the child has been abandoned or (2) it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected, dependent, or deprived; or
  - d. (1) it appears that no other state would have jurisdiction under prerequisites substantially in accordance with subdivisions a, b, or c of this subsection, or another state has declined to exercise jurisdiction on the ground that this state is the more appropriate forum to determine the custody of the child, and (2) it is in the best interest of the child that this court assume jurisdiction.
2. Except under subdivisions c and d of subsection 1, physical presence in this state of the child, or of the child and one of the contestants, is not alone sufficient to confer jurisdiction on a court of this state to make a child custody determination.
  3. Physical presence of the child, while desirable, is not a prerequisite for jurisdiction to determine his custody.

**Section 4. Notice and Opportunity To Be Heard.)** Before making a decree under this Act, reasonable notice and opportunity to be heard shall be given to the contestants, any parent whose parental rights have not been previously terminated, and any person who has physical custody of the child. If any of these persons are outside this state, notice and opportunity to be heard shall be given pursuant to section 5.

**Section 5. Notice to Persons Outside the State—Submission to Jurisdiction.)**

1. Notice required for the exercise of jurisdiction over a

person outside this state shall be given in a manner reasonably calculated to give actual notice, and may be:

- a. By personal delivery outside this state in the manner prescribed for service of process within this state;
  - b. In the manner prescribed by the law of the place in which the service is made for service of process in that place in an action in any of its courts of general jurisdiction;
  - c. By any form of mail addressed to the person to be served and requesting a receipt; or
  - d. As directed by the court, including publication, if other means of notification are ineffective.
2. Notice under this section shall be served, mailed, delivered, or last published at least twenty days before any hearing in this state.
  3. Proof of service outside this state may be made by affidavit of the individual who made the service, or in the manner prescribed by the law of this state, the order pursuant to which the service is made, or the law of the place in which the service is made. If service is made by mail, proof may be a receipt signed by the addressee or other evidence of delivery to the addressee.
  4. Notice is not required if a person submits to the jurisdiction of the court.

#### **Section 6. Simultaneous Proceedings in Other States.)**

1. A court of this state shall not exercise its jurisdiction under this Act if at the time of filing the petition a proceeding concerning the custody of the child was pending in a court of another state exercising jurisdiction substantially in conformity with this Act, unless the proceeding is stayed by the court of the other state because this state is a more appropriate forum or for other reasons.
2. Before hearing the petition in a custody proceeding, the

court shall examine the pleadings and other information supplied by the parties under section 9 and shall consult the child custody registry established under section 16 concerning the pendency of proceedings with respect to the child in other states. If the court has reason to believe that proceedings may be pending in another state, it shall direct an inquiry to the state court administrator or other appropriate official of the other state.

3. If the court is informed during the course of the proceeding that a proceeding concerning the custody of the child was pending in another state before the court assumed jurisdiction, it shall stay the proceeding and communicate with the court in which the other proceeding is pending to the end that the issues may be litigated in the more appropriate forum and that information be exchanged in accordance with sections 19 through 22. If a court of this state has made a custody decree before being informed of a pending proceeding in a court of another state, it shall immediately inform that court of the fact. If the court is informed that a proceeding was commenced in another state after it assumed jurisdiction, it shall likewise inform the other court to the end that the issues may be litigated in the most appropriate forum.

#### **Section 7. Inconvenient Forum.)**

1. A court which has jurisdiction under this Act to make an initial decree or a modification decree may decline to exercise its jurisdiction any time before making a decree if it finds that it is an inconvenient forum to make a custody determination under the circumstances of the case and that a court of another state is a more appropriate forum.
2. A finding of inconvenient forum may be made upon the court's own motion or upon motion of a party or of a guardian ad litem or other representative of the child.
3. In determining whether it is an inconvenient forum, the court shall consider whether it is in the interest of the child that another state assume jurisdiction.

For this purpose it may take into account the following factors, among others, whether:

- a. Another state is or recently was the child's home state;
  - b. Another state has a closer connection with the child and his family or with the child and one or more of the contestants;
  - c. Substantial evidence concerning the child's present or future care, protection, training, and personal relationships is more readily available in another state;
  - d. The parties have agreed on another forum which is no less appropriate; and
  - e. The exercise of jurisdiction by a court of this state would contravene any of the purposes stated in section 1.
4. Before determining whether to decline or retain jurisdiction, the court may communicate with a court of another state and exchange information pertinent to the assumption of jurisdiction by either court with a view to assuring that jurisdiction will be exercised by the more appropriate court and that a forum will be available to the parties.
  5. If the court finds that it is an inconvenient forum and that a court of another state is a more appropriate forum, it may (1) dismiss the proceedings, or (2) stay the proceedings upon condition that a custody proceeding be promptly commenced in another named state or upon any other conditions which may be just and proper, including the condition that a moving party stipulate his consent and submission to the jurisdiction of the other forum.
  6. The court may decline to exercise its jurisdiction under this Act if a custody determination is incidental to an action for divorce or another proceeding while retaining jurisdiction over the divorce or other proceeding.

7. If it appears to the court that it is clearly an inappropriate forum, it may require the party who commenced the proceedings to pay, in addition to the costs of the proceedings in this state, necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses. Payment is to be made to the clerk of the court for remittance to the proper party.
8. Upon dismissal or stay of proceedings under this section, the court shall inform the court found to be the more appropriate forum of this fact or, if the court which would have jurisdiction in the other state is not certainly known, shall transmit the information to the court administrator or other appropriate official for forwarding to the appropriate court.
9. Any communication received from another state informing this state of a finding of inconvenient forum because a court of this state is the more appropriate forum shall be filed in the custody registry of the appropriate court. Upon assuming jurisdiction, the court of this state shall inform the original court of this fact.

**Section 8. Jurisdiction Declined by Reason of Conduct.)**

1. If the petitioner for an initial decree has wrongfully taken the child from another state or has engaged in similar reprehensible conduct, the court may decline to exercise jurisdiction if this is just and proper under the circumstances.
2. Unless required in the interest of the child, the court shall not exercise its jurisdiction to modify a custody decree of another state if the petitioner, without consent of the person entitled to custody, has improperly removed the child from the physical custody of the person entitled to custody or has improperly retained the child after a visit or other temporary relinquishment of physical custody. If the petitioner has violated any other provision of a custody decree of another state, the court may decline to exercise its jurisdiction if this is just and proper under the circumstances.
3. In appropriate cases a court dismissing a petition under



this section may charge the petitioner with necessary travel and other expenses, including attorney's fees, incurred by other parties or their witnesses.

**Section 9. Information Under Oath To Be Submitted To The Court.)**

1. Every party in a custody proceeding in his first pleading or in an affidavit attached to that pleading shall give information under oath as to the child's present address, the places where the child has lived within the last five years, and the names and present addresses of the persons with whom the child has lived during that period. In this pleading or affidavit every party shall further declare under oath whether he:
  - a. Has participated (as a party, witness, or in any other capacity) in any other litigation concerning the custody of the same child in this or any other state;
  - b. Has information of any custody proceeding concerning the child pending in a court of this or any other state; and
  - c. Knows of any person not a party to the proceedings who has physical custody of the child or claims to have custody or visitation rights with respect to the child.
2. If the declaration as to any of the above items is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and as to other matters pertinent to the court's jurisdiction and the disposition of the case.
3. Each party has a continuing duty to inform the court of any custody proceeding concerning the child in this or any other state of which he obtained information during this proceeding.

**Section 10. Additional Parties.)** If the court learns from information furnished by the parties pursuant to section 9 or from other sources that a person not a party to the custody pro-

ceeding has physical custody of the child or claims to have custody or visitation rights with respect to the child, it shall order that person to be joined as a party and to be duly notified of the pendency of the proceeding and of his joinder as a party. If the person joined as a party is outside this state, he shall be served with process or otherwise notified in accordance with section 5.

**Section 11. Appearance of Parties and the Child.)**

1. The court may order any party to the proceeding who is in this state to appear personally before the court. If that party has physical custody of the child, the court may order that he appear personally with the child.
2. If a party to the proceeding whose presence is desired by the court is outside this state with or without the child, the court may order that the notice given under section 5 include a statement directing that party to appear personally with or without the child and declaring that failure to appear may result in a decision adverse to that party.
3. If a party to the proceeding who is outside this state is directed to appear under subsection 2 or desires to appear personally before the court with or without the child, the court may require another party to pay to the clerk of the court travel and other necessary expenses of the party so appearing and of the child if this is just and proper under the circumstances.

**Section 12. Binding Force and Res Judicata Effect of Custody Decree.)** A custody decree rendered by a court of this state which had jurisdiction under section 3 binds all parties who have been served in this state or notified in accordance with section 5 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to these parties the custody decree is conclusive as to all issues of law and fact decided and as to the custody determination made unless and until that determination is modified pursuant to law, including the provisions of this Act.

**Section 13. Recognition of Out-Of-State Custody Decrees.)** The courts of this state shall recognize and enforce an initial decree or modification decree of a court of another state which

had assumed jurisdiction under statutory provisions substantially in accordance with this Act or which was made under factual circumstances meeting the jurisdictional standards of this Act, so long as this decree has not been modified in accordance with jurisdictional standards substantially similar to those of this Act.

**Section 14. Modification of Custody Decree of Another State.)**

1. If a court of another state has made a custody decree, a court of this state shall not modify that decree unless (a) it appears to the court of this state that the court which rendered the decree does not now have jurisdiction under jurisdictional prerequisites substantially in accordance with this Act or has declined to assume jurisdiction to modify the decree and (b) the court of this state has jurisdiction.
2. If a court of this state is authorized under subsection 1 and section 8 to modify a custody decree of another state, it shall give due consideration to the transcript of the record and other documents of all previous proceedings submitted to it in accordance with section 22.

**Section 15. Filing and Enforcement of Custody Decree of Another State.)**

1. A certified copy of a custody decree of another state may be filed in the office of the clerk of any district court or family court of this state. The clerk shall treat the decree in the same manner as a custody decree of the district court or family court of this state. A custody decree so filed has the same effect and shall be enforced in like manner as a custody decree rendered by a court of this state.
2. A person violating a custody decree of another state which makes it necessary to enforce the decree in this state may be required to pay necessary travel and other expenses, including attorney's fees, incurred by the party entitled to the custody or his witnesses.

**Section 16. Registry of Out-Of-State Custody Decrees and Proceedings.)** The clerk of each district court or family court

shall maintain a registry in which he shall enter the following:

1. Certified copies of custody decrees of other states received for filing;
2. Communications as to the pendency of custody proceedings in other states;
3. Communications concerning a finding of inconvenient forum by a court of another state; and
4. Other communications or documents concerning custody proceedings in another state which may affect the jurisdiction of a court of this state or the disposition to be made by it in a custody proceeding.

**Section 17. Certified Copies of Custody Decrees.)** The clerk of the district court or family court of this state, at the request of the court of another state or at the request of any person who is affected by or has a legitimate interest in a custody decree, shall certify and forward a copy of the decree to that court or person.

**Section 18. Taking Testimony in Another State.)** In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses, including parties and the child, by deposition or otherwise, in another state. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony shall be taken.

**Section 19. Hearings and Studies in Another State—Orders to Appear.)**

1. A court of this state may request the appropriate court of another state to hold a hearing to adduce evidence, to order a party to produce or give evidence under other procedures of that state, or to have social studies made with respect to the custody of a child involved in proceedings pending in the court of this state and to forward to the court of this state certified copies of the transcript of the record of the hearing, the evidence otherwise adduced, or any social studies prepared in compliance with the request. The cost of the services

may be assessed against the parties or, if necessary, ordered paid by the county of the residence of the child for public assistance purposes.

2. A court of this state may request the appropriate court of another state to order a party to custody proceedings pending in the court of this state to appear in the proceedings and, if that party has physical custody of the child, to appear with the child. The request may state that travel and other necessary expenses of the party and of the child whose appearance is desired will be assessed against another party or will otherwise be paid.

**Section 20. Assistance to Courts of Other States.)**

1. Upon request of the court of another state the courts of this state which are competent to hear custody matters may order a person in this state to appear at a hearing to adduce evidence or to produce or give evidence under other procedures available in this state or may order social studies to be made for use in a custody proceeding in another state. A certified copy of the transcript of the record of the hearing or the evidence otherwise adduced and any social studies prepared shall be forwarded by the clerk of the court to the requesting court.
2. A person within this state may voluntarily give his testimony or statement in this state for use in a custody proceeding outside this state.
3. Upon request of the court of another state, a competent court of this state may order a person in this state to appear alone or with the child in a custody proceeding in another state. The court may condition compliance with the request upon assurance by the other state that travel and other necessary expenses will be advanced or reimbursed.

**Section 21. Preservation of Documents for Use in Other States.)** In any custody proceeding in this state the court shall preserve the pleadings, orders and decrees, any record that has been made of its hearings, social studies, and other pertinent documents until the child becomes an adult. Upon appropriate request of the court of another state the court shall forward

to the other court certified copies of any or all of such documents.

**Section 22. Request for Court Records of Another State.)** If a custody decree has been rendered in another state concerning a child involved in a custody proceeding pending in a court of this state, the court of this state upon taking jurisdiction of the case shall request of the court of the other state a certified copy of the transcript of any court record and other documents mentioned in section 21.

**Section 23. International Application.)** The general policies of this Act extend to the international area. The provisions of this Act relating to the recognition and enforcement of custody decrees of other states apply to custody decrees and decrees involving legal institutions similar in nature to custody institutions rendered by appropriate authorities of other nations if reasonable notice and opportunity to be heard were given to all affected persons.

**Section 24. Priority.)** Upon the request of a party to a custody proceeding which raises a question of existence or exercise of jurisdiction under this Act, the case shall be given calendar priority and handled expeditiously.

**Section 25. Severability.)** If any provision of this Act or the application thereof to any person or circumstance is held invalid, its invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

**Section 26. Short Title.)** This Act may be cited as the Uniform Child Custody Jurisdiction Act.

Approved March 26, 1969.

# EDUCATION

---

## CHAPTER 155

S. B. No. 91  
(Melland)

### CUSTODY OF SCHOOL FUNDS

#### AN ACT

To amend and reenact section 15-10-12 of the North Dakota Century Code, relating to the custody of school funds for those institutions under the control of the board of higher education.

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

**Section 1. Amendment.)** Section 15-10-12 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-10-12. Board May Accept Gifts and Bequests—State Treasurer to Have Custody of School Funds.)** The state board of higher education may receive donations, gifts, grants, and bequests offered or tendered to or for the benefit of any institution of higher education under its control or subject to its administration, and all moneys coming into the hands of the board as donations, gifts, grants, and bequests shall be used for the specific purpose for which they are donated or given. A special operating fund, for each institution of higher education under the control of the board or subject to its administration, shall be maintained within the state treasury and all institutional income and institutional collections of public funds of each institution, except institutional funds received as donations, gifts, grants, and bequests, shall be placed in such special fund for the use of the institution for which such money was raised. All rent, interest, or income from land, money, or property, donated or granted by the United States and allocated to specific institutions of higher learning under the terms of the Enabling Act and the state Constitution shall be deposited in such special operating fund of each

institution and expended in accordance with the provisions of section 159 of the Constitution. The director of accounts and purchases shall direct the state treasurer to make transfers from each institution's general fund appropriation to each institution's special operating fund on a monthly basis in amounts as may be necessary for the operation and maintenance of each institution for the next month, except that at the beginning of the twenty-fourth month of the biennium the balance of funds not transferred from the general fund appropriation shall be deposited in the special operating funds of such institutions. All such transfers shall be subject to proration in the same manner as other appropriations are prorated in the event insufficient funds are available to meet expenditures from the general fund. Any balance remaining in a special operating fund at the end of a biennium shall not be subject to section 54-27-09. Sinking funds for the payment of interest and principal of institutional revenue bonds shall be deposited pursuant to section 15-55-06.

Approved March 8, 1969.



## CHAPTER 156

H. B. No. 99

(Aamoth, Wagner, White, Bier, E. Johnson, Halcrow)

(Bunker, Register, Strinden, Davis, Reimers)

(Giffey, Opedahl)

MAINTAINING LAW AND ORDER AT  
INSTITUTIONS OF HIGHER EDUCATION

## AN ACT

Relating to the authority of the board of higher education to maintain law and order at and to regulate the use of the facilities of the state colleges and universities, and declaring an emergency.

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

**Section 1. Conduct of Students and Others and Use of Facilities of State Colleges and Universities.)** The board of higher education shall regulate the use of the grounds, buildings, equipment, and facilities of the state colleges and universities and the conduct of the students, staff, faculty, and visitors to the campus so that law and order are maintained and the college or university may pursue its educational objectives and programs in an orderly manner.

The board of higher education shall adopt regulations for the conduct of the students, faculty, visitors, and staff, and may provide for the ejection from college or university property, suspension, or expulsion of a person who violates such regulations. Such regulations shall provide for the expulsion of any student who willfully damages property of any state college or university or who willfully obstructs the normal administration of a state college or university and thereby prevents or hinders other students from pursuing their academic programs. Any student expelled under said regulations shall be deemed to have been expelled solely for the protection of the property of the institution and the maintenance of its functions, and not as a criminal punishment. All such regulations shall be published in a manner reasonably designed to come to the attention of, and be available to, all faculty, staff, visitors, and students. In any case where property of a state college or university has been willfully damaged or where the administration of a state college or university has been willfully obstructed, the board of higher

education shall sue or cause to be sued for appropriate damages in civil court all persons whom such board deems responsible for such property damage or such obstruction of college or university administration, or both. The board by its regulations may delegate to the chief executive officer of each institution, or the faculty, or any administrative committee, or any combination of such persons, the power of carrying out and enforcing any such regulations.

The board of higher education shall provide for the administration and enforcement of its regulations and may authorize the use of special policemen to assist in enforcing the regulations and the law on the campus of a college or university, which special policemen shall have concurrent jurisdiction with other law enforcement officers in the enforcement of such laws and regulations. The board of higher education, or appropriate officials of such college or university when the authority to do so has been delegated by the board of higher education, may seek the assistance of other appropriate law enforcement officers to enforce the regulations and to enforce laws for the preservation of good order on the campus, and to prevent the disruption of the educational functions of the college or university. It shall be the duty of the president or the administrative head of each institution of higher learning to sign criminal complaints against any person for willfully damaging any property of the state college or university or willfully obstructing the normal administration of a state college or university or preventing or hindering other students from pursuing their academic programs.

Violation of any such regulation by any member of the staff or faculty of any college or university shall be deemed and constitute a breach of contract on his part, and shall subject him to dismissal and termination of his contract; but no such dismissal or cancellation shall be ordered unless and until he has had an opportunity for a fair hearing upon the charges, before such persons, officers, committees or administrators as the regulations may designate, or before the board itself, if the regulations so provide.

The regulations of the board of higher education shall not restrict freedom of speech nor the right of persons on the campus to assemble peacefully.

**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 13, 1969.

---

CHAPTER 157

S. B. No. 107  
(Trenbeath, Becker)

DEFINITION OF NONRESIDENT STUDENT

AN ACT

To amend and reenact section 15-10-19 of the North Dakota Century Code, relating to definitions of nonresident students.

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

**Section 1. Amendment.)** Section 15-10-19 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-10-19. Nonresident Student for Tuition Purposes Defined—Exceptions.)** A nonresident student is defined as follows:

1. A student less than twenty-one years of age whose parents, custodial parent or guardian resides in another state, a territory, or a foreign country or whose parents, custodial parent or guardian has resided within this state for a period of less than twelve months immediately prior to the date of his registration;
2. A student of the age of twenty-one years or over who resides outside of this state; or
3. A student of the age of twenty-one years or over who has been a resident of this state for a period of less than twelve months immediately prior to the date of registration; provided that a student, whose parents, custodial parent or guardian do

not reside in this state, shall not be deemed to have initiated residence in this state until reaching the age of twenty-one years and provided further that attendance at an institution of higher learning within the state shall not alone be sufficient to qualify for residence in this state.

Military personnel assigned to a military installation in this state and their dependents, dependents of instructors who live in this state and teach in any institution of higher learning in this state and the spouse of a resident of this state, are excluded from the foregoing provisions, and shall be regarded as residents of this state for purposes of tuition, whether such dependents are over or under twenty-one years of age.

Any student who may otherwise be classified as a non-resident under this section, but who is a citizen of the United States may, if his parents, custodial parent, or guardian live in this state, provide to the institution of higher learning which he plans to attend a statement signed by the county treasurer and the city auditor, if his parents, custodial parent or guardian live in a city, or by the county auditor if they reside outside of a city, showing proof of their intent to establish residence in this state for a period of years. Such statements shall entitle the student to be regarded as a resident of this state for purposes of tuition if there is no substantial evidence to the contrary.

Approved March 14, 1969.

## CHAPTER 158

H. B. No. 168  
(Sanstead, Glaspey)

REDUCTION OF VETERINARY MEDICINE  
STUDENTS' LOANS

AN ACT

Directing the board of higher education to reduce the amount due on loans made to veterinary medicine students during the 1963-1965 biennium, providing for a refund, and making an appropriation.

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

**Section 1. Reduction of Face Amount of Certain Notes Taken from Veterinary Medicine Students.)** The board of higher education is hereby authorized and directed to reduce the face amounts of notes taken from veterinary medicine students during the 1963-1965 biennium pursuant to reciprocal agreements between the board and out-of-state institutions offering courses in veterinary medicine. The face amount of such notes shall be reduced to an amount of repayment consistent with the present policy of the board of higher education in regard to the repayment of subsequent similar loans.

**Section 2. Board of Higher Education to Require Note from Veterinary Medicine.)** At the time that payments are made to or on behalf of a veterinary medicine and surgery student from the appropriations for reciprocal agreements, the board of higher education shall obtain a note signed by each such student in an amount equal to the difference between the resident and non-resident tuition at the institution attended by such student. Such note shall be so conditioned as to be void if such student shall, upon graduation, return to North Dakota and engage in the practice of veterinary medicine and surgery for a period of at least two years. The board of higher education may temporarily waive the repayment of the note during the time the student is pursuing advanced study in veterinary medicine and surgery or during the time such student is in the military service of the United States of America.

**Section 3. Refund—Appropriation.)** Any payments made by veterinary medicine students who signed notes during the 1963-

1965 biennium in excess of the reduced amount of such notes shall be entitled to a refund of such excess, and there is hereby appropriated out of any moneys not otherwise appropriated in the general fund the sum of \$300.00 for the purpose of making such refunds.

Approved March 18, 1969.

---

## CHAPTER 159

H. B. No. 105

(Jenkins, Eagles, Bunker, Giffey, Freeman)

(Bullis, Strinden)

### RECIPROCAL HIGHER EDUCATION AGREEMENTS

#### AN ACT

Authorizing the state board of higher education to enter into agreements with institutions of higher education within this state and in contiguous states, governing the education and admission of certain students on a reciprocal basis.

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

**Section 1. Declaration of Legislative Intent.)** In order to make the most provident utilization of state institutions of higher education and private colleges in North Dakota, and public and private colleges and universities in contiguous states, and to avoid duplication of facilities, it is desirable to provide means which will enable a student resident within the areas served by such institutions of higher education to obtain his desired courses in the most expedient manner and at the least possible cost.

**Section 2. Agreements—Reciprocal Basis.)** Notwithstanding the provisions of section 15-10-18, the state board of higher education is hereby authorized to enter into agreements with public or private institutions of higher education, or the governing board thereof, in this state and in contiguous states on a reciprocal basis in order to accomplish the following:

1. To enable a student at any institution party to such an agreement to take a specialized course or courses at a different institution from that in which he is enrolled, with or without the payment of tuition charges at the other institution.

2. To enable a student enrolled in any of the institutions party to the agreement to attend another institution party to such agreement without being required to pay non-resident tuition fees and in accordance with the terms of such agreement.

**Section 3. Remission of Nonresident Tuition—Agreements.)** Notwithstanding the provisions of section 15-10-18, the state board of higher education may enter into agreements for the remission of nonresident tuition for designated categories of students at state institutions of higher education. Such agreements shall have as their purpose the mutual improvement of educational advantages for residents of this state and such other states or institutions of other states with whom agreements are made.

**Section 4. Procedures—Limitations.)** The state board of higher education may prescribe the procedures for carrying out the authority conferred by sections 2 and 3 of this Act. An agreement entered into pursuant to this Act shall provide for approximately equal advantages between the contracting institutions or the contracting states, and the board of higher education shall submit agreements entered into pursuant to this Act to the subcommittee on budget of the legislative research committee for its approval. No such agreements shall become effective without prior approval of this subcommittee.

**Section 5. Supplementary Authority.)** The authority granted the state board of higher education by this Act is supplemental to the authority granted such board by section 15-10-28.

Approved March 25, 1969.

## CHAPTER 160

H. B. No. 80  
(E. Johnson)

## STATE AID TO JUNIOR COLLEGES

## AN ACT

To amend and reenact sections 15-18-07 and 15-18-08 of the North Dakota Century Code, limiting state aid to only those junior colleges eligible to receive such aid on July 1, 1969.

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

**Section 1. Amendment.)** Section 15-18-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-18-07. State Aid for Junior Colleges or Educational Centers.)** There shall be paid to each school district maintaining a junior college or educational center operated by a state-supported institution of higher education meeting the standards and eligibility requirements prescribed in section 15-18-08, out of funds appropriated for this purpose, the sum of two hundred dollars which shall be paid immediately preceding October first of each year, for every student in attendance during the two full semesters or fall, winter and spring quarters. In addition, the sum of two hundred fifty dollars shall be paid immediately preceding October first of each year for every student in attendance during the two full semesters or fall, winter and spring quarters at a junior college or educational center, provided the school district, city or county shall levy taxes of not less than four mills for the support of such junior college or educational center in accordance with the provisions of sections 15-18-03, 15-18-04.2 or 15-18-05. For the purpose of this section, a "student" shall mean a person enrolled and in attendance, exclusive of temporary absences, in a junior college or educational center operated by a state-supported institution of higher education for a period of not less than thirty days, and carrying a course of study of not less than twelve class hours during each calendar week in academic courses meeting standards prescribed by the state board of higher education, or in trade courses meeting standards prescribed by the state board for vocational education. A class hour shall mean not less than fifty minutes of instruction or super-



vised laboratory training. Each student enrolled for a period of more than thirty days in any one quarter or semester, but less than two complete semesters or three complete quarters shall entitle the school district to receive proportionate payments based upon the number of weeks the student is enrolled and in attendance, exclusive of temporary absences, bears to the total weeks in the two complete semesters or three quarters. Such calculations shall exclude weeks of regular vacation time.

If the funds appropriated for the purpose of carrying out the provisions of this section should prove to be insufficient based on the number of students in attendance at a junior college or educational center as provided in this section, the amounts to be paid to such junior college or educational centers shall be reduced in such a manner so that the payments for each student in attendance at a junior college or educational center will be made on a pro rata basis.

**Section 2. Amendment.)** Section 15-18-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-18-08. Standards for State Aid.)** No school district maintaining a junior college or educational center operated by a state-supported institution of higher education shall be eligible to receive payments as provided in section 15-18-07 or as otherwise specifically provided by law unless it was established and eligible to receive such payments on July 1, 1969, and it maintains an enrollment at all times during all semesters or quarters for which payment is made of not less than one hundred "students" as defined in section 15-18-07 and meets either such academic standards as shall be prescribed by the state board of higher education, or the trade standards as shall be prescribed by the state board for vocational education. The state board of higher education shall provide for an annual inspection of each junior college or educational center operated by a state-supported institution of higher education to determine compliance with prescribed academic standards; and the state board for vocational education shall provide for an annual inspection of each junior college or educational center operated by a state-supported institution of higher education to determine compliance with prescribed trade standards.

Approved March 8, 1969.

## CHAPTER 161

H. B. No. 208  
(Jones, Swedlund)

ACCEPTANCE OF FEDERAL VOCATIONAL  
EDUCATION BENEFITS

## AN ACT

To amend and reenact section 15-20-01 of the North Dakota Century Code, relating to include the provisions and benefits of all Acts adopted by the United States Congress for vocational education.

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

**Section 1. Amendment.)** Section 15-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-20-01. Vocational Education—Acceptance of Benefits of Federal Acts.)** The state of North Dakota accepts all of the provisions and benefits of the Acts of the Congress of the United States of America to assist states to maintain, extend, and improve existing programs of vocational education and to develop new programs of vocational education at the secondary, post-secondary, and adult levels in accordance with state statutes and policies of the state board of public school education.

Approved March 25, 1969.

## CHAPTER 162

H. B. No. 210  
(Jones, Swedlund)

## CUSTODIAN OF VOCATIONAL EDUCATION FUNDS

## AN ACT

To amend and reenact section 15-20-02 of the North Dakota Century Code, relating to provide for the state treasurer to be the custodian of funds received under all Acts of the United States Congress for vocational education.

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

**Section 1. Amendment.)** Section 15-20-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-20-02. State Treasurer is Custodian of Vocational Education Funds.)** The state treasurer shall be the custodian of all moneys received by this state from any appropriations made by Congress as described in section 15-20-01, and he is authorized to receive and provide for the proper custody of such moneys and to make disbursements thereof in the manner and for the purposes provided for in the Acts of Congress within the framework of state fiscal policy. He shall pay out any moneys appropriated by this state for the purpose of carrying out any of the provisions of this chapter upon the order of the state board of public school education.

Approved March 25, 1969.

## CHAPTER 163

H. B. No. 207  
(Jones, Swedlund)

COOPERATION AMONG VOCATIONAL  
EDUCATION INSTITUTIONS

AN ACT

To amend and reenact section 15-20-06 of the 1967 Supplement to the North Dakota Century Code, relating to provide for an expansion of activities as provided in the vocational education amendments of 1968.

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

**Section 1. Amendment.)** Section 15-20-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-20-06. Cooperation of School Boards in Vocational Education.)** The governing body of any school district and the board of trustees of any county agricultural and training school may cooperate with the state board of public school education in the establishment and maintenance of schools, departments, or classes in vocational education giving instruction in agricultural, trade, industrial, home economics, distributive education, office education, health occupations, technical education subjects, and occupational information and guidance including prevocational and exploratory activities as approved by the state board for vocational education in accordance with its policies and Acts of Congress and may use any moneys raised by public taxation for such purposes in the same manner as the moneys for other school purposes are used for the maintenance and support of public schools. When any school, department or class giving instruction in vocational education has been approved by the state board of public school education it shall be entitled to share in any federal and state funds available for vocational education.

Approved March 25, 1969.

## CHAPTER 164

H. B. No. 209  
(Jones, Swedlund)

REIMBURSING SCHOOLS TEACHING  
VOCATIONAL EDUCATION COURSES

## AN ACT

To amend and reenact section 15-20-08 of the North Dakota Century Code, relating to increasing the federal percentage of funds that may be used for reimbursements of salaries of vocational education teachers to conform with provisions of recently enacted federal legislation.

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

**Section 1. Amendment.)** Section 15-20-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-20-08. Reimbursement of Schools Teaching Subjects in Vocational Education.)** The state board of public school education acting through the office of the superintendent of public instruction, shall reimburse approved schools, departments, or classes giving instruction in the vocational education subjects described in this chapter from federal funds allocated to the state for the purpose of vocational education and related activities. The board may prorate the sums available among the various schools, departments, or classes meeting the requirements of this chapter and rules and regulations of the board relating to vocational education if funds are insufficient to reimburse at the rate established by the board.

Approved March 25, 1969.

## CHAPTER 165

H. B. No. 504  
(Lundene, Sanstead, Eagles)

EXECUTIVE OFFICER OF STATE BOARD  
OF VOCATIONAL EDUCATION

AN ACT

To amend and reenact subsection 4 of section 15-20-12 of the North Dakota Century Code, relating to the executive officer of the state board.

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

**Section 1. Amendment.)** Subsection 4 of section 15-20-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Executive officer of the board" shall mean the director;

Approved March 14, 1969.

## CHAPTER 166

H. B. No. 503  
(Lundene, Sanstead, Eagles)

DIVISION OF VOCATIONAL  
REHABILITATION

AN ACT

To amend and reenact section 15-20-13 of the North Dakota Century Code, relating to executive officer of the state board.

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

**Section 1. Amendment.)** Section 15-20-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-20-13. Director of Division of Vocational Rehabilitation and Executive Officer of the Board.)** The state board shall contain a division of vocational rehabilitation. The division shall be administered, under the general supervision and direction of the state board by a director appointed by such board, in accordance with established personnel standards and on the basis of his education, training, experience and demonstrated ability. In carrying out his duties under this chapter, the director:

1. Shall make regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility, and investigation and determination thereof, for vocational rehabilitation services, procedures for fair hearings and such other regulations as he finds necessary to carry out the purposes of this chapter;
2. Shall establish, with the approval of the state board, appropriate subordinate administrative units within the division;
3. Shall appoint, with the approval of the state board, such personnel as he deems necessary for the efficient performance of the functions of the division;
4. Shall prepare and submit to the state board annual re-

ports of activities and expenditures and, prior to each regular session of the legislature, estimates of sums required for carrying out this chapter and estimates of the amounts to be made available for this purpose from all sources;

5. Shall make certification for disbursement, in accordance with regulations, of funds available for vocational rehabilitation purposes;
6. Shall take, with the approval of the state board, such other action as he deems necessary or appropriate to carry out the purposes of this chapter; and
7. May delegate, with the approval of the state board, to any officer or employee of the division such of his powers and duties, except the making of regulations and the appointment of personnel, as he finds necessary to carry out the purposes of this chapter.

Approved March 14, 1969.

---

## CHAPTER 167

H. B. No. 447  
(Lundene, Sanstead, Eagles)

### ADMINISTRATION OF VOCATIONAL REHABILITATION

#### AN ACT

To amend and reenact section 15-20-14 of the North Dakota Century Code, relating to administration of vocational rehabilitation.

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

**Section 1. Amendment.)** Section 15-20-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-20-14. Administration of Vocational Rehabilitation.)** Except as otherwise provided by law, the state board shall provide vocational rehabilitation services to disabled individuals determined by the director to be eligible therefor. In carrying



out the purposes of this chapter, the division among other things, may:

1. Cooperate with other departments, agencies, and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the purposes of this chapter, such programs, facilities and services as may be necessary or desirable;
2. Enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned;
3. Conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals.

Approved March 26, 1969.

---

CHAPTER 168

H.B. No. 197  
(Sanstead)

LIMITATIONS ON SCHOOL DISTRICT ANNEXATION

AN ACT

To repeal section 15-27-06 of the North Dakota Century Code, relating to limitations in school district annexation.

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

**Section 1. Repeal.)** Section 15-27-06 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.

## CHAPTER 169

H. B. No. 381  
(Dawson, Rivinius)

STUDENT ATTENDING ADJACENT  
OUT-OF-STATE SCHOOL

AN ACT

To create and enact section 15-27-21 of the North Dakota Century Code, relating to North Dakota students attending schools in adjacent out-of-state schools, and continuing to do so after annexation or reorganization of their districts of residence; and to amend and reenact section 15-40-15 of the North Dakota Century Code, relating to reciprocal agreements for payment to out-of-state school districts for resident students attending school in such districts.

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

**Section 1.)** Section 15-27-21 of the North Dakota Century Code is hereby created and enacted to read as follows:

**15-27-21. Certain Students Attending Schools in Border States Not Affected by Reorganization or Annexation.)** Students residing in a district annexed to or reorganized with another district or districts within North Dakota attending school in a bordering state because of proximity or terrain shall be permitted to continue attending school in a district in a bordering state. Any parent or guardian of a child, whether or not he has attended school in a district in a bordering state who is denied the right to attend a school in a school district in a bordering state by the school board of his district of residence, may appeal such decision to a county committee, consisting of the county superintendent of schools, the county judge, and the state's attorney. If the committee shall find the attendance of the student or students in question is necessitated by terrain or proximity, it shall approve the payment of tuition charges by the district of residence. The decision of the county committee may be appealed by the school board or the parent or guardian of the child to the state board of public school education, whose decision shall be final. Upon notification by the admitting district of the failure of the district of residence to pay such tuition charges, all county equalization payments and payments from the state to the district of residence shall be withheld in the same manner as provided in section 15-40-17 for high school

students and in accordance with subsection 14 of section 15-29-08 for elementary students.

**Section 2. Amendment.)** Section 15-40-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-15. Reciprocal Agreement for Payment from County Equalization Fund.)** The superintendent of public instruction may enter into reciprocal agreements with the state educational agencies or officers of bordering states in regard to the attendance of elementary and high school pupils in a bordering state and payments from the county equalization fund for high school and elementary students attending public schools in a bordering state. Such agreements may provide for the payment from the county equalization fund for students from North Dakota attending schools in adjoining states in sums equal, on a per student basis, to payments from the county equalization fund received by North Dakota schools. The superintendent of public instruction by certificate to the department of accounts and purchases may authorize such payments, from the appropriation for state school aid to the county equalization fund, to schools in adjoining states for the attendance of such high school and elementary students. The payment by the district of residence for each student shall not exceed the payments established by reciprocal agreement less the amounts otherwise paid for such student under the provisions of this chapter. The department of accounts and purchases, within the limits of legislative appropriation, shall make such payments to the appropriate public school, school district or agency of the adjoining state. Such reciprocal agreements may include, but shall not be limited to, payments for tuition and transportation costs connected with the education of such children in bordering states.

Approved March 17, 1969.

H. B. No. 141  
(Bier)

**DESTRUCTION OF SCHOOL DISTRICT  
WARRANTS AND DOCUMENTS**

**AN ACT**

To amend and reenact sections 15-29-14, 21-06-05, and 21-06-06 of the North Dakota Century Code, relating to the destruction of school district warrants and documents.

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

**Section 1. Amendment.)** Section 15-29-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-29-14. Warrants—Cancellation—Destruction—Description in Minutes.)** The school board, at a regular meeting, may cancel and destroy all warrants drawn on any fund of the school district which have remained on file for a period of six years or more next preceding the regular meeting on which the cancellation takes place. The school board may cancel all warrants and checks which have been subject to payment and which have not been presented for payment for a period of six years or more next preceding such regular meetings. The school board, before canceling any such warrants or checks, shall cause to be entered in the minutes of its proceedings a brief description of the warrant or check, containing the name of the payee, and the number, date and amount of each warrant or check to be canceled. If the party entitled to any such warrant or check, or to payment thereon, shall appear thereafter and give good and sufficient reason for his delay in calling for such warrant or in presenting the same for payment, the school board may issue to him a new warrant or check in the amount to which he is entitled, except for the statute of limitations. After the same have been first offered to the state historical society, the school board may destroy by burning any canceled warrant after the passage of six years from its date of cancellation.

**Section 2. Amendment.)** Section 21-06-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-06-05. Documents Which May Be Destroyed—When.)** All bonds, bond coupons for interest, warrants, special assessment warrants, and any and all other documents evidencing debt made or executed by any school district, city or park district in the state may be destroyed when ten years have elapsed after their payment, and when the period within which an action might be commenced to determine the validity of such documents has expired.

**Section 3. Amendment.)** Section 21-06-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-06-06. Procedure for Destruction of Documents.)** The governing body of any school district, city or park district desiring to destroy any documents described in section 21-06-05, at its first meeting in January of each year, shall procure from the auditor or clerk of such school district, city or park district a list of such documents which have been paid more than ten years prior to such time and against which the period within which an action might be commenced to determine the validity of such documents has expired, which said list shall contain a full statement and description of the documents desired to be destroyed, and thereupon shall check said documents with such lists. If found correct, the said governing body by resolution shall order said documents to be destroyed and in said resolution shall provide the manner of such destruction. The list provided for in this section shall be filed in the office of the city auditor or clerk of the school district or park district and retained as a permanent record.

Approved March 8, 1969.

## CHAPTER 171

S. B. No. 335  
(Freed)

**FURNISHING VEHICULAR TRANSPORTATION  
TO FAMILIES WITHIN SCHOOL DISTRICT**

AN ACT

To amend and reenact section 15-34-05 of the North Dakota Century Code, relating to the furnishing of vehicular transportation, lodging, or tuition by school boards to families living within the school district.

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

**Section 1. Amendment.)** Section 15-34-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-34-05. Vehicular Transportation, Lodging, or Tuition May Be Furnished at Option of School Board.)** The school board of any school district in the state, in its discretion, may furnish to each family living in the district:

1. Vehicular transportation; or
2. The equivalent of the payments specified in section 15-34-04 in lodging or tuition at some other public school if the same is acceptable to the family.

The board shall not accord the benefits of either subsection 1 or subsection 2 of this section to any family which is receiving payments under section 15-34-04. In the event any school board elects to furnish vehicular transportation by public conveyance, the distance that each student must reside from his school in order to be entitled to such transportation may be determined by the school board in each district, but all students in the district shall be treated on the same basis in accordance with such determination. The school board of any school district in the state may furnish transportation to a nonresident student or students only upon entering into an agreement for such transportation with the district of the student's residence. All transportation payments shall be withheld on nonresident students if the school board of the district furnishing transportation to

nonresident students does not enter into an agreement with the district of the student's residence.

Approved March 26, 1969.

---

CHAPTER 172

H. B. No. 175  
(Knudson)

TEACHERS' REPRESENTATION AND NEGOTIATION

AN ACT

To provide procedures for representative organizations of public school teachers to negotiate with school boards with reference to employer-employee relations; to establish procedures to be used in the event of disagreement; and to establish an education factfinding commission.

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

**Section 1. Purpose.)** In order to promote the growth and development of education in North Dakota which is essential to the welfare of its people, it is hereby declared to be the policy of this state to promote the improvement of personnel management and relations between school boards of public school districts and their certificated employees by providing a uniform basis for recognizing the right of public school certificated employees to join organizations of their own choice and be represented by such organization in their professional and employment relationships with the public school districts.

**Section 2. Definitions.)** As used in this chapter:

1. "Teachers" means and includes all public school employees certificated under chapter 15-36 of the North Dakota Century Code and employed primarily as classroom teachers;
2. "Administrator" means and includes all public school employees employed primarily for administration of the school or schools of a school district and devoting at least fifty percent of their time in any one year to the duties of administration of the school or schools of a school district;

3. "Strike" means any concerted work stoppage, slow-down, or withholding of contracted services;
4. "Appropriate negotiating unit" means a group of teachers having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with a school board;
5. "Appropriate negotiating unit" means a group of administrators having common interests, common problems, a common employer, or a history of common representation, which warrants that group being represented by a single representative organization in negotiations with a school board;
6. "Representative organization" means any organization authorized by an appropriate negotiating unit to represent the members of the unit in negotiations with a school board.

**Section 3. Factfinding Commission—Appointment—Terms—Quorum.)** There is hereby created a commission to be known as the "education factfinding commission", hereinafter called "the commission", which shall consist of three members, one to be appointed by the superintendent of public instruction, one by the governor, and one by the attorney general. The appointee of the superintendent of public instruction shall be the chairman of the commission. The members of the commission shall be persons experienced in educational activities. The original appointment by the superintendent of public instruction shall be for a term of three years. The original appointment by the governor shall be for a term of two years. The original appointment by the attorney general shall be for a term of one year. Their successors shall be appointed for terms of three years each, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the member whom he shall succeed. At all times, two members of the commission shall constitute a quorum.

**Section 4. Compensation of Commission and Factfinders.)** Members of the commission shall receive twenty-five 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 5. 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 Act, 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 6. Cost of Factfinding.)** The cost of factfinding proceedings, including per diem, compensation, and other costs, shall be borne as follows:

1. In those cases where the proceedings to resolve an impasse arises under subdivisions a, b, c, or d of subsection 1 of section 13 of this Act, the cost shall be borne equally among the contending parties.

**Section 7. Right to Organize or Not Organize.)**

1. Teachers, or administrators, shall have the right to form, join, and participate in the activities of representative organizations of their choosing for the purpose of representation on matters of employer-employee relations.
2. Teachers, or administrators, shall also have the right to refuse to join or participate in the activities of representative organizations.

**Section 8. Right to Negotiate.)** Representative organizations shall have the right to represent the appropriate negotiating unit in matters of employee relations with the school board. Any teacher, or administrator, shall have the right to present his views directly to the school board.

**Section 9. Subject of Negotiations.)** The scope of represen-

tation shall include matters relating to terms and conditions of employment and employer-employee relations, including, but not limited to salary, hours, and other terms and conditions of employment.

**Section 10. Determination of Appropriate Negotiating Unit.)** Representative organizations may be designated or selected by the majority of teachers, or administrators, employed in the public school district.

1. Any group of teachers, or administrators, employed in a public school district may determine an appropriate negotiating unit by filing with the school board a description of the grouping of jobs or positions which constitute the unit claimed to be appropriate. Upon receipt of such determination, the school board shall accept or reject the proposed appropriate negotiating unit. After the school board has accepted the appropriate negotiating unit, the teachers, or administrators, within such unit may designate or select a representative organization in the manner described in section 11 of this Act.

**Section 11. Selection of Representative Organization.)**

1. Uncontested selection. Any organization having an interest in representing teachers, or administrators, may file with the school board a petition alleging that it represents a majority of teachers, or administrators, included within an appropriate negotiating unit. Such petition shall be accompanied by evidence substantiating the allegation contained in it. Within ten days after receipt of such petition, the school board shall publish a notice of intent to consider the petition, by posting such notice in each school building in which members of the appropriate negotiating unit are employed. Not less than ten nor more than twenty days after publication of the notice of intent to consider, the school board shall investigate the petition, determine the question of representation, and publish its determination in the same manner as it published its notice of intent to consider. If the petition has not been contested, the school board shall recognize the petitioner as the representative organization of the appropriate negotiating unit unless it finds in good faith that a reasonable doubt of such representation exists.

2. Contested selection. Any organization having an interest in representing teachers, or administrators, and contesting the claim of representation made in the petition must file with the school board its written statement of contest with its evidence substantiating the allegation within ten days after the publication of the notice of intent to consider.
3. The school board shall call an election to determine the question of representation not less than twenty, nor more than thirty days after the posting of the notice of intent to consider, if:
  - a. The school board has failed to make and publish its determination; or
  - b. The school board has published its determination, and that determination has been contested by a petitioner or contestant.
4. The school board shall call an election to determine the question of representation not less than ten nor more than thirty days after twenty-five percent of the members of an appropriate negotiating unit petition for such election.
5. The conduct of the election shall be in the manner agreed to among the interested parties. If the interested parties cannot agree, the election shall be conducted in the manner determined by the commission under its rules and regulations.
6. When a representative organization has been selected, its authority to represent the negotiating unit shall continue for at least one year from the date of such selection.

#### **Section 12. Good Faith Negotiations.)**

1. The school board, or its representatives, and the representative organization, selected by the appropriate negotiating unit, or its representatives, shall have the duty to meet at reasonable times at the request of either party and to negotiate in good faith with respect to:

- a. Terms and conditions of employment and employer-employee relations.
  - b. The formulation of an agreement, which may contain provision for binding arbitration.
  - c. Any question arising out of interpretation of an existent agreement.
2. The parties must execute a written contract incorporating any agreement reached if requested by either party.
  3. Either party to a contract negotiated under this section may modify or terminate the contract on its annual anniversary date by giving notice of its desire to modify or terminate to the other party not less than sixty days prior to the annual anniversary date.
  4. The obligations imposed in this section shall not compel either party to agree to a proposal or to make a concession.

**Section 13. Impasse Procedures.)**

1. An impasse shall be deemed to exist under any of the following conditions:
  - a. Where an agreement as set forth in subdivision b of subsection 1 of section 12 of this Act has not been formulated and after a reasonable period of negotiation regarding terms and conditions of employment or employer-employee relations, a dispute exists between a school board and any representative organization, an impasse may be deemed to exist.
  - b. When both parties agree that an impasse exists.
  - c. In the event that the written agreement reached under section 12 of this Act does not include procedures for resolving a dispute which arises, an impasse may be deemed to exist.
  - d. Written agreements negotiated under section 12 of this Act may include procedures to be invoked in

the event of disputes under the contract. Where such procedures are inadequate to resolve the dispute an impasse may be deemed to exist.

2. An impasse may be resolved in the following manner:
  - a. The parties may agree upon mediation of the controversy by mutually selecting a mediator or mediators, and agreeing to a distribution of the cost of the mediation.
  - b. If mediation fails or is not attempted, the aggrieved school board of representative organization may request the commission to render assistance as provided in this section.
    - (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 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, shall ten days thereafter be made 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 ten days thereafter make its findings and recommendations public.

**Section 14. General Provision.)**

1. No teacher, administrator or representative organization shall engage in a strike.
2. Nothing contained herein is intended to or shall conflict with, contravene, abrogate, or diminish the powers, authority, duties, and responsibilities vested in boards of education by the statutes and laws of the state of North Dakota.
3. School boards or administrative officers thereof shall not discriminate against teachers because of their exercise of rights under this Act.
4. A contract between the representative organization and the school board shall bar any other representative group from petitioning for recognition or for the withdrawal of existing recognition, for the term of the contract or three years, whichever is less.
5. Any teacher engaging in a strike or any other activity prohibited in subsection 1 hereof may be denied the full amount of his wages during the period of such violation.

**Section 15. Savings Clause.)** If any section, subsection, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

Approved March 29, 1969.

## CHAPTER 173

S. B. No. 371  
(Longmire)

**TEACHERS' INSURANCE AND RETIREMENT FUND****AN ACT**

To create and enact section 15-39-37.1 of the North Dakota Century Code, relating to the counting of advanced training as teacher service under the teachers' insurance and retirement fund; to amend and reenact sections 15-39-01, 15-39-15, 15-39-26, 15-39-29, 15-39-36, 15-39-40 and 21-10-06 of the North Dakota Century Code, relating to definitions, crediting of teaching service, withdrawal and reinstatement, retirement and annuity credits, investment of moneys, selection of retirement options, credit for military service under the teachers' insurance and retirement fund, and funds under the management of the state investment board.

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

**Section 1. Amendment.)** Section 15-39-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-01. Definitions.)** In this chapter, unless the context or subject matter otherwise requires:

1. "Teacher" shall include:
  - a. All persons employed in teaching in any state institution or by any school board or other governing body of any school district of this state;
  - b. All superintendents, assistant superintendents, and business managers employed in any state institution or in the school system of any school district in this state except that in the case of the Grafton state school, the superintendent or assistant superintendent may, at his option, be defined as a teacher for the purposes of this chapter;
  - c. All principals, assistant principals, and special teachers in any state institution or in the school system of any school district in this state;

- d. The superintendent of public instruction and all county superintendents of schools and their assistants;
  - e. All supervisors of instruction;
  - f. All state school inspectors and supervisors;
  - g. Every person engaged as president, dean, school librarian, or registrar of any state institution;
  - h. The secretary of the North Dakota education association and any assistants to the secretary holding at least a first grade professional certificate;
  - i. The commissioner of higher education; and
  - j. Any person who serves in the capacity of substitute or part-time teacher and earns more than the maximum allowed by the Federal Social Security Act for the receipt of full social security benefits in any one school year.
2. "State institution" shall include:
- a. The university of North Dakota;
  - b. North Dakota state university;
  - c. All county agricultural and training schools;
  - d. All state teachers' colleges;
  - e. The school of forestry;
  - f. The school of science;
  - g. The school for the blind;
  - h. The school for the deaf and dumb;
  - i. The Grafton state school; and
  - j. The state training school.
3. "The board" shall mean the board of trustees of the teachers' insurance and retirement fund.



4. "The fund" shall mean the teachers' insurance and retirement fund.

The term "teacher" shall not include persons connected with any professional school or college of any state institution as lecturers who are engaged in the practice of their respective professions and with whom teaching is merely an avocation.

**Section 2. Amendment.)** Section 15-39-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-15. Teacher Coming from School Not Included in Provisions of Chapter to Pay Back Assessments.)** Any teacher who comes from a school or educational institution supported by public taxation out of North Dakota and becomes a teacher in a public school or state institution within North Dakota may elect to have any or all years of out-of-state teaching accredited in North Dakota provided he declares his request to the board of trustees of this fund for such out-of-state credit within the first year after he begins teaching in North Dakota or within one year of the time when such out-of-state teaching combined with teaching within North Dakota shall aggregate twenty-five years. Every such teacher shall be advised of the provisions of this section by the school board in writing at the time of employment, and a copy of such notice with written acknowledgment thereof, shall be filed with the teachers' insurance and retirement fund board. Before receiving any retirement annuity, he shall pay assessments to the fund for the number of years out-of-state teaching he elects based upon his first annual salary in a public school or state institution in this state, or, if he has taught in North Dakota previously, upon his first salary in the state after his resumption of teaching in this state. After July 1, 1949, assessment payments on out-of-state teaching shall be equal to the percentage or amount that would have been assessed against his salary and interest and the amount of matching payment and interest in dollars that would have been paid by the school district or state institution during the years immediately preceding employment in the state for which credit is granted. Any teacher who shall have paid assessments to the fund for out-of-state teaching in excess of the amounts herein provided under any law existing at such time shall upon his request have such excess assessment refunded to him. The rate of interest shall be equal to the rate being paid on one-year certificates of deposit by the bank of North Dakota.

**Section 3. Amendment.)** Section 15-39-26 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-26. Investment of Moneys In Fund.)** Investment of the fund shall be under the supervision of the state investment board in accordance with chapter 21-10, except that the state investment board shall have the authority to contract with insurance companies, trust banks, or other financial institutions to hold and invest fund moneys, provided that the total amount of all moneys so placed shall not exceed an amount equal to twenty percent of the total moneys of the fund. Such moneys shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. Such moneys may be expended by the state investment board by the preparation of an appropriate voucher and submitting such voucher to the department of accounts and purchases.

**Section 4. Amendment.)** Section 15-39-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-29. Options of Teachers Eligible to Receive Annuities.)** At any time after his retirement under the circumstances provided in this chapter and before the first annuity payment shall become due, a teacher may elect to receive the actuarial equivalent, at that time, of the regular retirement allowance for life, in the form of a reduced retirement allowance payable throughout his life with either, but not both of the following additional provisions:

**OPTION ONE.** Upon the death of the teacher, the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as the teacher shall have nominated by written designation filed with the board at the time of retirement; or

**OPTION TWO.** Upon the death of the teacher, one-half of the reduced retirement allowance shall be continued throughout the life of, and paid to, such person as the teacher shall have nominated by written designation filed with the board at the time of retirement.

The amount of the reduced retirement allowance payable upon the exercise of either of such options shall be computed upon an actuarial basis through the use of standard actuarial tables and based upon the ages of the teacher and his designated beneficiary. In the event that a teacher's death occurs subsequent to July 1, 1968, who has met all requirements for an annuity, but who fails to select one of the options provided in this section, the beneficiary may select either option one or option two, or, if the teacher has selected either option one or option two, but has not received any benefit or annuity, the beneficiary may elect to receive all the assessments paid by such teacher together with simple interest equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota. Such annuities shall commence as of the day of the teacher's death.

A teacher who has met all requirements for an annuity, except that of actual retirement from teaching, but continues to teach shall have the right to select option one or option two, as described in this section, and to name a beneficiary to receive, in the event of the teacher's death, the reduced retirement allowance as provided in this section and in section 15-39-28. If a continuing teacher should die before retiring from teaching, he shall be considered to have retired on the date of his death, and his designated beneficiary, if living, shall receive the retirement allowance for life as provided by the terms of the option selected by the beneficiary. The reduced retirement allowance shall be computed on the ages of teacher and beneficiary as of the date of death of the teacher. Should a continuing teacher later retire voluntarily, before death, then this section and section 15-39-28 shall apply. If an applicant for annuities under subsections of this section has not paid into the fund assessments equal to the amounts required to be paid under section 15-39-14, he shall pay any deficiency into the fund before receiving the annuity.

**Section 5. Amendment.)** Section 15-39-36 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-36. Military Service in National Emergency Counted As Teaching Service.)** A teacher who has been granted an honorable discharge from the United States armed forces for services rendered, if he was engaged in the occupation of teaching in North Dakota within twenty-four months of the time of entering the service, or who had been engaged in teaching in

North Dakota prior to such time but was attending an institution of higher learning for the purpose of improving himself in such profession within twenty-four months of the time of entry into the armed services, shall be entitled to have the time of such service counted as teaching service under the provisions of this chapter, upon the payment of the assessments which would have been collected from him if he had continued as a teacher during the time of such service. Such back assessments for military service and teaching time must be paid prior to or at the time of retirement under this chapter, provided that

1. The period of military service included shall not exceed seven years; and
2. A period of not less than the last five years of teaching must have been within the state of North Dakota; and
3. Payment on back assessments for years of teaching shall include simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, provided that no interest shall be charged on assessments for time spent in the military service.

Any teacher who has elected to have such military service counted as teaching service may notify the board of his decision not to have such military service counted as teaching service, and shall have his assessment, and the accrued interest thereon, reduced correspondingly, provided that such decision and notification to the board shall be made prior to the time that any portion of the assessment for military service has been paid by him. Any teacher who shall have made payments of or upon back assessments for military service may, prior to retirement, notify the board of his intention to reject such military service credit, and the board shall forthwith refund to such teacher all assessments paid into the fund by such teacher as back assessments for military service together with simple interest at a rate of interest equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota. Any teacher claiming a refund of such assessments for military service may again at the time of his retirement elect to have such military service time credited to him as teaching service in accordance with the provisions of this section.

**Section 6.)** Section 15-39-37.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**15-39-37.1 Period of Advanced Training Counted as Teaching Service.)** A teacher who, after July 1, 1969, attends a college, university, or other recognized school during periods other than summer sessions, for the purpose of improving his qualifications in the teaching profession shall be entitled to have such periods while in attendance at such college, university, or school credited as teaching service under the provisions of this chapter upon the payment of the assessments which would have been collected from him if he had continued as a teacher during the time of such college, university, or school attendance, plus the payment by him of the amount that would have been paid to the fund in his behalf from the school district or state institution where he was employed. Such back assessments must be paid prior to or at the time of retirement under this chapter, provided that:

1. The teacher must have taught at least one full school year in North Dakota immediately preceding his entrance into the college, university, or school and that immediately following such training he shall have taught not less than one full school year in a public school or state institution of this state; and
2. The period of college, university, or school attendance that may be credited as teaching service shall not exceed three full academic years, exclusive of summer schools; and
3. Payments on back assessments shall be based on the salary received by the teacher during the first year of teaching following the college, university, or school attendance, together with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, except that no interest shall be charged on assessments for the period while actually in attendance at the college, university, or school.

**Section 7. Amendment.)** Section 15-39-40 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-40. Withdrawal of Member from Fund—Death of Member—Refund.)** Any teacher who shall cease to be a teacher in the public schools or state institutions of this state without receiving any benefit or annuity from the fund upon such re-

tirement, upon making written application therefor to the board shall be entitled to the return of one-half of the amount of assessments which he has paid into the fund on salaries earned prior to July 1, 1947, and the return of the full amount of assessments which he has paid into the fund on salaries earned after July 1, 1947, with interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota. If such teacher, after having withdrawn from the fund as provided in this section, shall again become a teacher in the public schools or state institutions of this state, he may, prior to or at the time of retirement under this chapter, elect either to return to the fund the amount which was returned to him, with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, from the time of such withdrawal, or to commence participation in the fund as though teaching for the first time. Any teacher who shall have made payments for the purpose of returning withdrawals to the fund, may, prior to retirement, notify the board of his intention to reject credits for prior teaching in North Dakota, and the board shall thereupon refund to such teacher all money paid into the fund as a return of previous withdrawals, together with simple interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota. Any such teacher may again at the time of retirement under this chapter elect to return such withdrawals to the fund, and shall at the time be permitted to pay the amount of such withdrawals into the fund together with interest at a rate equal to the rate being paid on one-year certificates of deposit by the Bank of North Dakota, and receive credit for such prior teaching.

Any teacher who has elected to have out-of-state teaching service counted as teaching service under the provisions of this chapter, may notify the board of his decision not to have such out-of-state service counted as teaching service, and shall have his assessment, and the accrued interest thereon, reduced correspondingly, provided that such decision and notification to the board shall be made prior to the time that any portion of the assessment for out-of-state teaching service has been paid by him. If the teacher who is or was a member of the fund shall die before he has retired as provided in this chapter his designated beneficiary, or if no beneficiary has been designated, his executor or administrator, or if no executor or administrator has been appointed then the surviving spouse or heirs at law shall be entitled to receive from the fund the total

amount without interest to which the beneficiary or heirs may be entitled.

For purposes of this section, assessments returned or re-funded shall include those assessments that have been paid into the fund for military service and out-of-state teaching service.

**Section 8. Amendment.)** Section 21-10-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-10-06. Funds Under Management of Board—Accounts.)** The board shall be charged with the investment of the following funds:

1. State bonding fund;
2. Teachers' insurance and retirement fund, in accordance with section 15-39-26;
3. State fire and tornado fund;
4. Workmen's compensation fund; and
5. Highway patrolmen's retirement fund.

Separate accounts shall be maintained for each of the above funds and the moneys or securities of the individual funds shall not be commingled. However, when it is deemed advantageous in the purchase, sale, or exchange of securities, securities belonging to one or more of the funds or the Bank of North Dakota may be purchased, sold, or exchanged as part of a single transaction. In the event of such sale, the respective funds shall immediately be credited with their proportionate share of the proceeds. In the event of such purchase or exchange, title to the securities shall be taken in the name of the individual funds, proportionate to their share of the total purchase price.

The board of university and school lands shall consult with the state investment board of the director thereof on investment policies, and the board of university and school lands may delegate authority to the state investment board or the investment director to make such purchases, sales, or exchanges on its behalf.

Approved March 29, 1969.

S. B. No. 258  
(Longmire)

**ASSESSMENTS UNDER TEACHERS'  
INSURANCE AND RETIREMENT PROGRAM**

AN ACT

To create and enact section 15-39-42 of the North Dakota Century Code, relating to freezing of certain rights and obligations under the teachers' insurance and retirement fund; and to amend and reenact sections 15-39-14 and 15-39-17, subsection 1 of section 15-39-28, and section 15-39-28.1 of the North Dakota Century Code, relating to amount of assessment, forwarding of assessment, amount of annuity, and annuity minimums under the teachers' insurance and retirement fund.

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

**Section 1. Amendment.)** Section 15-39-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-14. Amount of Assessments.)** Every teacher who is a member of the fund shall be assessed upon his salary for the teachers' insurance and retirement fund. The total amount of assessments paid, however, shall not be less than the full amount of annuity to which the teacher shall be entitled under the provisions of this chapter for the first year of retirement. When a political subdivision or institution covered by the benefits of the teachers' retirement fund provides sick leave and employs substitute teachers at additional cost to said subdivisions or institutions, they shall be assessed three percent per annum but in no event be required to pay in excess of one hundred fifty dollars per year as matching fund for any one teaching position. Teachers employed on a full-time basis shall be assessed three percent per annum, but not more than two hundred twenty-five dollars per year.

**Section 2. Amendment.)** Section 15-39-17 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-17. Assessments and Contributions and Statements Thereof To Be Forwarded to County Treasurer.)** The disbursing



officers of each school district, and of each county, between June twentieth and June thirtieth of each year, shall forward to the treasurer of the county the assessments deducted and retained as provided in this chapter, and in addition thereto, contributions to the fund in an amount equal to assessments shall be set aside from funds available for the payment of the salary of the teachers, except that no contribution by any school district, as determined by a teacher's contribution, shall exceed two percent of the teacher's salary or one hundred fifty dollars per year as matching fund for any one teaching position. Such contributions shall be forwarded to the treasurer of the county. Provided, however, that if a teacher fails to complete the term, the district shall not be required to match said teacher's salary in entirety but shall pay the proportional part of the maximum assessments required for the time that teacher taught, unless such requirement increases the amount of assessments to be paid in which event the assessments shall be that computed on the actual salary the teacher received. Said disbursing officer shall forward the contributions with a statement, verified by the clerk of the school district or the county auditor, as the case may be, and containing the following information:

1. The name and monthly salary of each teacher;
2. The number of months of school taught during the school year for which the statement is made by each teacher in the public schools of the district or school organization over which the governing board has jurisdiction;
3. The number of months during which schools were operated in each district or school organization in the year covered by the report;
4. The total salary of each teacher;
5. The total amount withheld from the salary of each teacher and contributed by the school district or county in accordance with the provisions of this chapter;
6. The total amount withheld from the salaries of all the teachers in the district or school organization for the school year next preceding; and
7. The total number of years each teacher listed in the report has taught in the public schools of the state.

**Section 3. Amendment.)** Subsection 1 of section 15-39-28 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. If said teacher shall have attained the age of fifty-five years at the time of applying for the annuity, he annually and for life, shall be entitled to receive as an annuity a sum equal to two percent of the total earnings as salary for the years of teaching service for which assessments were paid. Said annuity, however, shall not be less than seven hundred fifty dollars in any one year upon completion of twenty-five years of service and shall be subject to all the provisions of this chapter. Provided, however, a teacher who has completed twenty-five years of teaching service in compliance with the retirement law and has earned an annuity of fifteen hundred dollars at that age and continues to teach beyond that time shall be eligible to annuity increases of seventy-five dollars per year, for each year of teaching thereafter. Provided further that a teacher who has completed twenty-five years of teaching service in compliance with retirement law and attained the age of fifty-five may have her annuity calculated at that age and granted the seven hundred fifty dollar minimum if her total salary is less than thirty-seven thousand five hundred dollars. Provided further that if said teacher continues to teach the annuity shall be increased by one hundred twenty-five dollars per year until the annuity reaches fifteen hundred dollars after which time the annuity shall be increased by seventy-five dollars per year.

**Section 4. Amendment.)** Section 15-39-28.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-39-28.1 Retirement Annuities—Minimum.)** Notwithstanding any other provision of law to the contrary, the amount of annuity payable to any teacher who has retired under the provisions of this chapter after the completion of twenty-five years of teaching, shall not be less in amount than the sum of seventy-five dollars per month, but the provisions of this section shall not apply to the annuity of any teacher who has selected retirement allowance option 1 or 2 as contained in section 15-39-29 or the retirement option provided in subsection 4 of section 15-39-27. Provided, however, that any teacher who has taught in North

Dakota and paid into the fund for twenty-five years or more and has reached the age of sixty-five shall receive an annuity of not less than the sum of one hundred dollars per month.

**Section 5.)** Section 15-39-42 of the North Dakota Century Code is hereby created and enacted to read as follows:

**15-39-42. Certain Rights and Obligations Fixed.)** Notwithstanding any other provision of chapter 15-39, the laws pertaining to the teachers' insurance and retirement fund as contained in chapter 15-39 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 such 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.

Approved March 28, 1969.

## CHAPTER 175

S. B. No. 432  
(Lips, Trenbeath, Nasset)

LEGISLATIVE INTENT IN REGARD  
TO THE FOUNDATION PROGRAM

AN ACT

To amend and reenact section 15-40-12 of the North Dakota Century Code, relating to the foundation program payments.

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

**Section 1. Amendment.)** Section 15-40-12 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-12. Declaration of Legislative Intent.)** It is the intent of the legislative assembly to support elementary and secondary education in this state from state and county funds based on the educational cost per pupil exclusive of the cost of physical facilities, transportation and current indebtedness. It is hereby found that the educational cost per pupil during the first year of the 1969-1971 biennium is two hundred thirty dollars and for the second year of the biennium the educational cost is two hundred forty dollars and shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in sections 15-40-14 and 15-40-24. School districts operating high schools not meeting the minimum curriculum as provided in section 15-41-24 or the teacher qualifications in section 15-41-25 shall have an educational cost of two hundred twenty dollars which shall be the basis for calculating grants-in-aid on a per-pupil basis as provided in section 15-40-14 for the school year of 1970-71.

Approved March 28, 1969.

## CHAPTER 176

H. B. No. 368  
(Burke)

DETERMINATION AND PAYMENT  
OF TUITION

AN ACT

To amend and reenact subsection 14 of section 15-29-08 and section 15-40-17 of the North Dakota Century Code, relating to determining the tuition cost, payment of tuition, and making high school tuition optional.

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

**Section 1. Amendment.)** Subsection 14 of section 15-29-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

14. To admit to the schools of the district pupils from other districts when it can be done without injuring or overcrowding the schools, and make regulations for the admission of such pupils. The board may make proper and necessary rules for the assignment and distribution of pupils to and among the schools in the district and for their transfer from one school to another. When an elementary pupil is admitted from another district, credit on his tuition shall be given by the district admitting him to the extent of school taxes paid in the admitting district by the parent or guardian of the admitted pupil. If the attendance of an elementary pupil from another district is necessitated by shorter distance or other reasons of convenience, approval or disapproval shall be given by a three-member committee consisting of the county judge, state's attorney, and the county superintendent of schools within fifteen days after consulting the school boards of both districts concerned, and the balance of the tuition, after credit for taxes paid and the credit allowed for county equalization fund payments according to the provisions of section 15-40-26, shall be paid by the district from which the pupil is admitted, but the whole amount of the tuition shall equal the average cost of elementary education per child in the

county. It is the intent of the legislative assembly that school districts educating pupils in other school districts shall pay the full cost of education. Such cost shall be determined on the basis of average daily membership and shall include annual expenditures from the general fund and annual educational expenditures from all special funds. To such average current operating expense in the county shall be added double the statewide total of all school districts' annual expenditures from sinking and interest funds plus double the statewide total of all school districts' annual tax receipts to the building funds divided by the average daily membership of the state which shall be the average cost per pupil for tuition purposes in the county. Districts not complying with the decision of the committee herein provided shall forfeit their county equalization payments to the schools receiving the pupils. The board may admit pupils residing in unorganized territory adjacent to the district to the schools in the district and may arrange with the parents or guardians of such pupils for the payment of tuition. The admission of nonresident high school students shall be governed by the provisions of chapter 15-40.

A school board may admit elementary pupils from other districts to its schools when it can be done without injury or overcrowding the schools even if such pupils have not received approval from the school board of their residence or from the three-member county committee provided the parent or guardian pays the tuition of each pupil, which tuition shall be equal to the actual per pupil cost of educating an elementary pupil in the admitting district for the previous school year, calculated in the same manner as provided in section 15-40-17.1, except that such calculations shall be based on elementary school costs. Not less than one-half of the yearly tuition shall be paid by the parent or guardian in cash on the date of enrollment and the school board of the admitting district shall execute a contract in writing with the parent or guardian requiring any balance of the tuition to be paid in cash on or before the first day of the second semester.

**Section 2. Amendment.)** Section 15-40-17 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-17. High School Payments are Exclusive—Exception.)** No school district shall charge or collect from any nonresident high school student, his parents or guardian, or the district of his residence, any registration, textbook, or laboratory fee, or any other fee or charge which is not charged to or for all resident high school students. However, a high school district shall charge tuition for nonresident high school students. The whole amount of such tuition, except as hereinafter provided, shall be paid by the district from which the pupil is admitted and shall equal the average cost of high school education per child in the county less payments from county equalization funds and from the state under this chapter. It is the intent of the legislative assembly that school districts educating pupils in other school districts shall pay the full cost of education. Such costs shall be determined on the basis of average daily membership and shall include annual expenditures from the general fund and annual educational expenditures from all special funds. To such average current operating expense in the county shall be added double the statewide total of all school districts' annual expenditures from sinking and interest funds plus double the statewide total of all school districts' annual tax receipts to the building funds divided by the average daily membership of the state which shall be the average cost per pupil for tuition purposes in the county. Credit on tuition charges shall be given by the admitting district to the extent of school taxes paid to the admitting district by the parent or guardian of the admitted student. In the event any district not providing high school education shall fail or refuse to pay the tuition charges, the admitting district shall notify the county superintendent of schools of the county of residence of the student and the state superintendent of public instruction of such fact, and upon verification by the county superintendent of schools that such tuition payments are due the admitting district, all county equalization fund payments and payments from the state under this chapter to the district of residence of the student shall be withheld until the tuition due the admitting district has been fully paid.

The parent or guardian of any student who is a resident of a district providing a high school education may apply to the school board of the school district of residence of the student

for approval of the payment of tuition charges to another school district for attendance of the student at the high school in such other school district. If the school board of the district of residence shall approve such application, it shall pay the tuition charges in accordance with the application as approved. In the event such application shall be disapproved, the parent or guardian of the child may appeal the question to the county superintendent of schools, and a 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 student concerned and render a decision in regard to the tuition charges. If the committee shall find the attendance of the student in question is necessitated by shorter distance, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular student, or other reasons of convenience it may approve the payment of such tuition charges. The school district of residence of the student shall thereafter be required to pay such tuition charges, and upon notification by the admitting district of the failure of the district of residence to pay such tuition charges, all county equalization payments and payments from the state under this chapter to the district of residence shall be withheld in the same manner as provided in this section in the case of a district not providing a high school education. If the committee shall find that the attendance of the student at a high school outside the district is not necessitated by shorter distance, previous attendance in another high school, inadequacy of curriculum considering the educational needs of the particular student, or other reasons of convenience, the district of residence shall not be required to pay such tuition charges. The decision of the committee may be appealed to the state board of public school education, and the decision of such board shall be binding upon all parties. The school board of any school district approving the payment of high school tuition charges or required to make such payments under the provisions of this section may levy an amount sufficient to pay tuition charges which levy shall not be subject to any mill levy limitations prescribed by law. This chapter, however, shall not affect the right of a school district to charge and collect such tuition as may be fixed by agreement from students who are not residents of this state.

Approved March 29, 1969.



S. B. No. 35  
(Berube, Jacobson, Longmire, Nasset)  
(Redlin, Roen, Ruemmele)  
(From Legislative Research Committee Study)

SCHOOL FOUNDATION AID PAYMENTS

AN ACT

To amend and reenact sections 15-29-08, 15-40-14, 15-40-16, 15-40-18, 15-40-19, and 15-40-24 of the North Dakota Century Code, relating to foundation aid payments to eligible school districts based upon current enrollments and subsequent adjustment of payments based upon average daily membership.

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

**Section 1. Amendment.)** Subsection 3 of section 15-29-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. To send pupils into another school district when, because of shorter distances and other conveniences, it is to the best interests of the school district to do so, and in such instances the board may pay the tuition of such pupils to the district to which they are sent. The school board may make arrangements for the education of pupils in a federal school and contract with federal officials for such education. Such contracts may be in the form of tuition charges mutually agreed upon, the sharing of education operational costs and facilities, or any other type of contract which will be agreeable to the school district. The board may arrange, and when petitioned to do so by a majority of electors of the district shall arrange, with the school boards of other districts to send to such other districts pupils who can be taught conveniently therein, and for the payment of their tuition and for furnishing and paying for their transportation to and from the schools in such other districts. The admitting districts shall receive pupils only when schools of the admitting districts will not be injured or overcrowded and the board of the sending district and the board or boards of the receiving district or districts have entered into an agreement governing the

attendance of such pupils as may be enrolled or when tuition will be paid by a parent or guardian in the manner provided in subsection 14 of this section. The school district in which a child resides at the time any court order or act of a juvenile commissioner, or placement by a county or state welfare agency with parental or guardian consent, shall have been issued requiring such child to stay for any prescribed period at a foster home or a home maintained by any nonprofit corporation, shall be construed to be the residence district of such child for purposes of applying this subsection or section 15-40-17 relating to tuition payments, whenever such child shall attend any public schools. Such residence district shall be liable for tuition in the amount provided in such sections upon claim by the district in which such child is attending school, except in the event of placement by a county or state welfare agency with parental or guardian consent, such determination of tuition may be subject to an appeal to the county superintendent of schools and a committee consisting of the county judge, state's attorney and the county superintendent of schools who shall within fifteen days consult with the school board of the districts concerned and with the parent or guardian of the student concerned and render a decision in regard to the tuition charges.

**Section 2. Amendment.)** Section 15-40-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-14. Payment from County Equalization Fund—Amount—Student Attending School in Foreign State.)** There shall be paid each year from the county equalization fund to all school districts operating high schools, to school districts contracting to educate high school pupils in a federal Indian school, all county agricultural and training schools, the state school for the blind, the state school for the deaf and state training school, that amount of money resulting from multiplying the factor 1.32 times the educational cost per pupil as provided in section 15-40-12 for each high school pupil registered in such schools each year subject to adjustment of such amount as provided in section 15-40-16. 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, teachers have been paid not less than the minimum legal salaries, and the other standards prescribed by this chapter have been met. Districts that did not maintain high schools during the year of 1954-1955 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 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 is offered. A student who lives within twenty miles of another state or in a county bordering on another state and in a school district which has no high school, or which does have a high school and the attendance has been authorized in accordance with the provisions of section 15-40-17, with the approval of the county superintendent of schools, may attend a four-year public high school in an adjoining state and payments from the county equalization fund shall be paid to the district in which the high school which he attends is located in the amount provided for in this section.

**Section 3. Amendment.)** Section 15-40-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-16. Application for Payments—Verification and Adjustment of Payments—Report of County Superintendent of Schools—Appeal.)** Immediately upon the completion of the registration of students at the beginning of each school year and in no event later than September tenth of each year the clerk of each district claiming payments from the county equalization fund under the provisions of this chapter shall file with the county superintendent of schools a claim on a form prescribed by the superintendent of public instruction stating the number of students registered in high school and elementary grades, and such other information as may be reasonably requested by the superintendent of public instruction. Not later than December first the superintendent of public instruction shall certify to the department of accounts and purchases a list of the school districts and schools not operated by school districts entitled to payments from the county equalization fund, together with the amounts to which the several districts and schools are entitled. Such certification by the superintendent of public instruction shall include for

each school district and school not operated by a school district, when appropriate, 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 15-40-14 and 15-40-24, upon the average daily membership during the previous school year. For purposes of this chapter, "average daily membership" shall mean the total days all students in a given school are in attendance, including legal school holidays and days set aside for a North Dakota education association convention, plus the total days all students are absent, divided by one hundred eighty days. School districts educating children of agricultural migratory workers during the months of June, July, and August shall not be restricted to payments for a one-hundred-eighty-day school term.

Immediately upon the termination of the school year and in no event later than July fifteenth of each year the clerk of each district receiving payments from the county equalization fund under the provisions of this chapter shall file with the county superintendent of schools a verified statement of the name, residence, and the average daily membership 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. At the same time, he shall give notice to any district the statement of which has been disallowed in whole or in part and shall state in such notice the name of any student disallowed for inclusion in 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 4. Amendment.)** Section 15-40-18 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-18. Determination of Sums Due County Equalization Funds.)** For purposes of this section:

1. "County average" means the countywide average percentage of market value at which taxable property in a county has been assessed after final equalization; and
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 is entitled. Any county which, according to the certificate of the tax commissioner, has a county average that is equal to the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county multiplied by twenty and five-tenths mills, and the balance will be the amount of aid to which the county is entitled.

Any county which, according to the certificate of the tax commissioner, has a county average that is less than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county after adjusting such valuation upwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

Any county which, according to the certificate of the tax commissioner, has a county average that is more than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county the product of the taxable assessed valuation of the property in the county after adjusting such valuation downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

The superintendent of public instruction shall determine the product of the taxable valuation of property in the county, after adjusting such valuation upwards or downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty-one mills. The superintendent of public instruction shall certify such amount to the county auditor of each county, that has a county average that is less than or more than the state average, which shall be converted to mills and levied by the county auditor upon all taxable property in the county in lieu of the twenty-one mill levy specified in section 57-15-24.

**Section 5. Amendment.)** Section 15-40-19 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-19. Distribution of Payments to County Equalization Funds—Duty of Department of Accounts and Purchases.)** The superintendent of public instruction shall certify to the department of accounts and purchases a list of all county equalization funds in the state together with a statement of payments equal to one-fourth of the total payments made to each respective equalization fund during the previous fiscal year and the department of accounts and purchases shall pay each county equalization fund such amounts due from the general fund, within the limits of legislative appropriation, upon warrants prepared and issued by the department and signed by the state auditor on or before September fifteenth of each year. The superintendent of public instruction, after certifying to the respective county auditors the amount that shall be levied on all taxable property in accordance with section 15-40-18, shall determine what amounts in addition to the September

fifteenth payments are necessary to constitute one-half of the payments due to each county equalization fund for the current school year and shall certify to the department of accounts and purchases a list of all county equalization funds in the state together with a statement of the payments due such funds. The department of accounts and purchases shall pay to each county equalization fund from the general fund, within the limits of legislative appropriation, upon warrants prepared and issued by the department and signed by the state auditor, the amounts needed in addition to the September fifteenth payment in order to constitute fifty percent of the sum found to be due under the provisions of this chapter on or before December first, on or before February first payments equal to one-fourth of the total payments made to each respective equalization fund and the balance on or before April first.

**Section 6. Amendment.)** Section 15-40-24 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-24. Elementary Per-Pupil Payments—Amount.)** There shall be paid out of the county equalization fund, to the school districts of the county operating elementary schools, to school districts contracting to educate elementary pupils in a federal Indian school, and to the state school for the blind, the state school for the deaf and the state training school, employing teachers holding valid certificates or permits, payments based on the number of registered students at the beginning of each school year and as such number may be adjusted as provided for in section 15-40-16, the following amounts:

1. In one-room rural schools there shall be paid that amount of money resulting from multiplying the factor of 1.25 times the educational cost per pupil as provided in section 15-40-12 for each of the first sixteen pupils in average daily membership and for each additional pupil in average daily membership there shall be paid .9 times the educational cost per pupil as provided in section 15-40-12 except that no payment shall be made for more than twenty pupils in average daily membership; and
2. In elementary schools having under one hundred pupils in average daily membership there shall be paid that amount of money resulting from multiplying the factor of 1 times the educational cost per pupil as provided in

section 15-40-12 for each of the first twenty pupils in average daily membership in each classroom or for each teacher and for each additional pupil in average daily membership in each classroom or for each teacher there shall be paid .9 times the educational cost per pupil as provided in section 15-40-12 except that no payment shall be made for more than twenty-five pupils in average daily membership in each classroom or for each teacher; and

3. In elementary schools having one hundred or more pupils in average membership there shall be paid that amount of money resulting from multiplying the factor of .9 times the educational cost per pupil as provided in section 15-40-12 for each of the first thirty pupils in average daily membership in each classroom or for each teacher except that no payment shall be made for more than thirty pupils in average membership in each classroom or for each teacher.

**Section 7. Payments Under Former Law.)** Notwithstanding the provisions of this Act, in no case shall a school district receive foundation aid payments for the 1969-1970 school year in an amount less than such school district was entitled to receive for such school year under applicable laws and legislative appropriations therefor in effect on September 15, 1968.

Approved March 29, 1969.



## CHAPTER 178

H. B. No. 172  
(Eagles, Giffey, R. Peterson, Aas)

## SCHOOL DISTRICT CENSUS

## AN ACT

To amend and reenact subsection 16 of section 15-29-08 and section 15-47-13 of the North Dakota Century Code, relating to the enumeration in school districts, and declaring an emergency.

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

**Section 1. Amendment.)** Subsection 16 of section 15-29-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

16. To cause an enumeration to be made, between the first and thirty-first days of May in each odd-numbered year, of all persons under twenty-one years of age within the school district, and to return the same to the county superintendent of schools.

**Section 2. Amendment.)** Section 15-47-13 of the 1967 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 twenty-one years of age, as of such thirty-first day of May, having their legal residence in the district. The census also shall include the following information:

1. The names and ages of such persons and the names 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, in-

cluding 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; and
4. The names and post-office addresses of the parents or guardians of all of the persons mentioned in subsections 2 and 3 of this section.

The enumeration shall be made upon and in accordance with forms 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.

**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 10, 1969.

## CHAPTER 179

H. B. No. 142  
(Bier)

ADVERTISEMENT FOR BIDS ON  
SCHOOL DISTRICT CONTRACTS

## AN ACT

To amend and reenact section 15-47-15 of the North Dakota Century Code, relating to school contracts.

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

**Section 1. Amendment.)** Section 15-47-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-47-15. School Contracts—Advertisement for Bids—Publication—Exceptions.)** No contract involving the expenditure of an aggregate amount greater than two thousand dollars, except as hereinafter set forth, shall be entered into by any school district of any kind or class except upon sealed proposals and to the lowest responsible bidder after ten days' notice by at least one publication in a legal newspaper published in the county in which the school district, or a portion thereof, is located. If no newspaper is published in such county, the publication shall be made in a newspaper published in an adjacent county. The provisions of this section shall not apply to the following classes of contracts, namely:

1. For personal services of employees of the district;
2. For school text or reference books;
3. For any article which is not for sale on the open market;
4. For any patented, copyrighted, or exclusively sold device or feature required to match articles already in use;
5. For any patented, copyrighted, or exclusively sold article of so distinctive a nature that only one make of the article can be purchased; or

6. Any building contract.

Such exceptions shall be strictly construed. Every member of a school board who participates in a violation of this section shall be guilty of a misdemeanor.

Approved March 8, 1969.

---

CHAPTER 180

H. B. No. 166

(Sanstead, Dick, Giffey, Olienyk, Strinden, Haugland)  
(Aamoth, Tweten, J. Peterson, Aas, Diehl, Bier)

COOPERATIVE AGREEMENTS FOR  
STUDENT TEACHING

AN ACT

Authorizing cooperative agreements for student teaching and establishing the status and authority of student teachers.

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

**Section 1. Cooperative Agreements for Student Teaching and Supervised Field Experiences.)** The school board of any public school district is hereby authorized to enter into cooperative agreements and financial arrangements for the use of the public schools of the school district for student teaching or supervised field experience with any teacher training institution. Any such agreement may provide for the payment by the institution for the services rendered by the school district of an amount not to exceed the actual cost to the school district for the services rendered by the school district and its employees.

**Section 2. Payment of Cost from Public Funds.)** The board of higher education is hereby authorized to pay for the services of any public or private school or of any public or private school administrators, teachers, or employees of an amount not to exceed the actual cost of their services in training student teachers. The amount may be paid either directly to the school employee or to the school district as determined by the agreement with the school district or private school. Be it further

provided that nothing herein shall authorize the school district to pay a student teacher for services rendered.

**Section 3. Status and Authority of Student Teachers.)** Any student teacher, during the time such student teacher is assigned as a student teacher, shall be given the same legal authority and status as if the student teacher were a certificated employee of the school district in which he is assigned. The authority of the student teacher shall extend to all aspects of student management or discipline, in the handling of confidential records of students, and in all other aspects of legal authority granted to certificated employees of the school districts in the state. The student teacher shall be deemed a certificated employee of the district with respect to acts performed by him at the direction, suggestion, or consent of the certificated employees under whose supervision and control the holder performs his duties, whether or not such duties are performed entirely in the presence of the employees of the district assigned to supervise the holder, and shall be deemed an employee of the school district within the meaning of sections 39-01-08 and 40-43-07 relating to liability insurance carried by political subdivisions.

Approved March 14, 1969.

## CHAPTER 181

H. B. No. 282  
(Knudson)

**CANCELLATION OF INSTRUCTION  
CONTRACT AND REFUND OF TUITION**

AN ACT

To create and enact sections 15-50-09, 15-50-10, and 15-50-11 of the North Dakota Century Code, relating to cancellations, refund of tuition payments, and negotiation of promissory instruments by private trade and correspondence schools.

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

**Section 1.)** Section 15-50-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

**15-50-09. Refund of Tuition Fees.)** Private trade and correspondence schools shall refund tuition and other charges when written or oral notice of cancellation is given by the student in accordance with the following schedule:

1. When notice is received within seven days after completion of the first day of instruction, all tuition and other charges except twenty-five dollars thereof shall be refunded to the student.
2. When notice is received within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the course, all tuition and other charges except twenty-five percent thereof shall be refunded to the student.
3. When notice is received upon or after completion of one-fourth of the course, but prior to the completion of one-half of the course, all tuition and other charges except fifty percent thereof shall be refunded to the student.
4. When notice is received upon or after the completion of fifty percent of the course, no tuition or other charges shall be refunded to the student.

The provisions of this section shall not prejudice the right of any student to recovery in an action against any private trade or correspondence school for breach of contract or fraud.

**Section 2.)** Section 15-50-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

**15-50-10. Negotiation of Promissory Instruments.)** No private trade or correspondence school shall negotiate any promissory instrument received as payment for tuition or other charges prior to the completion of one-half of the course of instruction.

**Section 3.)** Section 15-50-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

**15-50-11. Cancellation of Contract for Instruction.)** Any person shall have the right for any cause to rescind, revoke, or cancel a contract for a course of instruction at any private trade or correspondence school within seven days after entering into such contract without incurring any tort or contract liability. In such event, the private trade or correspondence school may retain the amount of tuition and other charges as set forth in subsection 1 of section 15-50-09.

Approved March 25, 1969.

S. B. No. 100  
(Longmire)

BOARD OF HIGHER EDUCATION  
MAY ISSUE BONDS FOR REVENUE  
PRODUCING BUILDINGS

AN ACT

To amend and reenact section 15-55-02 of the North Dakota Century Code, relating to the borrowing of moneys and issuing of bonds for revenue producing buildings by the board of higher education.

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

**Section 1. Amendment.)** Section 15-55-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-55-02. Board May Borrow Money and Issue Bonds—Conditions—Bonds Tax Free.)** For the purpose of paying all or part of the cost of construction, equipment and furnishing of any such buildings or any addition to existing buildings, or other campus improvements, or in order to refund any outstanding bonds issued for such purpose, the state board of higher education may borrow money on the credit of the income and revenue to be derived from the operation of the said building or buildings or other campus improvements, and, in anticipation of such collections of such income and revenues, may issue negotiable bonds in such an amount as, in the opinion of said board, may be necessary for such purposes, all within the limits of the authority granted by the legislative assembly in each instance, and may provide for the payment of such bonds and the rights of the holders thereof as provided in this chapter. Such bonds shall be payable serially, and may be issued in one or more series, may bear such date or dates, may mature at such time or times not exceeding fifty years from their date, may be in such denomination or denominations, may be in such form, either coupon or registered, may carry such registration and conversion privileges, may be executed in such manner, may be payable in such medium of payment at such place or places, may be subject to such terms of redemption with or without premium, and may bear such rate or rates of interest as may be provided



by resolution or resolutions to be adopted by the state board of higher education. Such bonds may be sold in such manner and at such price or prices not less than par plus accrued interest to date of delivery, as may be considered by the board to be advisable, but interest cost to maturity for any bonds issued hereunder shall not exceed six and one-half percent per annum, computed on the basis of average maturities according to standard tables of bond values. Any grants agreed to be made by the United States of America or any agency or instrumentality thereof to reduce the interest cost of bonds, whether or not pledged to the payment of the bonds or interest thereon as part of the income and revenue to be derived from the operation of the buildings or improvements pledged to the payment of the issue, shall be considered as a reduction in the interest costs of the bonds with respect to which the grant is made, for purposes of the rate limitations on interest costs provided herein. Such bonds shall have all of the qualities and incidents of negotiable paper, and shall not be subject to taxation by the state of North Dakota, or by any county, municipality, or political subdivision therein. The board, in its discretion may authorize one issue of bonds hereunder for the construction, furnishing and equipment of more than one building or other campus improvement and may make the bonds payable from the combined revenues of all buildings or other campus improvements acquired in whole or in part with the proceeds thereof, and where bonds are so issued the words "the building", as herein used, shall be construed to refer to all the buildings or other campus improvements so acquired.

Approved March 20, 1969.

## CHAPTER 183

S. B. No. 223  
(Holand)

LIMITATION ON CONSTRUCTION OF HIGHER  
EDUCATION REVENUE PRODUCING BUILDINGS

AN ACT

To amend and reenact section 15-55-10 of the North Dakota Century Code, relating to the limitation on revenue producing buildings and other campus improvements constructed from the proceeds of revenue bonds.

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

**Section 1. Amendment.)** Section 15-55-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-55-10. Limitation On Buildings and Other Campus Improvements and Issuance of Bonds.)** No building or buildings or other campus improvements shall be erected or constructed, and no bonds shall be issued for the payment of the cost of any building or buildings or other campus improvements under the terms of this chapter, save and except for such specified buildings or other campus improvements as may be from time to time designated and authorized by legislative act, nor shall any such building or buildings or other campus improvements be erected at a cost exceeding the amount fixed by the legislature in such act as the maximum to be expended for such buildings or other campus improvements. Such legislative authorization may be aggregated and the appropriation of the proceeds of the bonds for the construction of the buildings or improvements shall not be subject to cancellation under the provisions of section 54-44.1-11. Authorization for the issuance of bonds by the 1969 legislative assembly and authorizations of previous legislative assemblies shall, however, expire on July 1, 1973, unless bonds have been issued for the construction of buildings or improvements in the amounts so authorized or a contract for the design of the building has been signed by the board of higher education prior to such date. Authorization for the issuance of bonds by succeeding legislative assemblies shall expire four years after the effective date of the authorization unless bonds have been issued for the construction of buildings or

improvements in the amounts so authorized or a contract for the design of the building has been signed by the board of higher education prior to such expiration date or the authorization specifies a different expiration date. Refunding bonds may be issued by the state board of higher education under the provisions of this chapter without legislative act to refund, at or prior to the maturity of or pursuant to any privilege of prepayment reserved in or granted with respect to, any bonds issued to pay the cost of buildings or other campus improvements designated and authorized by legislative act.

Approved March 20, 1969.

---

## CHAPTER 184

### S. B. No. 36

(Berube, Jacobson, Longmire, Nasset)  
(Redlin, Roen, Ruemmele)

(From Legislative Research Committee Study)

## QUORUM OF STATE BOARD OF PUBLIC SCHOOL EDUCATION

### AN ACT

To amend and reenact section 15-60-06 of the North Dakota Century Code, relating to a quorum for the state board of public school education.

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

**Section 1. Amendment.)** Section 15-60-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-60-06. Governing Body.)** The board shall meet for the purpose of making plans for the administration of the school construction fund and the receiving and reviewing of applications for construction or improvements. Five members of the board shall constitute a quorum for the purpose of conducting the business thereof and for all other purposes, and all other actions shall be taken by a unanimous vote of the quorum. The board shall have full authority to manage the properties and business of the board. The board, acting through the office of

the superintendent of public instruction, shall fix and determine the number of officers, agents and employees it shall employ and their respective compensation and duties, and may delegate to one or more of their number, or to one or more of said officers, agents or employees, such powers and duties as it may deem proper.

Approved March 8, 1969.

---

## CHAPTER 185

H. B. No. 53

(Giffey, Wagner)

(Recommended by Legislative Audit and Fiscal Review  
Committee)

### DISPOSITION OF SURPLUS PROPERTY

#### AN ACT

To amend and reenact section 15-61-05 of the North Dakota Century Code, relating to the disposition or exchange of state surplus property.

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

**Section 1. Amendment.)** Section 15-61-05 of the 1967 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, 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 either on sealed bids reserving the right to reject all bids, or by negotiation at fair value if such method is deemed more feasible; 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 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 February 7, 1969.

S. B. No. 32  
(Becker, L. Larson, Lips, Litten, Luick, Melland)  
(Robinson, Sorlie, Wenstrom, Wilhite)  
(From Legislative Research Committee Study)

STATE STUDENT GUARANTEE  
LOAN PROGRAM

AN ACT

To create a state guarantee loan program under the supervision of the Bank of North Dakota, providing funds for such program by transferring the state scholarship fund, providing for the administration of federal funds, and an information system under the board of higher education; and providing a penalty.

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

**Section 1. 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 Act. 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.

**Section 2. Powers and Duties of the Bank of North Dakota.)** The Bank of North Dakota shall have the following powers and duties under this Act:

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, as amended, which it may establish in accordance with the provisions of this Act, to students, provided such persons shall have been residents of this state for at least one year and meet such other requirements as may be determined necessary, prior to making application under this Act, and who are attending or plan to attend an eligible institution located within or without this state to assist them in meeting their expenses of higher education or vocational education. Students

who are attending or plan to attend colleges on a part-time basis 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 Act.

2. To take, hold, and administer, on behalf of the state from any source, any real property, personal property and moneys, or any interest therein, and the income therefrom, either absolutely or in trust, for any purpose of the guarantee loan program, provided that no guarantee obligation of the agency shall be an obligation of the agency, payable out of any moneys except those made available to it under this Act.
3. To adopt rules and regulations not inconsistent with law, governing the qualifications and financial needs of students; and establish a method of application for the granting, administration, and repayment of loans which may be made by eligible lending institutions, and make such other rules as may be necessary to properly administer this Act.

**Section 3. Agency shall Prescribe the Rate of Interest.)**

Any loan guaranteed by the agency shall bear simple interest at a rate not in excess of the interest charged by the lender to other persons for similar types of loans not guaranteed by the agency unless the agency determines that such a higher rate of interest is justified by special circumstances and would be consistent with the general objectives of this Act.

**Section 4. Repayment of Loans.)** Loans made under the provisions of this Act 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. Deferral 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.

**Section 5. Establishment and Maintenance of Adequate Guarantee Funds.)** The agency shall establish and at all times maintain from funds appropriated under this Act an adequate guarantee reserve fund in a special account in the Bank of North Dakota which fund shall not be less than one-tenth of the dollar value of the total portion of loans not insured by the federal government. The agency is authorized to enter into an agreement with the federal government for the coinsurance of loans guaranteed under this program. The securities in which the moneys in the reserve fund may be invested shall meet the same requirements as those authorized for investment under the state investment board. The income from such investments shall be made available for the costs of administering the guarantee loan program and income in excess of that required to pay the cost of administering the program shall be deposited in the reserve fund. The proceeds of such reserve fund received from federal, state, or private sources for the purpose of guaranteeing loans made to students as provided in this Act are hereby appropriated as a continuing appropriation for the payment of defaulted loans. This fund shall be a self-sustaining revolving fund, and the amount of such fund to be available for the guaranteeing of loans in any one year shall be determined by a formula which will assure so far as possible an equal amount of reserve funds being available for each future year of operation.

**Section 6. Procedure on Default of Guaranteed Loan.)** Whenever it shall appear to the satisfaction of the agency that a guaranteed loan made in accordance with the provisions of this Act is in default, and the eligible lender has certified such fact to the agency, the agency shall reimburse the eligible lender making the loan from the reserve fund to the extent the loan was guaranteed by the fund. Whenever payment of the guaranteed principal balance of any insured or guaranteed loan is demanded of the agency, the note and accompanying evidence of the loan shall be tendered to the agency in manner and form to confer good title so that the loan may be collected by the agency as it may determine according to law. Neither minority nor any statute of limitations may be used as a defense against collection of any loan through court proceedings.

**Section 7. 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 Act, and such receipts shall be deposited in the reserve fund in the agency.

**Section 8. Contract with United Student Aid Funds, Inc., or Similar Nonprofit Corporation.)** The agency is authorized to appoint the united student aid funds, inc., or similar nonprofit corporation, as agent of the state, to assist in performing the administrative functions of the state under and subject to the terms and provisions of this Act and to perform such other duties as may be prescribed by the agency for the proper administration of the guarantee loan program. The agency shall pay fees to the united student aid funds, inc., or similar nonprofit corporation, as it may determine necessary for the administration of such program. In the event that the agency has entered into an agreement with united student aid funds, inc., or a similar nonprofit corporation and at a later date determines that it can administer the program more economically and efficiently than can such nonprofit corporation, it shall upon proper notice terminate the agreement with such nonprofit corporation.

**Section 9. Information System.)** The eligible 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 educational institutions.

**Section 10. Eligibility for Participation in Federal Student Loan Program.)** The agency is directed to comply with such requirements as may be necessary to enter into an agreement with the government of the United States for the purpose of procuring funds and assistance for the administration, development, and operation of a guarantee loan program. No provision of this Act shall be construed or have the effect of preventing the agency from complying with the guarantee loan program requirements of title IV, part B, of the Higher Education Act of 1965, or similar Acts of the Congress or with any amendments thereto relating to the guarantee loan program.

**Section 11. Coordination with Federal Programs Relating to Student Loans.)** The office of the board shall be the information center for the guarantee loan program and any other federal student assistance programs under the Higher Education Act of 1965 or similar Acts of Congress and amendments thereto, and shall, through its biennial report, provide the governor and the legislative assembly with information regarding the financial activities pertaining to the student financial aid provisions of such Act in the state. If state matching funds are needed, the board shall present to the office of the executive budget on a biennial basis a request for an appropriation of funds for the establishment and continuation of such programs.

**Section 12. Assistance to Other State Agencies—Reports to the Board.)** For the purpose of developing efficiency and economy in scholarship and loan programs and to develop a central scholarship and student loan information system, all state agencies, departments, and institutions shall make available to the board all necessary information regarding student loan or scholarship programs administered by such agencies. Before establishing new student loan or scholarship programs, such agencies, departments, and institutions shall notify the board of such plans and the board shall make available such services as it is able to provide in the development, administration, and coordination of such programs. The information which is provided to the board shall be made available from time to time in the form of a written report to the governor and the legislative assembly, and to the students of the state who are seeking financial assistance in furthering their education.

**Section 13. State Scholarship Board to Discontinue Making Loans.)** The state scholarship board shall discontinue making loans under chapter 15-62 of the North Dakota Century Code, and the funds in the state scholarship revolving fund along with the available interest on such moneys and subsequent payments of interest and principal received from students shall be transferred by the Bank of North Dakota to a reserve fund for a state guarantee loan program in a special fund in the Bank. The Bank and the state scholarship board shall continue to collect all outstanding loans and provide such other services as may be necessary to collect such loans.

**Section 14. Penalty.)** Any person who knowingly makes a false statement or misrepresentation in connection with an application under the guarantee loan program shall be subject to a fine of not more than one thousand dollars or to imprisonment for not more than one year, or both fine and imprisonment.

Approved March 14, 1969.

---

CHAPTER 187

S. B. No. 266

(Van Horn, Ruemmele, Kelly, Doherty)

COLLEGE SCHOLARSHIPS FOR INDIANS

AN ACT

To amend and reenact sections 15-63-01, 15-63-03, and 15-63-04 of the North Dakota Century Code, relating to North Dakota Indian college scholarships.

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

**Section 1. Amendment.)** Section 15-63-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-63-01. State Board for Indian Scholarships.)** There is hereby established a state board for Indian scholarships consisting of the director of Indian education of the department of public instruction, the executive director of the state Indian affairs commission, and the commissioner of higher education. The director of Indian education shall serve as chairman and the executive director of the state Indian affairs commission shall serve as secretary of the board for Indian scholarships.

**Section 2. Amendment.)** Section 15-63-03 of the 1967 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 ten 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 within North Dakota upon compliance with all requirements for admission and to pursue any course or courses offered in such institutions.

**Section 3. Amendment.)** Section 15-63-04 of the 1967 Supplement to 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 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.

Approved March 27, 1969.

## CHAPTER 188

H. B. No. 385  
(E. Johnson, Aamoth, Bier, Sanstead)  
(Halcrow, Jones, R. Peterson)

EDUCATIONAL BROADCASTING  
COUNCIL

AN ACT

For the purpose of creating and establishing an educational broadcasting council, designating membership and powers; and providing an appropriation.

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

**Section 1. North Dakota Educational Broadcasting Council—Creation—Purpose.)** The North Dakota legislature hereby creates the North Dakota educational broadcasting council for the purpose of encouraging and directing the creation of educational radio and television facilities within the state of North Dakota.

**Section 2. Membership—Appointment—Term—No Compensation—Expenses—Organization.)** The North Dakota educational broadcasting council shall be composed of twelve members as follows: two ex officio members, one appointed by the board of higher education, one appointed by the superintendent of public instruction, and eight appointed by the governor.

1. The ex officio members shall be:

The state superintendent of public instruction or his designated representative from that office.

The commission of higher education or his designated representative from that office.

2. The appointed members shall be drawn from the public at large with no fewer than four from the western half of the state and no fewer than four from the eastern half of the state. The term of office shall be seven years, except that of the original appointees, two shall serve one year, two shall serve three years, two shall serve five years, and two shall serve seven years, which appointees to be determined by lot.

3. No member shall receive any compensation but shall be reimbursed for reasonable and necessary expenses incurred in connection with service on the council. The governor shall call the initial meeting of the council at which time the council shall elect its chairman and other officers and take such other action as it deems appropriate.

**Section 3. Powers and Duties.)** The council is directed:

1. To be concerned with the development of statewide educational television and radio facilities.
2. To hold coordinating authority for the development of such statewide educational radio and television facilities as may be required to serve the entire state.
3. To assist any organization, state agencies, or both in the preparation, filing, and prosecution before the federal communications commission such applications, reports, or other documents or requests for authorization of any kind as may be necessary or appropriate to achieve the purposes of this Act.
4. To receive gifts and contributions from public and private sources to be expended through the stations to provide educational broadcasting facilities and programs, provided before accepting any tax-producing facilities the commission must first be given the approval by the legislative research committee's subcommittee on budget.
5. To be concerned with the activation of educational broadcasting channels presently assigned to North Dakota and/or the reallocation or addition of such channels as are determined to be in the best interests of the people of the state.
6. To actively cooperate with the state department of public instruction and the state board of higher education and other agencies and private organizations for the purpose of developing statewide educational broadcasting projects.
7. To adopt bylaws for the conduct of its affairs.

8. To publish such informational material as it deems necessary.
9. To carry on a continuing study relating to the needs, resources, and facilities which are available or may be required to establish educational radio and television facilities throughout the entire state.

**Section 4. Prohibitions.)** Nothing in this Act shall imply or express the intent of the council to license or operate educational broadcasting stations, nor to request the appropriation of state funds for the council's operation of such stations.

**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 \$15,000 to the North Dakota educational broadcasting council to be used in carrying out the provisions of this Act.

Approved March 25, 1969.

---

## CHAPTER 189

H. B. No. 37

(Bier, Belter, W. Erickson, Giffey, E. Johnson)  
(Lang, R. Peterson, Sanstead, Stone)

(From Legislative Research Committee Study)

### LIMITATION ON SCHOOL CONSTRUCTION

#### AN ACT

Relating to school district reorganization and the effect thereon of new construction by school districts, and temporarily providing the superintendent of public instruction and, in case of appeal, the board of public school education with authority to limit certain school construction projects.

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

**Section 1. Effect of New Construction by Existing School Districts on School District Reorganization.)**

WHEREAS, reorganization and annexation has reduced the

number of school districts from two thousand eight in 1957 to four hundred seventy-four in 1968 and continues to reduce the number of school districts as trends in population, education and transportation encourage larger and more efficient school districts; and

WHEREAS, reorganization and annexation often compel the relocation of some schools and the abandonment of others within the reorganized school district; and

WHEREAS, these abandoned schools represent thousands of dollars of wasted investment in elementary and secondary education to the detriment of all the people of North Dakota; and

WHEREAS, a period of four years from the effective date of this Act is determined to be the period of time within which maximum reorganization and annexation of school districts will likely take place.

**Section 2. Approval Required for Certain School District Construction Projects.)** Notwithstanding the powers and duties of school boards of public school districts otherwise provided by law, from and after July 1, 1969, and prior to July 1, 1973, all construction, purchase, repair, improvement, renovation, or modernization of any school building within a school district estimated by the school boards to cost in excess of twenty-five thousand dollars shall not be commenced unless approved by the superintendent of public instruction. The superintendent of public instruction shall not approve such school building project unless he shall find that the building will be fully or substantially usable by any reorganized school district which in his judgment is likely to be created during the effective period of this Act which would encompass all or a major portion of the school district applying for approval of the building project. In the event of disagreement between the superintendent of public instruction and the school board applying for approval of a construction project under this Act, such school board shall have the right to appeal such application to the board of public school education and the decision of the board approving or disapproving such application shall be final.

Approved March 14, 1969.



## CHAPTER 190

H. B. No. 70  
(Stoltenow, Bullis)

## STADIUM AT WAHPETON SCHOOL OF SCIENCE

## AN ACT

To authorize the state board of higher education to construct a stadium on the campus of the North Dakota state school of science with private or federal funds.

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

**Section 1. Construction of Stadium.)** The state board of higher education is hereby authorized to construct with private or federal funds which may be available for such purpose a stadium on the campus of the state school of science at a cost not to exceed two hundred thousand dollars, which funds are hereby appropriated for such purpose. No contract for the construction of such stadium shall be awarded until the funds for the payment of the contract have been deposited in a bank to the credit of the board of higher education. In the event the full amount necessary to construct the entire stadium is not deposited to the credit of the board of higher education, the board may proceed with construction of a portion of the stadium if sufficient funds have been deposited to pay for the construction of such portion.

Approved March 5, 1969.

## CHAPTER 191

H. B. No. 77  
(Stoltenow, Bullis)

REMOVAL OF CERTAIN BUILDINGS AT  
SCHOOL OF SCIENCE

## AN ACT

To permit the destruction or removal of certain buildings at the North Dakota state school of science and providing for the cost of removal or the disposition of any proceeds from the sale thereof.

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

**Section 1. Destruction or Removal of Buildings.)** The state board of higher education is hereby authorized to make provision for the destruction or removal of the following buildings at the North Dakota state school of science:

1. Pennington house, now known as west gateway house, acquired under the provisions of chapter 48, 1959 session laws.
2. The building, known as east gateway house, on the Ramstad property acquired with the proceeds of the women's dormitory construction bonds of 1963, issued under authority of chapter 132, 1963 session laws.

**Section 2. Cost of Removal—Disposition of Proceeds.)** The cost of removal of the buildings referred to in section 1 hereof shall be paid from the plant improvement appropriations of the state school of science or any other moneys which may be available for such purpose. Any proceeds which may be derived from the sale of these buildings shall be deposited to the credit of the sinking fund for the women's dormitory construction bonds of 1963 or, if that fund contains sufficient moneys to pay the principal and interest on the remaining outstanding bonds, the proceeds shall be deposited in the operating fund of the state school of science.

Approved March 8, 1969.

## CHAPTER 192

H.B. No. 93

(J. Peterson, Haugland, Sanstead, Aas)  
(Anderson, Emerson, Backes)

## OUTDOOR AMPHITHEATER AT MINOT STATE COLLEGE

## AN ACT

Authorizing the state board of higher education to construct an outdoor amphitheater on the campus of Minot state college with private funds and student fees and declaring an emergency.

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

**Section 1. Construction of Amphitheater—Pledge of Fees.)**

The state board of higher education is hereby authorized to construct with private or federal funds and student fees an outdoor amphitheater on the campus of Minot state college at a cost not to exceed one hundred thousand dollars. No contract for the construction of such amphitheater or any part thereof shall be awarded until the funds for the payment of said contract have been deposited in a bank to the credit of the board of higher education. Notwithstanding the fact the amount necessary to construct the entire amphitheater has not been deposited to the credit of the board of higher education, said board may proceed with construction of a portion of the amphitheater if sufficient funds have been deposited to pay for the construction of such portion. Minot state college is authorized to pledge net receipts from student fees, not otherwise allocated, now or hereafter available, and on hand at Minot state college, to repay any pledge or pledges made for the purpose of constructing the amphitheater.

**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 5, 1969.

## CHAPTER 193

H. B. No. 155  
(Freeman, Thompson, O. Solberg)

## EXCHANGE OF LANDS WITH THE UNITED STATES

## AN ACT

To permit the board of higher education to exchange lands with the United States.

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

**Section 1. Exchange of Lands with the United States.)** The board of higher education is hereby authorized to exchange the southeast quarter of section thirty-six, township one hundred and fifty-six north, range seventy-eight west, McHenry County, North Dakota, now owned by the state of North Dakota for the use and benefit of the forestry service, for the southwest quarter of section thirty-one, township one hundred and fifty-seven north, range seventy-five west, McHenry County, North Dakota, now owned by the United States.

Approved February 20, 1969.

## CHAPTER 194

H. B. No. 174  
(Bier, Diehl, Thorsgard)

CONSTRUCTION OF 4-H BUILDING AT  
NORTH DAKOTA STATE UNIVERSITY

AN ACT

To amend and reenact chapter 156 of the 1967 Session Laws, authorizing the state board of higher education to enter into an agreement with the North Dakota 4-H club foundation, incorporated, to allow such foundation to build a 4-H center on lands of the North Dakota state university of agriculture and applied science, with title to such center passing to the state upon completion of the construction of the building.

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

**Section 1. Amendment.)** Section 1 of chapter 156 of the 1967 Session Laws is hereby amended and reenacted to read as follows:

**Section 1. Board of Higher Education Authorized to Allow Construction of a 4-H Center by the North Dakota 4-H Club Foundation, Incorporated, on the Campus of North Dakota State University of Agriculture and Applied Science—Terms of Agreement.)** The state board of higher education is hereby authorized to enter into an agreement with the North Dakota 4-H club foundation, incorporated, a nonprofit North Dakota corporation, to authorize such foundation to construct a 4-H educational center building on the campus of the North Dakota state university of agriculture and applied science. Such building may be constructed as a separate structure or as an addition to an existing building and may be a joint effort between the foundation and the university. If the building or addition is constructed as a joint effort the portion constructed by the university shall be financed as a part of an otherwise authorized revenue producing building in accordance with chapter 15-55 of the North Dakota Century Code. The board shall select the building site for such center; approve the plans for the construction of the building; and require in such agreement that upon completion of the building such foundation shall pass title to the building to the state of North Dakota free and clear of any type of liens or the board may enter into an agreement with the foundation requiring such foundation to deposit to the credit of the board, prior to the awarding of

construction contracts, an amount which with the amount to be financed by the university will be sufficient to construct the building or addition and the construction contracts may be awarded by the board directly. Upon passage of the title of the building to the state, the North Dakota state university of agriculture and applied science shall assume the responsibility for the administration, operation, and maintenance of such center. Such building or addition constructed hereunder shall be used primarily for 4-H programs and activities and institutional purposes. Provided, however, the state board of higher education shall not allow the construction of such building or addition until it has determined that the North Dakota 4-H club foundation, incorporated, has sufficient funds to build and complete such building or addition or the foundation's share thereof.

Approved March 18, 1969.

H. B. No. 382  
(Froelich, Knudson, K. Johnson, Austin, Olienyk)

**CLASSROOM - THEATRE BUILDING AT  
DICKINSON STATE COLLEGE**

**AN ACT**

To provide for the construction of a classroom-theatre building at Dickinson state college; and providing an appropriation.

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

**Section 1. Board of Higher Education Authorized to Allow Construction of a Classroom - Theatre Building at Dickinson State College.)** The state board of higher education is hereby authorized to allow the construction of a classroom-theatre building on the campus of the Dickinson state college, at Dickinson, North Dakota, at a cost of not to exceed \$400,000.00. Such building shall be built solely with private funds, and such federal matching moneys as may be obtained for this purpose, and no state funds shall be expended for such purpose. The board of higher education shall select the building site for such building, approve the plans for the construction of the building, and require that upon completion of the building, title shall be in the state of North Dakota, and the Dickinson state college shall assume the responsibility for the administration, operation, and maintenance of the building. No contract for the construction of such additions shall be awarded until the board of higher education has assurance that the funds for the payment of the contract are available. Such building shall be primarily used for a classroom and theatre building, but may be used for any purpose not inconsistent with the programs and activities related to Dickinson state college.

**Section 2. Appropriation.)** There is hereby appropriated out of any private and federal matching moneys that may become available for such purpose, the sum of \$400,000.00, or so much thereof as may be necessary, for the construction, reconstruction, and equipping of a classroom-theatre building at Dickinson state college, Dickinson, North Dakota, as provided in section 1 of this Act, for the biennium beginning July 1, 1969, and ending June 30, 1971.

Approved March 25, 1969.

H. B. No. 458  
(Jenkins, Bunker, Hilleboe)

**ADDITION TO FINE ARTS COMPLEX  
AT NORTH DAKOTA STATE UNIVERSITY**

**AN ACT**

To authorize the state board of higher education to construct additions to the fine arts complex on the campus of North Dakota state university with private or federal funds, or both, and appropriating such funds.

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

**Section 1. Construction of Additions to Fine Arts Complex—Appropriation.)** The state board of higher education is hereby authorized to construct, with private or federal funds which may be available for such purpose, additions to the fine arts complex on the campus of North Dakota state university at a cost not to exceed \$800,000.00, which funds are hereby appropriated for such purpose. No contract for the construction of such additions shall be awarded until the board of higher education has assurance that the funds for the payment of the contract are available. In the event the full amount necessary to construct the entire project is not available, the board may proceed with construction of a portion of the project if sufficient funds are available to pay for the construction of such portion.

Approved March 25, 1969.



## CHAPTER 197

## H. B. No. 474

(Backes, Miedema, Powers, Glaspey, Sanstead, Goodman)  
(Matheny, Moquist, Weber, Davis, Thompson, Kuehn, Rundle)  
(Dawson, I. Solberg, Wells, Giffey, Lundene, Schaffer)  
(Dornacker, Ganser, K. Johnson, J. Peterson, Haugland)  
(Freeman, Bier, Seibel, E. Johnson, Henning, Welder, Gackle)  
(Connolly, Linderman, Diehl, Simonson, Jenkins, Bunker)  
(Hoffner, W. Erickson, Opedahl, Wilkie, Anderson, Bullis)  
(Swedlund, O. Solberg, K. Erickson, Grant, Link, Leibhan)  
(Jones, Rivinius)

QUARTER SYSTEM AT STATE  
COLLEGES AND UNIVERSITIES

## AN ACT

To provide that all institutions of higher education shall adopt the quarter system educational term.

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

**Section 1. Institutions of Higher Education to Adopt Quarter System.)** Prior to commencing the fall academic term of 1970, each institution of higher education in the state under the direction and control of the state board of higher education, except the university of North Dakota and the Ellendale branch, shall have adopted the quarter system of academic term. Such quarter system shall provide for an academic year consisting of three quarters of approximately three months in length, to be termed as a fall quarter, winter quarter, and spring quarter, and a summer session or sessions as provided by the board of higher education. The board of higher education is hereby directed to implement the provisions of this Act to assure that all institutions of higher education, except the university of North Dakota and the Ellendale branch, shall have adopted the quarter system of academic terms by the date prescribed.

Approved March 29, 1969.

H. B. No. 507  
(Committee on Delayed Bills)

**CONSTRUCTION OF SUGAR BEET  
RESEARCH CENTER**

**AN ACT**

To authorize the state board of higher education to construct a sugar beet research and service center either on or off the campus of North Dakota state university, and providing an appropriation.

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

**Section 1. Board of Higher Education Authorized to Construct Sugar Beet Research and Service Center.)** The state board of higher education is hereby authorized to construct a sugar beet research and service center either on or off the campus of North Dakota state university at a cost of not to exceed six hundred thousand dollars. Such building shall be built solely with private funds and such federal matching moneys as may be obtained for this purpose. No state funds shall be expended for such purpose. No contract for the construction of the building shall be awarded until the board of higher education has assurance that the funds for the payment of such contract are available. In the event the full amount of funds necessary to construct such building is not available, the board may proceed with construction of a portion of the building if sufficient funds are available to pay for the construction of such portion. Such building shall be constructed on a site selected by the board of higher education and may, if determined necessary by the board of higher education, be leased or conveyed by the board to the United States government for so long as such property is used for a sugar beet research and service center. If such property is sold, transferred, and conveyed, the necessary deed shall be executed by the governor and attested by the secretary of state.

**Section 2. Appropriation.)** There is hereby appropriated out of any private funds, and such federal matching moneys as may be obtained for that purpose, the sum of \$600,000, or so much thereof as may be necessary, to the state board of higher education for the purpose of constructing a sugar beet research

and service center on the campus of North Dakota state university in accordance with the provisions of this Act.

Approved March 29, 1969.

---

CHAPTER 199

S. B. No. 34

(Coughlin, Holand, Litten, Wenstrom)

(From Legislative Research Committee Study)

STUDY OF DATA PROCESSING  
AT INSTITUTIONS OF HIGHER EDUCATION

AN ACT

Relating to a study by the legislative research committee for the development of a plan for an integrated data processing system for the institutions under the authority of the board of higher education, and providing for an appropriation.

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

**Section 1. Existing Data Processing Systems Under the Board of Higher Education.)**

WHEREAS, the subcommittee on data processing of the legislative research committee recommends that its activities be continued into the 1969-1971 biennium to review the data processing in higher education in accordance with the objectives of senate bill 89 of the fortieth legislative assembly; and

WHEREAS, there does not exist in this state an overall plan or program for the integration of data processing equipment and programs for all of the institutions under the board of higher education to provide for full integration of existing equipment to ensure maximum utilization of such programs and equipment; and

WHEREAS, unless such overall integrated data processing plan is developed, followed by intensive study and program implementation, the development of duplicating or noncompatible programs and procurement of duplicating or noncom-

patible equipment will result in hundreds of thousands of dollars of unnecessary and wasteful expense to the state during future bienniums; and

WHEREAS, while the advantages of improved educational services to the students, more efficient governmental administration, and lower governmental costs can unquestionably result from the proper use of data processing systems, these benefits will be substantially negated unless an integrated and fully compatible system of data processing is developed; and

WHEREAS, new and efficient methods of data processing should be considered in order to ensure that proper use of suitable equipment and methods for data retrieval and transmission are recognized and integrated with the data processing system to the extent feasible.

**Section 2. Legislative Research Committee Study.)** The legislative research committee is hereby authorized and directed to carry on a study of data processing during the 1969-1971 biennium for the purpose of reviewing the state's data processing efforts in the institutions under the control of the state board of higher education. Such study shall include: inventorying existing equipment and data processing capabilities as well as plans of the various institutions for expansion of such programs; projecting data processing capabilities and probable future applications and functions of such capabilities; determining the degree of utilization of existing equipment and equipment to be acquired; determining the compatibility of existing and planned equipment and systems; considering potential data transmission in developing an integrated system; and such other matters as may be necessary for the development of an economical, efficient, compatible, and feasible integrated data processing and information system for the institutions under the control of the board of higher education. Upon the basis of such review, recommendations shall be made in regard to the management and administrative and legislative action necessary to implement and achieve such overall system.

The committee may select and employ such consultants as may be necessary to carry out such study, and each department, agency, and institution of the state shall provide such aid, information, and assistance as the committee may request.

The committee shall report its findings and recommendations

to the forty-second legislative assembly, together with such legislation as may be necessary to carry out such recommendations.

**Section 3. Appropriation.)** There is hereby appropriated to the legislative research committee out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$30,000.00, or so much thereof as may be necessary, to be expended in accordance with chapter 54-35 of the North Dakota Century Code for the purpose of carrying out the study provided for in sections 1 and 2 of this Act.

Approved March 26, 1969.

---

CHAPTER 200

S. B. No. 66  
(Freed)

USE OF FUNDS FROM SALE OF DICKINSON  
EXPERIMENT STATION

AN ACT

Authorizing the state board of higher education to expend the funds received from the sale of agricultural experiment station land to the state highway department for the purpose of acquiring other land.

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

**Section 1.)** The state board of higher education is hereby authorized to expend the moneys received from the sale to the state highway department of land owned by the state of North Dakota and held for the benefit and use of the Dickinson experiment station of the North Dakota state university of agriculture and applied science, under the provisions of chapter 359 of the 1963 Session Laws, for the purpose of acquiring replacement land, as determined by the state board of higher education, in the name of the state of North Dakota for the use and benefit of the Dickinson branch experiment station of the North Dakota state university of agriculture and applied science, and such moneys are hereby appropriated for such purpose.

Approved March 10, 1969.

## CHAPTER 201

S. B. No. 159

(Becker, Litten, Torgerson, Kautzmann, Trenbeath)  
(Luick, Sorlie, Hernet, Goldberg, Butler, Stafne)  
(Decker, Berube)

SCHOOL OF FORESTRY TO BE  
BRANCH OF STATE UNIVERSITY

## AN ACT

Authorizing the board of higher education to make the state school of forestry a branch of the state university of agriculture and applied science.

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

**Section 1. School of Forestry May Be United with State University of Agriculture and Applied Science.)** The state board of higher education, if it deems it expedient to do so, may unite the state school of forestry with the state university of agriculture and applied science as a branch thereof.

Approved March 8, 1969.

## CHAPTER 202

S. B. No. 172  
(Litten, Freed, Sorlie, Decker, Longmire)  
(Luick, Becker)

## SALE OF BONDS BY BOARD OF HIGHER EDUCATION

## AN ACT

To authorize the state board of higher education to sell self-liquidating tax-exempt bonds and provide for the use of the proceeds of such self-liquidating bonds for the purpose of constructing or purchasing revenue producing buildings and other campus improvements at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations, and for such purposes as are hereinafter provided.

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

**Section 1.)** In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell self-liquidating tax-exempt bonds for the purpose of constructing revenue producing buildings and other campus improvements at institutions of higher learning in this state under the jurisdiction of the board, at such maximum amounts, at such locations, and for such purposes as hereinafter provided:

1. University of North Dakota, Grand Forks, North Dakota
  - a. Parking lots \$ 150,000.00
  - b. Married student housing 2,250,000.00
  - c. Student dormitories and food service 750,000.00
  - d. Addition to university center 1,250,000.00
  - e. Student health service building 1,000,000.00
  - f. Warehouse building 150,000.00

- |   |              |
|---|--------------|
| 2. North Dakota state university, Fargo           |              |
| a. Student dormitories                            | 1,000,000.00 |
| b. Central food storage and processing facility   | 275,000.00   |
| c. Married student housing                        | 2,500,000.00 |
| 3. Mayville state college, Mayville               |              |
| a. Married student housing                        | 450,000.00   |
| b. Student dormitories                            | 425,000.00   |
| 4. North Dakota state school of science, Wahpeton |              |
| a. Student dormitories                            | 1,300,000.00 |
| b. Married student housing                        | 540,000.00   |
| 5. State School of forestry, Bottineau            |              |
| a. Married student housing                        | 200,000.00   |
| 6. Minot state college, Minot                     |              |
| a. Married student housing                        | 480,000.00   |

The bonds authorized by this Act for the construction of married student housing shall be retired solely from revenues from such buildings. Bonds issued under the provisions of this Act shall never become a general obligation of the state of North Dakota.

Section 2.) The proceeds resulting from the sale of bonds authorized under section 1 of this Act, or so much thereof as may be necessary, are hereby appropriated for the construction and equipment of the buildings and 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.

Approved March 8, 1969.



## CHAPTER 203

S. B. No. 364

(Litten, Lips, Melland, Coughlin, Robinson)  
(Luick, Sorlie, Wenstrom, L. Larson, Kelly, Lowe)

SALE OF EDGELEY EXPERIMENT  
STATION

## AN ACT

Directing the state board of higher education to sell and transfer certain land and the improvements thereon owned by the state of North Dakota for the benefit and use of the North Dakota state university of agriculture and applied science, and for the proceeds of such sale to be deposited in the general fund, and declaring an emergency.

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

**Section 1.)** The state board of higher education shall sell and transfer by public bid, prior to January 1, 1971, with operations discontinued by January 1, 1970, all land and improvements thereon owned by the state of North Dakota and held for the benefit and use of the Edgeley experiment station of the North Dakota state university of agriculture and applied science, which land and improvements thereon are described as follows:

Northwest quarter and part of the southwest quarter of section fourteen and the northeast quarter of section fifteen all in township one hundred thirty-three north, range sixty-four west, LaMoure County, North Dakota.

**Section 2.)** Upon the sale of such land, the proceeds of sale shall be transmitted to the state treasurer for deposit in the general fund of the state of North Dakota. All documents necessary to make conveyance shall be executed by the governor and attested by the secretary of state as provided by law.

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

Approved March 25, 1969.

S. B. No. 429  
(Longmire, Lowe, Unruh)

ISSUANCE OF REVENUE BONDS FOR  
CONSTRUCTION OF UNIVERSITY  
BUILDINGS

AN ACT

To provide for the issuing of revenue bonds for the construction of certain buildings at the university of North Dakota, for a student facility fee, and for an appropriation.

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

**Section 1.)** In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell tax-exempt bonds for the purpose of either constructing a student health center at the university of North Dakota, Grand Forks, North Dakota, in accordance with senate bill 172, or reimbursing the rehabilitation treatment center at the university of North Dakota for the cost of its present facilities in the event such facilities shall be converted to a student health center, in an amount of not to exceed seven hundred fifty thousand dollars. The bonds authorized by this section shall be retired solely from revenues from student facility fees as provided by this Act, and shall never become a general obligation of the state of North Dakota.

**Section 2.)** In accordance with the provisions of chapter 15-55 of the North Dakota Century Code, the state board of higher education is hereby authorized and empowered to issue and sell tax-exempt bonds for the purpose of constructing a revenue producing winter sports building at the university of North Dakota, Grand Forks, North Dakota, in an amount of not to exceed eight hundred thousand dollars, provided that the total cost of such building shall not exceed one million six hundred thousand dollars, and provided further that one-half of the total cost may be paid by private and federal moneys obtained for this purpose. The bonds authorized by this section shall be retired solely from revenues from the winter sports building and student facility fees as provided by this Act, and

shall never become a general obligation of the state of North Dakota.

**Section 3.)** At the time of issuance of bonds under this Act, the board of higher education shall set a student facility fee to be charged to each student matriculating at the university of North Dakota, Grand Forks, North Dakota, at the time of his registration fee payment. Such fee shall be in an amount to be determined by the board, and the total of all such fees charged shall be in an amount sufficient to pay the interest and principal of bonds issued under section 1 of this Act, and the interest and principal of bonds issued under section 2 of this Act, as such bonds become due.

**Section 4. Appropriation.)** There is hereby appropriated from federal and private sources the sum of \$8,352,500.00 for the construction, reconstruction, and equipment of buildings and facilities at the university of North Dakota, Grand Forks, North Dakota, for purposes as follows and within the limitations of the costs hereafter stated:

Type of Facility	Student Facility Fees	Private Funds	Federal Funds	Total Funds
Rehabilitation treatment center hospital	\$	\$ 750,000	\$2,250,000	\$3,000,000
Student health center	750,000			750,000
Fine arts center		1,250,000	1,250,000	2,500,000
Winter sports building	800,000	400,000	400,000	1,600,000
Planetarium		500,000		500,000
Astronomical observatory		2,500		2,500
	<hr/>	<hr/>	<hr/>	<hr/>
	\$1,550,000	\$3,302,500*	\$3,500,000*	\$8,352,500

\*Note: These figures are in error, but are shown exactly as they appear in the final version of the bill.

The construction of any building shall not be commenced until the amounts of funds indicated for such building in the columns "Private Funds" or "Federal Funds" have been either actually received or irrevocably promised from such sources for such buildings except that should the funds received or to be received from the federal and private fund sources be less than the amount indicated in the columns "Federal Funds" or "Private Funds", the board of higher education shall determine whether the facility should be constructed, basing its determination on whether the building can, if constructed at a lower cost, reasonably meet the original purposes of the authorized building. In no event shall any building exceed the cost indicated in the column "Total Funds" except to the extent funds from the federal and private fund sources exceed the amount authorized for the specific building. The order of appearance of the buildings set forth above is not necessarily the order of priority for the construction of such buildings and the board of higher education, in its discretion, may direct the construction of such buildings in a different order or priority than that listed in this section.

Approved March 28, 1969.

## CHAPTER 205

S. B. No. 467  
(Committee on Delayed Bills)

## SCHOOL DAYS LOST DUE TO ACTS OF GOD

## AN ACT

Relating to foundation program payments to school districts for days of school lost during the 1968-1969 school year because of acts of God, and declaring an emergency.

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

**Section 1.)** Notwithstanding the provisions of section 15-40-14 of the North Dakota Century Code as amended by senate bill 35 of the 1969 legislative session each school district in the state during the 1968-1969 school term may include for foundation program payments not to exceed five days during which school was not held because of acts of God and an additional five days if an additional day of school is held for each of all or any part of the five days claimed as certified to the county superintendent.

**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 26, 1969.

# ELECTIONS

---

## CHAPTER 206

H. B. No. 161

(Register, Sanstead, Aas, J. Peterson)

### INTERVAL BETWEEN BOND ISSUE OR MILL LEVY ELECTIONS

#### AN ACT

To amend and reenact section 16-01-15 of the 1967 Supplement to the North Dakota Century Code, relating to requirement for an interval between elections.

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

**Section 1. Amendment.)** Section 16-01-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-01-15. Certain Questions Not To Be Voted Upon for Three Months.)** Whenever at any election a bond issue, mill levy question, or question of reorganizing a school district, 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.

Approved March 13, 1969.

## CHAPTER 207

H. B. No. 219  
(Ganser, Kuehn)

PUBLICATION OF SAMPLE PRIMARY  
ELECTION BALLOT

AN ACT

To amend and reenact section 16-04-13 and section 16-06-02 of the North Dakota Century Code, relating to the publication of the sample primary election ballot and notice of election.

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

**Section 1. Amendment.)** Section 16-04-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-04-13. 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:

1. A copy of the sample ballot of the primary election, as arranged by order and direction of the persons charged with such duty. The form of ballot so published shall conform in all respects to the form prescribed for the sample primary ballot and the makeup and general form shall conform to that prescribed for said sample ballot, except that the 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 so as to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. The form so published shall be printed in either six-point or eight-point type;
2. The date of the primary election;
3. The hours during which the polls will be open; and
4. The statement that the primary will be held in the regu-

lar polling place in each precinct.

Such notice shall be published in the official county newspaper once each week for two consecutive weeks prior to the primary election.

**Section 2. Amendment.)** Section 16-06-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-06-02. Notice of Election—Contents—Publication with Sample Ballot.)** Notice of any general election 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. Such notice shall be substantially as follows:

Notice is hereby given that on Tuesday, the \_\_\_\_\_ day of \_\_\_\_\_ next, 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 \_\_\_\_\_ o'clock a.m. and will continue open until \_\_\_\_\_ o'clock p.m. of that day with the following exceptions: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 19 \_\_\_\_\_  
(Signed) \_\_\_\_\_

County Auditor

The county auditor shall publish for two consecutive weeks prior to the election in the official county newspaper and if no newspaper is published in the county in a newspaper published in an adjoining county in the state, a copy of the sample ballot of the general election, as arranged by order and direction of the persons charged with such duty. The form of the ballot so published shall conform in all respect to the form prescribed for the sample general election ballot and the makeup and general form shall conform to that prescribed for said sample ballot, except that the candidates from each legislative district which falls within the boundaries of the county shall be listed in a separate box or category by the legislative district number so as to enable the voters in each legislative district to ascertain the legislative candidates in their specific district. The form published shall be printed in either six-point or eight-point type.

Approved March 14, 1969.



## CHAPTER 208

H. B. No. 298  
(Ganser)

COMBINATION OF CITY AND TOWNSHIP  
VOTING PRECINCTS

## AN ACT

To amend and reenact subsection 6 of section 11-11-14 and section 16-09-01 of the North Dakota Century Code, relating to the combination of city and township voting precincts under certain conditions.

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

**Section 1. Amendment.)** Subsection 6 of section 11-11-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. To establish election precincts in the county in areas outside the boundaries of incorporated cities except as provided in chapter 16-09;

**Section 2. Amendment.)** Section 16-09-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-09-01. Board of County Commissioners May Divide County Into Precincts—Combine Cities with Townships Under Certain Conditions—Preservation of Boundaries—Number of Electors—When May Redivide, Annex, Vacate or Combine Voting Precincts—Election Inspectors Designated.)** The board of county commissioners may divide the county into precincts and establish the boundaries of the same except that within the boundaries of incorporated cities the governing body of such cities shall divide the cities into precincts and establish their boundaries pursuant to the provisions of title 40.

The entirety of civil townships or cities shall be preserved as precincts except when such preservation would be in conflict with the provisions of this chapter. In such case, the civil township or city, except as provided in this chapter, shall be divided into two or more precincts, but in no case shall a precinct

be composed of parts of two civil townships, or part of a township and a city, except as provided in this chapter. No precinct in which voting machines are not used shall contain more than five hundred electors. It is further provided that the board of county commissioners may redivide the county into precincts, annex an existing precinct to another existing precinct, or combine two or more existing precincts one to another when:

1. A petition signed by seventy percent of the electors residing within an existing precinct is presented requesting such existing precinct to be annexed to and become a part of another existing precinct;
2. In the board's discretion, prompted by inaccessibility of polling places, difficulty in obtaining election boards, or economic infeasibility, an existing precinct may be annexed to and become a part of another existing precinct; or
3. The board of county commissioners may combine in their entirety two or more adjoining civil townships into one voting precinct with a common polling place for all elections other than township or school district elections or as otherwise provided by this chapter.

In the case of precincts which are combined, the board of county commissioners shall designate the person to be the inspector of elections of the new voting precinct. In the case where one precinct is annexed to another, the inspector of elections of the annexing precinct shall be the inspector of elections for the new precinct.

Notwithstanding other provisions of law, and for the purpose of statewide elections and the election of precinct committeemen, the county commissioners shall have the further authority to combine a city with an adjacent civil township, which wholly or partially encompasses such city, into one voting precinct, when the votes cast in the city for governor in the preceding election were less than three hundred and the total vote for governor at the previous election of the city and township to be combined would not exceed three hundred votes. If a city is partially encompassed by more than one civil township, the county commissioners shall select the civil township which will be combined with the city by taking into account accessibility of roads, trade area and compactness.

The county commissioners shall appoint the inspector for such combined voting precinct. The judges and clerks shall be appointed as otherwise provided by law.

If the vote in the combined voting precincts at a later date exceeds four hundred and upon request of the city governing body, the board of county commissioners shall restore the city to a separate voting precinct.

Approved March 13, 1969.

---

## CHAPTER 209

S. B. No. 95  
(Hernett)

### LOCATION OF VOTING PLACES

#### AN ACT

To amend and reenact sections 16-09-05 and 16-09-06 of the North Dakota Century Code, relating to voting places.

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

**Section 1. Amendment.)** Section 16-09-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-09-05. Board of County Commissioners May Change Voting Place in Precinct Except in Cities—Voting Place Outside County—Agreement for.)** Except within the boundaries of incorporated cities the board of county commissioners, at any regular or special meeting, may change any voting place of any precinct. The voting place may be located in an adjacent county, and the board of county commissioners is empowered to enter into an agreement with the board of county commissioners of the adjacent county regarding location of a voting place in that county.

**Section 2. Amendment.)** Section 16-09-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-09-06. Township May Have Voting Place Outside its Boundaries—Voting Place May Be Located in Adjacent County.)** The board of county commissioners, when necessity and convenience demands it, may designate a precinct voting place outside of the boundaries of a precinct, and may enter into an agreement with the board of county commissioners of an adjacent county for location of a voting place within that county.

Approved March 25, 1969.

---

CHAPTER 210

S. B. No. 311  
(Chesrown, Trenbeath)

CONSOLIDATION OF VOTING PLACES

AN ACT

To repeal section 16-09-07 of the 1967 Supplement to the North Dakota Century Code, relating to the use of the same voting place by a township and incorporated city where the combined vote does not exceed five hundred votes.

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

**Section 1. Repeal.)** Section 16-09-07 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 5, 1969.

## CHAPTER 211

H. B. No. 178

(Rundle, K. Johnson, Boyum, Lillehaugen)

## PRECINCT COMMITTEEMEN AS JUDGES OF ELECTION

## AN ACT

To amend and reenact sections 16-10-01 and 16-10-08 of the North Dakota Century Code, relating to precinct committeemen serving as judges of election.

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

**Section 1. Amendment.)** Section 16-10-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-10-01. Board of Elections — What Constitutes — Qualifications of Members.)** The judges of election, together with the inspector of elections, shall constitute the board of elections. No person shall be a member of the board of elections or a poll clerk or assistant poll clerk who:

1. Has anything of value bet or wagered on the result of an election;
2. Is a candidate at an election, except that a judge of election may be a candidate for precinct committeeman; or
3. Is the husband, wife, father, mother, father-in-law, mother-in-law, son, daughter, son-in-law, daughter-in-law, brother or sister, of any candidate except a candidate for precinct committeeman at an election.

**Section 2. Amendment.)** Section 16-10-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-10-08. Precinct Committeeman to Serve as Judge of Elections.)** The precinct committeeman receiving the

largest vote at the last election of each of the two parties which cast the largest number of votes in the state at the last general election shall serve as judges of election for their precinct. If for any reason a precinct committeeman does not wish to serve as judge of election, he shall appoint from his precinct a member of his party to serve as judge of election. Should such appointment not be made, the position shall be filled by the district chairman. Each judge of election shall be given a certificate of appointment signed by the chairman of the district committee of his party. The chairman of the district committee of the two political parties shall notify the county auditor of the counties in which the precincts are located of the appointment of the judges of election at least two weeks prior to the primary, general, or special election. If such notice is not received within the time specified in this section, the inspector of election shall appoint the judge no later than one week prior to the election.

Approved March 11, 1969.

## CHAPTER 212

S.B. No. 94  
(Hernett)

## COMPENSATION OF ELECTION OFFICIALS

## AN ACT

To amend and reenact section 16-10-16 of the North Dakota Century Code, relating to compensation of inspectors, judges, and clerks of election.

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

**Section 1. Amendment.)** Section 16-10-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-10-16. Compensation of Inspector, Judges, and Clerks of Election.)** Each inspector, judge, or clerk of any state-wide primary, general, or special election, for services performed by him 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 every additional one hundred votes cast or major fraction thereof, but not more than twenty-five dollars in all for such services.

Approved February 25, 1969.

## CHAPTER 213

H. B. No. 91  
(W. Erickson, Lundene)

## PRECINCT VOTE CANVASS

## AN ACT

To amend and reenact section 16-13-02 of the North Dakota Century Code, relating to the location of the precinct vote canvass.

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

**Section 1. Amendment.)** Section 16-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-13-02. Board of Election to Canvass Votes — Location — Public May Attend.)** After the polls are closed the inspector of elections and the judges shall open the ballot boxes and count and compare the ballots with the clerks' lists. Except as unusual and compelling circumstances may require, the vote canvass shall occur at the polling place. Should good and substantial reasons exist for the removal of the ballots and election records to another location for canvass, such other location shall be in the same precinct and such removal shall be approved by the election board, but 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. If any irregularity appears, they shall proceed as is provided in this chapter. If the ballots compare and are of equal number with the names on the clerks' lists, they shall proceed immediately to canvass publicly, in the presence of all persons desiring to attend the canvass, the votes received at such polls, and shall continue without adjournment until the canvass is completed.

Approved March 5, 1969.



## CHAPTER 214

S. B. No. 60  
(Unruh)

## DISPOSITION OF POLL BOOKS

## AN ACT

To amend and reenact section 16-13-07 of the North Dakota Century Code, relating to the election reports and poll books returned to the county auditor.

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

**Section 1. Amendment.)** Section 16-13-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-13-07. Reports and Poll Books Sent to County Auditor—Compensation for Making Returns—County Auditor to Forward Poll Book to Clerk of United States District Court.)** By twelve o'clock noon, of the day following an election except in cases of emergency or inclement weather, the inspector of elections, or one of the judges appointed by him, shall personally deliver the duplicate reports, provided for in section 16-13-04 to the county auditor. The reports, carefully sealed under cover, accompanied by both of the poll books provided for in section 16-11-13, and with the oaths of inspector and clerks affixed thereto, shall be directed properly to the county auditor. The person making such return shall receive the sum of five dollars as compensation therefor and shall also be paid mileage of ten cents per mile provided, however, no compensation and no mileage shall be paid if delivery of the ballots is not made by twelve o'clock noon on the day following the election. The compensation and mileage shall be paid out of the county treasury on a warrant of the county auditor, and shall be full compensation for returning all used or voided ballots and for delivering the ballot boxes to the proper official. Within thirty days after receipt thereof, each county auditor shall forward one of the poll books to the clerk of the United States district court for the district encompassing that county for his official use. The county auditor, if his duties so require, may request return of the poll book thirty days after receipt thereof by the clerk of the United States district court.

Approved March 20, 1969.

## CHAPTER 215

S. B. No. 170

(Nasset, G. Larson, Berube, Chesrown, Kautzmann)

(Trenbeath, Hernet, Robinson, Torgerson)

(From Senate Select Committee on Elections)

## CANVASSING OF ELECTIONS

## AN ACT

To amend and reenact section 16-13-15 of the North Dakota Century Code, relating to the canvassing of elections.

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

**Section 1. Amendment.)** Section 16-13-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-13-15. 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 such 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 such 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 board of canvassers as provided in section 16-13-36 for the purpose of recanvassing and, if necessary, correcting any previous certification of the election results.

Approved February 22, 1969.

## CHAPTER 216

S. B. No. 88  
(Trenbeath)

## ELECTION OF PRECINCT COMMITTEEMEN

## AN ACT

To amend and reenact section 16-17-06 of the North Dakota Century Code, relating to the election of precinct committeemen; and to repeal section 16-17-10.1 of the North Dakota Century Code, relating to the organization of political parties on a district basis.

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

**Section 1. Amendment.)** Section 16-17-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-17-06. Candidates Elected at Election—Tie Vote—Canvassing Vote—Certificate of Election.)** The candidate, or if more than one precinct committeeman is to be elected, the corresponding number of candidates, receiving the highest number of votes shall be declared elected, provided, however, in such case where no person's name appears on the ballot as a candidate for precinct committeeman, no person shall be elected as a precinct committeeman unless such person receives a number of votes equal to or more than the number of signatures required by section 16-17-03 to have his name placed upon the ballot. If no person receives a sufficient number of votes to be elected as precinct committeeman, the vacancy may be filled by appointment of a resident from such precinct by the district executive committee of such party. In case of a tie vote, the election officials immediately shall decide the winner by drawing lots. Upon the closing of the polls, the election officials in each precinct shall proceed to count and canvass the votes cast for precinct committeemen and ascertain who were elected, and shall notify the county auditor, the county auditor shall make out, upon blanks furnished by the county, and mail to each person elected, a certificate of election.

**\*Section 2. Repeal.)** Section 16-17-10.1 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.

**\*Note:** Section 16-17-10.1 was also repealed by section 2 of chapter 217, 1969 S.L.

---

CHAPTER 217

S.B. No. 179  
(Hernett, Rait, Kautzmann)

ORGANIZATION OF POLITICAL PARTY  
DISTRICT COMMITTEES

AN ACT

To amend and reenact section 16-17-10 and to repeal section 16-17-10.1 of the North Dakota Century Code, relating to political parties' district organization and meeting.

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

**Section 1. Amendment.)** Section 16-17-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-17-10. Meeting of District Committee— Organization.)** The district committee of each party shall meet within thirty days after each general election. The day, hour, and site shall be set by the existing district committee chairman. The district committee shall organize by:

1. Selecting a chairman, a vice chairman, a secretary, and a treasurer chosen by the district committee;
2. Adopting rules and modes of procedure not in conflict with law; and
3. Selecting an executive committee consisting of from five to fifteen persons chosen from the district committee. The chairman, vice chairman, treasurer,

and secretary of the district committee shall be members and the officers of the executive committee.

The newly elected chairman shall notify the county auditor as to the names of the party officers selected. If the office of chairman shall become vacant, the vice chairman shall hold such office until the next regular election for such office or until a new chairman is selected by the district committee for the balance of the term, whichever shall first occur.

**\*Section 2. Repeal.)** Section 16-17-10.1 of the North Dakota Century Code is hereby repealed.

Approved February 22, 1969.

**\*Note:** Section 16-17-10.1 was also repealed by section 2 of chapter 216, 1969 S.L.

---

## CHAPTER 218

H. B. No. 69  
(Link)

### APPLICATION FOR ABSENTEE BALLOTS

#### AN ACT

To amend and reenact section 16-18-06 of the North Dakota Century Code, relating to the application for absentee ballots.

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

**Section 1. Amendment.)** Section 16-18-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-18-06. Application Form.)** Application for such ballot shall be made on a blank to be furnished by the proper officer of the county, city, or school district of which the applicant is



an elector and must be substantially in the following form:

I, \_\_\_\_\_, a duly qualified elector  
of the township of \_\_\_\_\_ or of the  
\_\_\_\_\_ precinct of the  
\_\_\_\_\_ ward of the city of \_\_\_\_\_  
of the county of \_\_\_\_\_ of the state of  
North Dakota, to my best knowledge and belief entitled  
to vote in such precinct at the next election, expecting  
to be absent from said county on the day for holding such  
election, or by reason of physical disability being unable  
to attend and vote at such election, hereby make applica-  
tion for an official absent voter's ballot to be voted by  
me at such election.

Date \_\_\_\_\_

Witness: \_\_\_\_\_ Signed \_\_\_\_\_  
Post office \_\_\_\_\_

Provided that qualified electors in the military or naval service or the merchant marine of the United States of America shall not be required to file any formal application for an absent voter's ballot for any general or primary election but each county auditor of each county in the state of North Dakota shall upon receiving any information whether in writing or otherwise as to the mailing address of any qualified elector in the military or naval service or the merchant marine of the United States immediately upon receiving the ballots from the printers, mail to such electors a ballot together with proper return envelope and instructions for voting.

Approved March 8, 1969.



I, \_\_\_\_\_, under penalty of perjury, do solemnly swear that I am a resident of the township of \_\_\_\_\_, or of the \_\_\_\_\_ precinct of the \_\_\_\_\_ ward in the city of \_\_\_\_\_, residing at \_\_\_\_\_ in said city, 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 said county 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.

---

If such 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".

**Section 2. Amendment.)** Section 16-18-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-18-16. 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 16-18-15, shall be enclosed in such package and delivered therewith to the inspector of such precinct. If the official ballots for such precinct shall have been delivered to such inspector of elections at the time of the receipt by the proper officer of such absent voter's ballot, then such officer forthwith shall mail the same postage prepaid to such inspector of elections, or he, or his deputy shall personally deliver it to such inspector.

Approved March 8, 1969.



## CHAPTER 220

H. B. No. 194  
(Eagles, Freeman)

## MAILING ABSENT VOTERS' BALLOTS

## AN ACT

To amend and reenact section 16-18-14 of the North Dakota Century Code, relating to the canvassing of mailed absent voters' ballots received too late to be forwarded to the proper voting precinct.

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

**Section 1. Amendment.)** Section 16-18-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-18-14. Canvassing of Mailed Absent Voters' Ballots Received Late.)** In the case of congressional, state, or county elections, if any envelope postmarked more than three days prior to the date of the election and containing an absent voter's ballot is received by the proper officer too late to be forwarded to the proper voting precinct in time to be canvassed, the same shall be retained by him and canvassed by the canvassing board of the county of such officer at any time prior to the meeting of the state canvassing board or any adjourned meeting of said board where the same has been received by such officer in time to canvass and transmit the results to the state canvassing board. In the case of city or school district elections, if an envelope postmarked more than three days prior to the date of the election and containing an absent voter's ballot is received by the proper officer too late to be forwarded to the proper voting precinct in time to be tabulated, the same shall be canvassed by the governing body of the city, or the school board of the school district, as the case may be, at such time as the other ballots are canvassed. This section shall not be construed as invalidating any ballot mailed within three days of the date of the election at which it is to be cast, if the ballot is received in time to be so cast according to the provisions of this chapter.

Approved March 11, 1969.

## CHAPTER 221

S. B. No. 319  
(Torgerson, Melland, Becker)

ABSENTEE BALLOT NOT REJECTED ON  
DEATH OF VOTER

AN ACT

To amend and reenact section 16-18-17 of the 1967 Supplement to the North Dakota Century Code, providing that the subsequent death of an absentee voter shall not constitute grounds for rejecting the ballot.

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

**Section 1. Amendment.)** Section 16-18-17 of the 1967 Supplement to 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. 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.

Approved March 14, 1969.

---

CHAPTER 222

H. B. No. 68  
(Hilleboe)

LIMITATION ON CAMPAIGN EXPENSES

AN ACT

To amend and reenact section 16-20-04 of the North Dakota Century Code, relating to limitation on campaign expenses, and to repeal section 16-20-20 of the North Dakota Century Code.

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

**Section 1. Amendment.)** Section 16-20-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-20-04. Limitation on Campaign Expenses.)** No sum of money shall be paid and no expenses shall be authorized or incurred by any candidate seeking nomination to any public office or position in this state in a primary election campaign or any candidate who has received the nomination to any public office or position and is a candidate in the general election or any candidate in a special election in excess of five hundred dollars or fifteen percent of the annual salary of the office for which he is running, whichever is greater. Such amounts may be incurred for each election. Any candidate who fails to abide by the provisions of this section shall be punished as provided in section 16-20-24.

**Section 2. Repeal.)** Section 16-20-20 of the North Dakota Century Code is hereby repealed.

Approved March 6, 1969.

---

CHAPTER 223

S. B. No. 394  
(Meschke)

DISCLOSURE OF SPONSOR OF AND  
FALSE POLITICAL ADVERTISEMENTS

AN ACT

To amend section 16-20-17.1 of the North Dakota Century Code, concerning disclosure of sponsor of political advertisement to apply to advertisements on referred measures, and to create a new section to make sponsorship of false information in any political advertisement a misdemeanor.

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

**Section 1. Amendment.)** Section 16-20-17.1 of the 1967 Supplement of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**16-20-17.1. Political Advertisements to Disclose Name of Sponsor.)** Each and 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 of same the name or names of the sponsors of such advertisement, and the name or names of the person, persons, associations, partnerships or corporations 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, partnerships or corporations paying for such radio or television broadcast.

**Section 2. Publication of False Information in Political Advertisements—Penalty.)** No person, firm, corporation, or association shall knowingly sponsor any political advertisement containing false information, 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, firm, corporation, or association who shall violate the provisions of this section shall be guilty of a misdemeanor.

Approved March 20, 1969.

# FIRES

---

## CHAPTER 224

H. B. No. 115  
(Davis, Kelsch)

### DIRECTORS AND OFFICERS OF RURAL FIRE PROTECTION DISTRICTS

#### AN ACT

To amend and reenact section 18-10-04 of the North Dakota Century Code, relating to the board of directors and officers of 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.)** 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. 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 follow-

ing the effective date of this Act 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 8, 1969.

---

CHAPTER 225

S.B. No. 132  
(Holand)

**EXAMINATION OF FIREMEN'S RELIEF  
ASSOCIATION'S BOOKS**

AN ACT

To amend and reenact section 18-05-13 of the North Dakota Century Code, relating to state auditor to examine books of relief associations.

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

**Section 1. 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 by section

6-01-21.2 for the examination of the books and accounts of city auditors and city treasurers.

Approved February 22, 1969.

---

CHAPTER 226

S. B. No. 407  
(Sorlie)

TOWNSHIP FIRE PROTECTION CONTRACTS  
AND TAX LEVY

AN ACT

To amend and reenact section 18-06-10 and subsection 17 of section 58-02-07 of the North Dakota Century Code, relating to fire protection contracts by townships and authorizing a tax levy for such services, and declaring it an emergency.

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

**Section 1. Amendment.)** Section 18-06-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-06-10. Township May Contract for Prevention and Extinguishment of Fires.)** The electors of each township shall have the power at the annual township meeting to authorize and empower the board of township supervisors to levy, not to exceed a one mill tax, and to provide by contract or otherwise, for the prevention of, protection from and extinguishment of fires within the townships, in such manner as the board of supervisors shall deem advisable.

When so authorized, the supervisors may enter into a five-year contract and levy, not to exceed a one mill tax, for the payment of the services obtained under such contract. The mill levy provided for herein shall be over and above any mill levy limitation provided by law, and shall be collected and paid in the same manner as other taxes are collected and paid. Such contract may be renewed or renegotiated for another five-year



period upon authorization by the electors of the township at the annual meeting.

**Section 2. Amendment.)** Subsection 17 of section 58-03-07 of the North Dakota Century Code is hereby amended and re-enacted to read as follows:

**58-03-07. Powers of Electors.)** The electors of each township have the power at the annual township meeting:

17. To authorize the purchase of township firefighting equipment in the manner provided in title 18, Fires; and to authorize the entering into a contract for fire protection as provided for in section 18-06-10 of the North Dakota Century Code, as amended; and

**Section 3. Emergency.)** 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 March 17, 1969.

## CHAPTER 227

H. B. No. 126  
(Kelsch, Kuehn)

**CONTRACTING FOR RURAL FIRE PROTECTION**

## AN ACT

To amend and reenact section 18-10-10 of the North Dakota Century Code, relating to rural fire departments.

**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.)** 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, or may enter into a contract with any federal, state or local government agency for fire protection service or fire protection cooperation, upon terms suitable to all concerned, and power to make such contracts is hereby conferred upon such state or local government agency in addition to such powers as have been heretofore provided by law.

Approved March 13, 1969.

## CHAPTER 228

H. B. No. 153  
(Aamoth, Hentges, White)

**BENEFITS UNDER AND MEMBERSHIP IN ALTERNATE  
FIREMEN'S RELIEF PLAN**

AN ACT

To amend and reenact section 18-11-14 and section 18-11-20 of the North Dakota Century Code, relating to benefits under alternate firemen's relief association plan.

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

**Section 1. Amendment.)** Section 18-11-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-11-14. Disbursement of Moneys from Association State Fund.)** The amounts paid into the relief association by the state, city, and employees' salary contribution and set aside in the "association state fund" shall be appropriated and disbursed only for:

1. The payment of disability or service pensions to members of the association;
2. Pensions to widows and children or orphans of members or retired members;
3. The payment of the salary of the secretary-treasurer and the premiums on his bond;
4. Funeral payments;
5. Cost of the state audit;
6. Essential postage;
7. Actuarial study; and
8. Return of contributions to those qualified under section 18-11-20.

**Section 2. Amendment.)** Section 18-11-20 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**18-11-20. Members Withdrawing from Association—Members in Military Service.)** Each association shall adopt by-laws and regulations providing that in the event any member withdraws from employment in the department or ceases to be a member of the association, whether by death or otherwise, he shall be entitled to a return of an amount which is not less than fifty percent nor more than one hundred percent of his contributions paid to the association without interest. Any benefits already received by such person shall be deducted from the amount which would be returned to him. Any applicant for a service pension who, subsequently to his entry into the service of such fire department, has served in the military forces of the United States, shall not have the period of such military service deducted in the computation of the period of service herein provided for, but such military service shall be construed and counted as a part and portion of his active duty in said fire department, provided, however, that credit for such military service shall not exceed five years. Any such member, who was a full-time regular fireman at the time of his entry into the armed services and who seeks credit for such service, shall, upon his return to employment in the fire department, pay into the pension fund for each year of military service the same amount of money as he would have contributed from his salary had he been in the continuous employment of the department.

Approved March 13, 1969.

## CHAPTER 229

S. B. No. 337  
(Holand)

EXAMINATION OF FIREMEN'S RELIEF  
ASSOCIATION'S BOOKS

AN ACT

To amend and reenact section 18-11-22 of the North Dakota Century Code, relating to state auditor to examine books of relief associations, report of unauthorized spending to governor and duty of governor.

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

**Section 1. 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 by section 6-01-21.2 of this Code for the examination of the books and accounts of city auditors and city treasurers.

Approved March 4, 1969.

# FOODS AND DRUGS

---

## CHAPTER 230

S. B. No. 271

(Morgan, Doherty, G. Larson, Thoreson)

### CONTROL OF DRUGS AND PENALTIES FOR VIOLATIONS

To create and enact subsections 23, 24, and 25 of section 19-02.1-01, subsections 15, 16, 17, 18, 19, 20, 21, 22, and 23 of section 19-02.1-02, subsections 5, 6, 7, 8, 9, and 10 of section 19-02.1-05, and section 19-02.1-23, all of the North Dakota Century Code; and to amend and reenact section 19-02.1-04, section 19-02.1-06, and subsection 1 of section 19-02.1-15, all of the North Dakota Century Code, relating to the control of drugs and penalties.

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

**Section 1.)** Subsections 23, 24, and 25 of section 19-02.1-01 of the 1967 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

23. "Depressant, stimulant, or hallucinogenic drug" means:
- a. Any drug which contains any quantity of
    - (1) Barbituric acid or any of the salts of barbituric acid; or
    - (2) Any derivative of barbituric acid which has been designated under section 502 (d) of the Federal Act as habit-forming;
  - b. Any drug which contains any quantity of:
    - (1) Amphetamine or any of its optical isomers; or
    - (2) Any salt of amphetamine or any salt of any optical isomer of amphetamine; or
    - (3) Any substance designated by regulations promulgated under the Federal Act as habit-

forming because of its stimulant effect on the central nervous system;

- c. Any drug which contains any quantity of a substance designated by regulations promulgated under the Federal Act as having a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.
24. "Manufacture, compound, or process" shall include re-packaging or otherwise changing the container, wrapper, or labeling of any drug package in the furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer, and the term "manufacturers, compounders, and processors" shall be deemed to refer to persons engaged in such defined activities.
25. "Practitioner" means a physician, dentist, veterinarian, or other person licensed in this state to prescribe or administer drugs which are subject to this Act.

Section 2.) Subsections 15, 16, 17, 18, 19, 20, 21, 22, and 23 of section 19-02.1-02 of the 1967 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

15. The manufacture, compounding, or processing of a drug in violation of subsection 1 of section 19-02.1-23.
16. The sale, delivery, or other disposition of a drug in violation of subsection 2 of section 19-02.1-23.
17. The possession of a drug in violation of subsection 3 of section 19-02.1-23.
18. Obtaining a drug in violation of subsection 4 of section 19-02.1-23.
19. The failure to prepare or obtain, or the failure to keep, a complete and accurate record with respect to any drug as required by subsection 5 of section 19-02.1-23.
20. The refusal to permit access to or copying of any record as required by subsection 5 of section 19-02.1-23.
21. The refusal to permit entry or inspection as authorized by subsection 5 of section 19-02.1-23.



22. 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. The filling or refilling of any prescription in violation of subsection 1 of section 19-02.1-15.

**Section 3. Amendment.)** Section 19-02.1-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**19-02.1-04. Penalties and Guarantee.)**

1. Any person who violates any of the provisions of subsections 1 through 14 of section 19-02.1-02 shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment.
2. No person shall be subject to the penalties of subsection 1 of this section, for having violated subsections 1 or 3 of section 19-02.1-02 if he established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the state of North Dakota from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this chapter, designating this chapter.
3. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dis-



semination by him of such false advertisement, unless he has refused, on the request of the department to furnish the department the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state of North Dakota who caused him to disseminate such advertisement.

4. Any person who violates any of the provisions of subsections 15 through 23 of section 19-02.1-02 shall, on conviction thereof, be subject to imprisonment in the state penitentiary for not more than three years or in a county jail not exceeding one year, or a fine of not more than one thousand dollars, or both such fine and imprisonment; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than five years or a fine of not more than fifteen thousand dollars, or both such fine and imprisonment; provided, however, that any person who, having attained his eighteenth birthday, violates subsection 16 of section 19-02.1-02 by selling, delivering, or otherwise disposing of any depressant, stimulant, or hallucinogenic drug to a person who has not attained his twenty-first birthday shall, if there be no previous conviction of such person under this section which has become final, be subject to imprisonment for not more than ten years, or a fine of not more than ten thousand dollars, or both such fine and imprisonment, and for the second or any subsequent conviction for such a violation shall be subject to imprisonment for not less than ten years, or a fine of not more than twenty thousand dollars, or both such fine and imprisonment.

**Section 4.)** Subsections 5, 6, 7, 8, 9, and 10 of section 19-02.1-05 of the 1967 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

5. Objects may be seized without a warrant by a duly authorized agent of the department whenever he has reasonable grounds to believe they are:

- a. A depressant, stimulant, or hallucinogenic drug with respect to which a prohibited act within the meaning of section 19-02.1-02 has occurred;

- b. A container of such depressant, stimulant, or hallucinogenic drug;
- c. Equipment used in manufacturing, compounding, or processing a depressant, stimulant, or hallucinogenic drug with respect to which drug a prohibited act within the meaning of section 19-02.1-02 has occurred; or
- d. Any conveyance being used to transport, carry, or hold a depressant, stimulant, or hallucinogenic drug with respect to which a prohibited act within the meaning of section 19-02.1-02 has occurred. As used in this subdivision, the term "conveyance" includes every description of vehicle, vessel, aircraft, or other contrivance used, or capable of being used as a means of transportation on land, in water, or through the air.

6. When an article, equipment, conveyance, or other thing is seized under subsection 5, the department shall, within five days thereafter, cause to be filed in the district court in whose jurisdiction the merchandise is seized or detained a complaint for condemnation of such merchandise as herein provided. The proceedings shall be brought in the name of the state by the state's attorney of the county in which the article was seized, and the complaint shall be verified by a duly authorized agent of the state in a manner required by the law of this state. The complaint shall describe the merchandise, state its location, state the name of the person, firm, or corporation in actual possession, state the name of the owner, if known to the duly authorized agent of the state, allege the essential elements of the violation which is claimed to exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such a complaint, the court shall promptly cause process to issue to the sheriff or other state law enforcement officer, commanding him to seize the goods described in the complaint and to hold the same for further order of the court. The sheriff or other state law enforcement officer shall at the time of seizure, serve a copy of said process upon the owner of said merchandise. Such service may be made personally, by mail, or by publication according to the rules governing the service of civil process in this state. At the expiration of twenty days after such seizure, if no claimant has appeared to defend said complaint, the court shall order the sheriff to dispose of said seized merchandise.

7. 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. 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 Act.

9. Whenever in any proceedings under this section the condemnation of any equipment or conveyance or other thing, other than a drug, is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court that:

- a. He has not committed or caused to be committed any prohibited act referred to in subsection 5 of this section and has no interest in any drug 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. 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 5. Amendment.)** Section 19-02.1-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**19-02.1-06. Prosecutions—State's Attorney.)** It shall be the duty of each state's attorney to whom the department reports any violation of this chapter occurring in his county, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

**Section 6. Amendment.)** Subsection 1 of section 19-02.1-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A depressant, stimulant, or hallucinogenic drug; or a drug intended for use by man which is a habit-forming drug to which subsection 4 of section 19-02.1-14 applies; or a drug that, because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner; or a drug limited by an approved application under section 505 of the Federal Act or section 19-02.1-16 of this Code to use under the professional supervision of a practitioner, shall be dispensed by prescription of a practitioner, and such prescription shall not be refilled more than five times, nor shall it be filled or refilled after six months from the date on which such prescription was issued; except that nothing herein shall be construed as preventing a practitioner from issuing a new prescription for the same drug either in writing or orally. Any oral prescription for such drug shall be promptly reduced to writing by the pharmacist on a new prescription blank, and shall be signed within seventy-two hours by the practitioner who issued the same.

**Section 7.)** Section 19-02.1-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

**19-02.1-23. Prohibition Against Manufacture of Drugs—Exceptions.)**

1. No person shall manufacture, compound, or process in this state any depressant, stimulant, or hallucinogenic drug except that this prohibition shall not apply to the following persons whose activities in connection with any drug are as specified in this subsection:

- a. Manufacturers, compounders, and processors, operating in conformance with the laws of this state relating to the manufacture, compounding or processing of drugs, who are regularly engaged in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment:
  - (1) To pharmacies, hospitals, clinics, public health agencies, or physicians for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed in this state to administer such drugs in the course of their professional practice; or
  - (2) To laboratories or research or educational institutions for their use in research, teaching, or chemical analysis.
- b. Suppliers operating in conformance with the laws of this state relating to the manufacture, compounding, or processing of drugs of manufacturers, compounders, and processors referred to in subdivision a.
- c. Wholesale druggists who maintain their establishments in conformance with state and local laws relating to the manufacture, compounding, or processing of drugs and are regularly engaged in supplying prescription drugs:
  - (1) To pharmacies, hospitals, clinics, public health agencies, or physicians for dispensing by registered pharmacists upon prescriptions or for use by or under the supervision of practitioners licensed in this state to administer such drugs in the course of their professional practice; or
  - (2) To laboratories or research or educational institutions for their use in research, teaching, or clinical analysis.
- d. Pharmacies, hospitals, clinics, and public health

- agencies which maintain their establishments in conformance with state and local laws regulating the practice of pharmacy and medicine which are regularly engaged in dispensing drugs upon prescriptions of practitioners licensed in this state to administer such drugs for patients under the care of such practitioners in the course of their professional practice.
- e. Practitioners licensed in this state to prescribe or administer depressant, stimulant, or hallucinogenic drugs, while acting in the course of their professional practice.
  - f. Persons who use depressant, stimulant, or hallucinogenic drugs in research, teaching, or chemical analysis and not for sale.
  - g. Officers and employees of this state, or of a political subdivision of this state or of the United States while acting in the course of their official duties.
  - h. An employee or agent of any person described in subdivisions a through f of this subsection, and a nurse or other medical technician under the supervision of a practitioner licensed by the law in this state to administer depressant, stimulant, or hallucinogenic drugs, while such employee, nurse, or medical technician is acting in the course of his employment or occupation and not on his own account.
2. No person other than:
- a. A person described in subsection 1, while such person is acting in the ordinary and authorized course of his business, profession, occupation, or employment; or
  - b. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any depressant, stimulant, or hallucinogenic drug or counterfeit drug is in the usual course of his business or employment as such, shall sell, deliver, or otherwise dispose of any depressant, stimulant, or

hallucinogenic drug or counterfeit drug to any other person.

3. No person, other than a person described in subdivisions a or b of subsection 2 of this section shall possess any depressant, stimulant, or hallucinogenic drug unless:
  - a. Such drug was obtained upon a valid prescription, and is held in the original container in which such drug was delivered; or
  - b. Such drug was delivered by a practitioner in the course of his professional practice and the drug is held in the immediate container in which such drug was delivered.
4. No person other than a person described in subdivision g of subsection 1 of this section shall obtain or attempt to obtain a depressant, stimulant, or hallucinogenic drug by:
  - a. Fraud, deceit, misrepresentation or subterfuge;
  - b. Falsely assuming the title of or representing himself to be a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other persons authorized to possess stimulant, depressant, or hallucinogenic drugs;
  - c. The use of a forged or altered prescription; or
  - d. The use of a false name or a false address on a prescription;

Provided this subsection shall not apply to drug manufacturers, their agents or employees, when such manufacturers, their agents or employees are authorized to engage in and are actually engaged in investigative activities directed toward the safeguarding of said drug manufacturer's trademark.

5. Every person engaged in manufacturing, compounding, processing, selling, delivering, or otherwise disposing of any depressant, stimulant, or hallucinogenic drug shall, upon the effective date of this Act, prepare a com-



- plete and accurate record of all stocks of each drug on hand and shall keep such record for three years, except that if this record has already been prepared in accordance with section 511 (d) of the Federal Act, no additional record shall be required provided that all records prepared under section 511 (d) of the Federal Act have been retained and are made available to the department upon request. When additional depressant, stimulant, or hallucinogenic drugs are designated after the effective date of this Act, a similar record must be prepared upon the effective date of their designation. On and after the effective date of this Act, every person manufacturing, compounding, or processing any depressant, stimulant, or hallucinogenic drug shall prepare and keep, for not less than three years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing, and every person selling, delivering, or otherwise disposing of any depressant, stimulant, or hallucinogenic drug shall prepare or obtain, and keep for not less than three years, a complete and accurate record of the kind and quantity of each drug received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction.
6. Every person required by subsection 5 of this section to prepare or obtain, and keep records, and any carrier maintaining records with respect to any shipment containing any depressant, stimulant, or hallucinogenic drug, and every person in charge, or having custody of such records, shall, upon request of an officer or employee designated by the chief agent, permit such officer or employee at reasonable times to have access to and copy such records. For the purposes of verification of such records and the enforcement of this Act, officers or employees designated by the department are authorized to enter, at reasonable times, any factory, warehouse, establishment, or vehicle, in which any depressant, stimulant, or hallucinogenic drug is held, manufactured, compounded, processed, sold, delivered, or otherwise disposed of, and to inspect, within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment,



finished and unfinished material, containers and labeling therein, and all things therein, including records, files, papers, processes, controls, and facilities, and to inventory any stock of any such drug, provided that no inspection authorized by this subsection shall extend to:

- a. Financial data;
  - b. Pricing data;
  - c. Personnel data; or
  - d. Research data.
7. The provisions of subsections 5 and 6 of this section shall not apply to a licensed practitioner described in subdivision e of subsection 1 of this section with respect to any depressant, stimulant, or hallucinogenic drug received, prepared, processed, administered, or dispensed by him in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drug or drugs to his patients for which they are charged, either separately or together with charges for other professional services.
8. Depressant, stimulant, or hallucinogenic drugs exempted under section 511 (f) of the Federal Act are exempted from the application of this section.

Approved March 5, 1969.

H. B. No. 350  
(Bunker)

SALE AND POSSESSION OF MARIJUANA

AN ACT

To create and enact section 19-03-28.1 of the North Dakota Century Code, relating to the sale or possession of marijuana, and providing a penalty, and to amend and reenact section 19-03-01 of the North Dakota Century Code, relating to definition of narcotic drugs, and declaring an emergency.

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

**Section 1. Amendment.)** Subsection 13 of section 19-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. "Narcotic drugs" means coca leaves, opium, isoniphe-caine, amidone, isoamidone, keto - berridone, and every other substance neither chemically nor physically distinguishable from them, and other drugs to which the federal laws relating to narcotic drugs may now apply; and any drug found by the state laboratories department, after reasonable notice and opportunity for hearing, to have addiction-forming or addiction-sustaining liability similar to morphine or cocaine, from the date of publication of such finding by said state laboratories department;

**Section 2.)** Section 19-03-28.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**19-03-28.1. Sale or Possession of Marijuana Prohibited—Penalty.)** No person shall grow, sell, trade, furnish, give away, or have in his possession any marijuana except in accordance with the provisions of this chapter. Any person convicted of a violation under this section shall be punished by a fine of not more than two thousand dollars, and by imprisonment in the county jail for not less than six months, or by imprisonment in the state penitentiary for not more than two years, or by both such fine and imprisonment. Any person convicted of a violation under this section, who has previously been convicted of a violation under this same section, shall be punished by a fine of

not more than two thousand dollars, or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment. Any person over the age of eighteen who is convicted of a violation under this section wherein he sold, traded, furnished, or gave away marijuana to another person eighteen years of age or less, or who utilized the services of another person eighteen years of age or less for the purpose of selling, trading, furnishing, or giving away marijuana to another, shall be punished by imprisonment in the state penitentiary for a period of not less than five years, nor more than ten years.

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

Approved March 25, 1969.

---

## CHAPTER 232

H. B. No. 135  
(Dornacker)

### DEFINITION OF DOING BUSINESS FOR PURPOSE OF LICENSING MARGARINE DISTRIBUTORS

#### AN ACT

To amend and reenact subsection 2 of section 19-05-05 and subsection 1 of section 19-05-08 of the North Dakota Century Code, relating to the definition of doing business in this state for the purposes of licensing oleomargarine wholesalers and relating to the size of bulk containers in which oleomargarine may be sold.

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

**Section 1. Amendment.)** Subsection 2 of section 19-05-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For the purposes of this chapter, "doing business in this state" shall mean any manufacturer, wholesaler, distributor, jobber or any person acting as such having or maintaining within this state, directly or by a subsidiary, an office, distri-

bution house, warehouse, or other place of business, or by making delivery into this state by his own vehicle or by contract carrier, or by any agent operating within this state under the authority of the manufacturer, wholesaler, distributor, jobber, or any person acting as such or its subsidiary, whether such place of business or agent is located in this state permanently or temporarily or whether or not such a firm is authorized to do business within this state.

**Section 2. Amendment.)** Subsection 1 of section 19-05-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*1. The state tax commissioner shall collect a tax of ten cents per pound upon all oleomargarine held for sale or consumption in this state. An additional tax of ten cents per pound shall be collected upon all oleomargarine which is yellow in color held for sale or consumption in this state. Oleomargarine shall not be sold in this state in packages containing less than one pound; however, oleomargarine may be sold in packages containing any number of exact pounds provided that the packages containing the oleomargarine clearly state the net weight of the oleomargarine contained in the package and that the appropriate number of revenue stamps representing the per pound net weight of the oleomargarine contained in the package are affixed to the package before the package is offered for sale in this state. Before a box, carton, or container of oleomargarine is held for distribution by a manufacturer, wholesaler, distributor, jobber, or any person acting as such, or by a retailer, or held for consumption by any person, he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained.

Approved February 20, 1969.

\*Note: Subsection 1 of section 19-05-08 was also amended by section 1 of chapter 233, 1969 S. L.

## CHAPTER 233

H.B. No. 405  
(Gackle)

## REDUCTION OF OLEOMARGARINE TAX

## AN ACT

To amend and reenact subsection 1 of section 19-05-08 of the North Dakota Century Code, relating to the reduction of the tax imposed upon oleomargarine sold in this state.

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

**Section 1. Amendment.)** Subsection 1 of section 19-05-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

\*1. The state tax commissioner shall collect a tax of ten cents per pound upon all yellow oleomargarine held for sale or consumption in this state. Oleomargarine shall not be sold in this state in packages containing less than one pound, however, oleomargarine may be sold in packages containing any number of exact pounds provided that the packages containing the oleomargarine clearly state the weight of the oleomargarine contained in the package and that the appropriate number of revenue stamps representing the per pound net weight of the oleomargarine contained in the package are affixed to the package before the package is offered for sale in this state. Before a box, carton, or container of oleomargarine is held for distribution by a manufacturer, wholesaler, distributor, jobber, or any person acting as such, or by a retailer, or held for consumption by any person, he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained.

Approved March 25, 1969.

\*Note: Subsection 1 of section 19-05-08 was also amended by section 2 of chapter 232, 1969 S. L.

## CHAPTER 234

H. B. No. 335  
(Moquist, Kingsbury, Berg)

**PROHIBITING SALE OF POTATOES NOT LABELED AS  
TO GRADE**

AN ACT

Prohibiting the sale of potatoes not labeled as to grade; and providing a penalty.

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

**Section 1. Sale of Potatoes Not Labeled As To Grade in Closed Packages Prohibited.)** No person shall sell at retail any potatoes in closed packages which are not identified as to grade.

**Section 2. Definitions.)** Whenever used in this Act:

1. "Closed package" shall mean any box, barrel, basket, crate, sack, bag, tube or any other type container in which all contents cannot be seen or inspected to determine the grade, quality or condition without the removal of all or part of the contents from such package.
2. "Person" means a natural person, partnership, corporation or other form of business association.
3. "Retail sale" means a transfer for value to a consumer.

**Section 3. Grade Labeling.)** Every closed package containing potatoes to be sold or offered for sale at retail by any person shall bear conspicuously on the top and/or side thereof in plain words the grade. An attached tag may substitute for the grade print on closed packages. Inspections under this Act shall be performed by the state laboratories department.

**Section 4. Approved Grades and Standards.)** Grades shall be those established by the United States department of agriculture, the North Dakota state seed department, or any grade approved by the North Dakota commissioner of agriculture. Culls or pickouts shall be labeled as "culls".

**Section 5. Penalty.)** Any person who violates this Act is guilty of a misdemeanor.

Approved March 25, 1969.

---

CHAPTER 235

H. B. No. 334  
(Moquist, Kingsbury, Berg)

PROHIBITING SALE OF ARTIFICIALLY  
COLORED POTATOES

AN ACT

Relating to potatoes; prohibiting the sale of artificially colored potatoes; and imposing a penalty.

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

**Section 1. Sale of Artificially Colored Potatoes Prohibited.)**

No person shall sell at retail any potatoes which are artificially colored. For purposes of this Act the terms defined in this section shall have the meanings therein ascribed to them.

1. "Person" means a natural person, partnership, corporation, or other form of business association.
2. "Retail sale" means a transfer for value to a consumer.

**Section 2. Artificial Coloring.)** The state laboratory department shall prescribe by regulation the meaning of "artificial coloring".

**Section 3. Penalty.)** Any person who violates this Act is guilty of a misdemeanor.

Approved March 13, 1969.

# GAME AND FISH

---

## CHAPTER 236

H. B. No. 231  
(Dawson, K. Johnson)

### HUNTING OR HARASSING BIG GAME FROM MOTOR VEHICLES

#### AN ACT

To create and enact subsections 20, 21 and 22 of section 20-01-01 of the North Dakota Century Code, relating to the definition of a motor-driven vehicle, and to create and enact section 20-01-04.2 of the North Dakota Century Code, to prohibit the use of motor-driven vehicles in running, driving, molesting, flushing or harassing big game and to restrict the use of motor-driven vehicles in the process of hunting big game.

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

**Section 1.)** Subsections 20, 21 and 22 of section 20-01-01 of the 1967 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

20. "Motor-driven vehicle" shall mean any land vehicle, with or without wheels, that is propelled by any motor;
21. "Retrieve" shall mean to have taken possession and made ready for transportation;
22. "Established road or trail" shall mean any public highway or road, improved or otherwise, that has been dedicated for purposes of public ingress or egress, or any other road or trail that is normally used for travel.

**Section 2.)** Section 20-01-04.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

**20-01-04.2. Hunting Big Game with Motor Vehicles Prohibited; Exception—Motor Vehicle Use in Transporting Big Game Restricted.)** No person, while hunting big game, shall 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 retrieve, 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, shall 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 big game with the use or aid of any motor-driven vehicle. No person, while hunting big game, shall 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.

Approved March 10, 1969.

S. B. No. 212  
(Litten)

DEFINITION OF SMALL GAME  
AND HUNTING LICENSE FEES

AN ACT

To amend and reenact section 20-01-01 of the North Dakota Century Code by creating a new subsection, relating to the definition of small game, and to amend and reenact subsections 1, 2 and 3 of section 20-03-12 of the North Dakota Century Code, relating to the schedule of fees for certain hunting licenses.

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

**Section 1. Amendment.)** Section 20-01-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted by creating a new subsection to read as follows:

“Small game” shall mean all game birds and tree squirrels.

**Section 2. Amendment.)** Subsections 1, 2 and 3 of section 20-03-12 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. For a resident small game hunting license, the sum of two dollars;
2. For a nonresident small game hunting license, the sum of thirty-five dollars;
3. For a resident big game hunting license, the sum of six dollars;

Approved March 28, 1969.

S. B. No. 99  
(Longmire)

**HARASSMENT OF GAME BIRDS  
AND GAME ANIMALS**

**AN ACT**

To amend and reenact sections 20-01-07 and 20-05-01 of the North Dakota Century Code, relating to protection of any game bird or game animal.

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

**Section 1. Amendment.)** Section 20-01-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20-01-07. Hunting and Harassing Game from Aircraft Prohibited.)** No person, flying or controlling the flight of any aircraft in this state, shall intentionally kill, chase, or harass or attempt to kill, chase, or harass any game bird or game animal except when necessary for the protection of life or property.

**Section 2. Amendment.)** Section 20-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20-05-01. Big Game Animals Protected.)** No person shall hunt, harass, chase, pursue, take, attempt to take, possess, transport, ship, convey by common or private carrier, sell, barter, or exchange any big game animal except as provided in this title.

Approved March 29, 1969.

## CHAPTER 239

S. B. No. 302  
(G. Larson, Trenbeath)

SHOOTING PERMITS FOR PHYSICALLY  
HANDICAPPED

AN ACT

To create and enact subsection 9 of section 20-02-05 of the North Dakota Century Code, relating to powers of the game and fish commissioner.

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

**Section 1.)** Subsection 9 of section 20-02-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

9. Issue, at his discretion, special permits to shoot game from a stationary motor vehicle upon application from individuals who are physically unable to walk for purposes of hunting or taking game. The application shall be accompanied by a statement from such individual's physician, verifying the claims made by such individual on his application.

Approved March 4, 1969.

## CHAPTER 240

S.B. No. 80  
(Longmire)

FISHING LICENSE EXEMPTION FOR  
MENTALLY DEFICIENT

## AN ACT

To create and enact subsection 4 of section 20-03-02 of the 1967 Supplement to the North Dakota Century Code, relating to fishing license exemptions.

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

**Section 1.)** Subsection 4 of section 20-03-02 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

4. Any patient of the Grafton state school for the mentally deficient and any student at the state industrial school may fish without first having obtained a resident fishing license as prescribed in this chapter.

Approved March 10, 1969.

## CHAPTER 241

S. B. No. 191  
(Morgan, Luick)

## NONRESIDENT PREDATOR HUNTING LICENSES

## AN ACT

To amend and reenact subsection 11 of section 20-03-12 of the North Dakota Century Code, relating to fees for nonresident licenses to hunt predators.

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

**Section 1. Amendment.)** Subsection 11 of section 20-03-12 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

11. For a nonresident predator hunting license, the sum of fifteen dollars.

Approved March 4, 1969.

## CHAPTER 242

H. B. No. 275

(K. Johnson, Wilkie, Rivinius, Rundle, Dick)  
(Dawson, Backes)

## REVOCATION OF HUNTING LICENSES

## AN ACT

To amend and reenact section 20-03-37 of the North Dakota Century Code, relating to hunting licenses and providing that any person who has his hunting license revoked shall be ineligible to have his hunting privileges restored for two years; and providing a penalty for purchasing or attempting to purchase a hunting license or permit within two years after a revocation.

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

**Section 1. Amendment.)** Section 20-03-37 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20-03-37. Violators May Have Licenses or Permits Revoked—Revoked Licenses or Permits Not To Be Replaced—Reinstating License or Permit—Penalty for Attempting to Purchase Hunting after Revocation.)** Any person convicted of violating any of the provisions of this section, in addition to the fine and imprisonment provided, may have any license or permit held by him revoked for the privileges he has violated, and no license or permit shall be issued to such person, except as hereinafter provided, for the remainder of the year in which such violation occurred. However, in the case of a revocation of a fishing license for a first violation, such license or permit shall be reinstated thirty days from the date of such revocation. In the case of a revocation of a hunting license for a violation of any of the provisions of this section, the person having his license revoked shall also be ineligible to have his hunting privileges restored for two years after the year of such revocation. Any person purchasing or attempting to purchase a hunting license or permit during such revocation period may be punished by imprisonment in the county jail for not more than thirty days, or by a fine of not more than one hundred dollars, or by both such fine and imprisonment.

Approved March 25, 1969.

## CHAPTER 243

H. B. No. 118

(Eagles, Boyum, Goodman, Hensrud, Aafedt, Dick)

## PROTECTED FUR-BEARING ANIMALS

## AN ACT

To amend and reenact section 20-07-02 of the North Dakota Century Code, relating to the protected list of fur-bearing animals.

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

**Section 1. Amendment.)** Section 20-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20-07-02. Fur-Bearing Animals Which are Protected Not To Be Taken or Disturbed During Closed Seasons.)** No person shall hunt, shoot, trap, or take, in this state, any mink, muskrats, weasels, or tree squirrels, except during the open or lawful season thereon as established under the provisions of section 20-08-01 or section 20-07-04. The governor may, by proclamation, place beavers, raccoons, badgers, foxes, wolves, and coyotes on the protected list of fur-bearing animals at any time, and may keep such fur-bearers on the protected list for such length of time as he may deem reasonable and necessary. If such fur-bearers are placed on the protective list as provided for in this section, the governor may, by proclamation, prescribe the area, manner and number that may be hunted, trapped, shot or taken.

Approved February 20, 1969.



## CHAPTER 244

H. B. No. 98

(Eagles, Boyum, Dick, Goodman, K. Johnson)  
(McDonald, Boustead, Aafedt)

PROCLAMATION ON BAG LIMIT ON  
UPLAND GAME BIRDS

## AN ACT

To amend and reenact section 20-08-02 of the North Dakota Century Code, relating to bag limit on upland game and migratory waterfowl.

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

**Section 1. Amendment.)** Section 20-08-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**20-08-02. Limitations on Governor's Powers.)** The governor may not establish:

1. A bag limit on upland game birds which exceeds fifteen birds in the aggregate.

Approved March 10, 1969.

## CHAPTER 245

H. B. No. 431  
(Streibel, Backes, W. Erickson)  
(E. Johnson, Burke, Reimers, Davis)

POSTING WATERFOWL REST  
AREAS

## ANACT

Requiring consent before land is posted for hunting.

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

**Section 1.)** Before the North Dakota game and fish department, by department decision or at the request of any group or individual, posts any land as a waterfowl rest area they must first have on file in the department the consent, in writing, of any resident landowner of the land to be posted.

Approved March 14, 1969.

S. B. No. 461  
(Morgan, Trenbeath)

## PRIVATE SHOOTING PRESERVES

### AN ACT

To permit private game bird shooting preserves and the operation thereof, and to provide for fees, permits, surety bonds, types of game birds that may be hunted, registration of guests, rules and regulations, and providing a penalty.

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

**Section 1. Definitions.)** In this Act, unless the context otherwise requires:

1. "Shooting preserve" or "preserve" shall mean any acreage either privately owned or leased on which hatchery-raised game birds are released for the purpose of hunting for a fee, over an extended season.
2. "Commissioner" shall mean the state game and fish commissioner.

**Section 2. Permit for Shooting Preserve—Fees.)** Any person owning, holding or controlling, by lease or otherwise, any contiguous tract of land of not more than one thousand two hundred eighty acres, who desires to establish a shooting preserve under this Act, may make application to the commissioner for a shooting preserve operating permit. The application shall be made by the applicant, his agent, or his attorney; shall be in such form as the commissioner may prescribe; shall be accompanied by the surety bond required by this Act, and by a fee determined as follows:

1. One hundred dollars, if the shooting preserve consists of an area of six hundred forty acres or less; or
2. One hundred dollars, if the shooting preserve consists of an area of more than six hundred forty acres, plus fifty cents per acre for each acre over six hundred forty acres.

Acreage amounts shall include any lands which are used for hatching, game production areas, or headquarters areas. Upon the receipt of the application for a shooting preserve permit, the commissioner shall inspect the area described in the application, including the facilities, and shall investigate the ability of the applicant to operate an area of this character, in accordance with section 3 of this Act. Such permit, if granted, shall be issued for one year, and may be renewed annually by payment of the fees as set forth under this section, and the renewal of any surety bond that may have expired, or shall expire before the end of the next permit term.

**Section 3. Prerequisites for the Issuance of Permits—Bonds.)** Before issuing any permit under this Act, the commissioner shall have found that:

1. The applicant is financially able to provide the necessary facilities and services to operate a shooting preserve.
2. The applicant proposes to comply with all of the provisions of this Act.
3. The operation of the preserve will not work a fraud upon persons who are permitted to hunt thereon.
4. The operation of the preserve is not designed to circumvent game laws or regulations.
5. The issuance of the permit will be in the public interest.

Provided that before any permit shall issue to the applicant, he shall have filed a bond to the state of North Dakota in the sum of two thousand dollars, executed by a surety company authorized to do business in the state of North Dakota, and conditioned that the applicant will observe and comply with the provisions of this Act and rules and regulations promulgated by the commissioner thereunder, and will pay any fine and costs upon conviction of the permittee for violation of the provisions of this Act, and all reasonable costs arising from any hearing for revocation or suspension of the permit.

**Section 4. Types of Game That May Be Hunted on Shooting Preserve—Identification of Game.)** Game birds that may be stocked on a shooting preserve and hunted under this Act shall be artificially propagated pheasants, quail, partridges,

turkey, prairie chickens, and such other game birds or species thereof as may be allowed by the commissioner. A minimum stock of one hundred of each species to be hunted on a shooting preserve shall be released on the permit area during the shooting preserve season.

All game birds released on a shooting preserve shall be marked prior to release as prescribed by the commissioner by rule or regulation. All mallard ducks released on a shooting preserve shall have the right hind toenails clipped before the birds attain the age of four weeks.

**Section 5. Operation of Shooting Preserve—Game License Required—Season—Search of Premises Permitted.)** Any guest of an operator of a shooting preserve, providing that he possesses a valid general game license issued by the state of North Dakota, may harvest any game bird within the defined limits of the shooting preserve, subject to the provisions of this Act. The shooting preserve operator may establish his own restrictions on the age, sex, and number of each game bird that may be taken by each guest, and the fee to be paid by each guest. The exterior boundaries of each shooting preserve shall be clearly defined and posted with signs erected around the extremity at intervals of one hundred fifty feet or less. Each shooting preserve operator and his guest shall comply with and be subject to the provisions of chapter 20-01 of the North Dakota Century Code in all respects. Any shooting preserve operator may restrict or set the hours during which game birds may be hunted, subject to the provisions of section 20-01-06 of the North Dakota Century Code. The season length for shooting preserves may be all or part of the seven-month period beginning September 1, and ending March 31 of the following year. All permits shall be issued upon the express condition that the permittee agrees that any law enforcement officer or any representative of the commissioner may enter and search the premises or any part thereof at any reasonable time to ensure compliance with the laws of this state and the rules and regulations of the commissioner.

**Section 6. Game Birds To Be Tagged.)** Each operator of a shooting preserve shall tag all game birds that are harvested by guests before such birds are consumed or removed from the shooting preserve premises. Such tags shall clearly identify such birds as either game birds that have been released by the shooting preserve operator, or wild game birds. Tags shall

be numbered consecutively, dated by year of issuance, and shall be of the self-sealing type. The commissioner shall provide for the issuance of tags to shooting preserve operators, at nominal cost to them. Once affixed, tags shall remain attached until the game birds are actually prepared for consumption.

**Section 7. Guest Register and Records To Be Maintained.)**

Each shooting preserve operator shall maintain a guest register in which shall be listed the guest's name, his address, the number of his North Dakota general game license, the date on which he hunted, the number of game birds and species taken and their tag numbers with wild game birds and game birds that were released by the operator listed separately. A record shall also be maintained by each shooting preserve operator of the source of game released in his preserve, the date of release, and the number and kind of game bird or species released. The records required to be kept by this section shall be open for inspection by the commissioner, his representative, or any law enforcement officer at any reasonable time.

**Section 8. Rules and Regulations To Be Promulgated by the Commissioner.)** The commissioner shall promulgate rules and regulations reasonably necessary to implement the provisions of this Act.

**Section 9. Penalties.)** Any person violating the provisions of this Act shall be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

**Section 10. Revocation of Permit.)** The commissioner is hereby authorized, after due notice to the shooting preserve operator, and a hearing thereon, to revoke or suspend the permit of any operator for any violation of this Act or of the rules and regulations of the commissioner.

**Section 11. Administrative Agencies Practice to Apply.)** The provisions of chapter 28-32 of the North Dakota Century Code, Administrative Agencies Practice Act, shall apply to this Act.

Approved March 28, 1969.

# GOVERNMENTAL FINANCE

---

## CHAPTER 247

H. B. No. 151

(Sanstead, Hougen, R. Peterson, Sandness)

### BOND AUTHORIZATION FOR SCHOOL DISTRICTS

#### AN ACT

To amend and reenact section 21-03-07, and to create and enact subsection 6 of section 21-03-07 of the North Dakota Century Code, relating to bond authorization for school district.

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

**Section 1. Amendment.)** Section 21-03-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-07. Election Required—Exceptions.)** No municipality, and no governing board thereof, except school districts, shall issue bonds without being first authorized to do so by a vote equal to sixty-six and two-thirds percent, in the case of municipalities having a population of less than five thousand, or a vote of sixty percent in the case of municipalities having a population of five thousand or more, of all the qualified voters of such municipality voting upon the question of such issue except:

**Section 2.)** Subsection 6 of section 21-03-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. The school board of any school district may issue bonds of the municipality for the purposes and within the limitations specified by section 21-03-06, subsection 4, upon the authorization of sixty percent of the electors voting upon the question of such issue.

Approved March 29, 1969.



## CHAPTER 248

S. B. No. 77  
(Longmire)

PLEDGE OF SECURITIES IN PLACE OF  
DEPOSITORY BOND

AN ACT

To amend and reenact section 21-04-09 of the North Dakota Century Code, relating to the pledge of securities for public deposits.

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

**Section 1. 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 examiner. 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.

Approved February 22, 1969.

## CHAPTER 249

H. B. No. 146

(Strinden, Froelich, Emerson)

PROPOSALS TO ACT AS DEPOSITORY  
OF PUBLIC FUNDS

## AN ACT

To amend and reenact sections 21-04-13 and 21-04-14 of the North Dakota Century Code, relating to designation and proposals for deposit of depositories of public funds.

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

**Section 1. Amendment.)** Section 21-04-13 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-04-13. Board Meetings—Designating Depositories.)** The governing board of any public corporation, except the board of supervisors of any township and the school board of any common school district, at its regular meeting in January of each even-numbered year, shall assemble and examine all outstanding bonds and require new bonds whenever necessary in order to comply with the provisions of this chapter. If no regular meeting of the board in January is required by any other law, the board shall assemble for said purpose not later than the third Tuesday in January. At such meeting, the board shall designate depositories of public funds in accordance with the provisions of this chapter.

**Section 2. Amendment.)** Section 21-04-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-04-14. Proposals for Deposit.)** A proposal for deposit shall be sealed and delivered to the clerk and shall state in writing what rate of interest will be paid on time deposits, and shall have attached to it a statement showing the financial condition of the bank at that time and as disclosed in the several statements of financial condition made during the last preceding twelve months. The clerk shall lay the proposals before the board at the January meeting. Such proposals shall be opened by the clerk in

the presence of the board and the board, thereupon, shall proceed to designate a depository of public funds under its control.

Approved March 10, 1969.

---

CHAPTER 250

S.B. No. 167  
(Sands, Lips)

**BOND VALIDATING ACT**

AN ACT

To amend and reenact sections 21-09-01 and 21-09-05 of the North Dakota Century Code, changing the title of "The 1967 Bond Validating Act" to "The 1969 Bond Validating Act", and relating to the application of chapter 21-09 of the North Dakota Century Code to bonds issued and proceedings taken prior to July 1, 1969.

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

**Section 1. Amendment.)** Section 21-09-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-09-01. Citation.)** This chapter may be cited as "The 1969 Bond Validating Act".

**Section 2. Amendment.)** Section 21-09-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-09-05. Application of Chapter.)** The provisions of chapter 21-09 relating to validation shall be applicable to all bonds issued and proceedings taken by any public body prior to July 1, 1969.

Approved February 25, 1969.

# HEALTH AND SAFETY

---

## CHAPTER 251

S. B. No. 237  
(Litten)

### IMMUNITY FOR PHYSICIANS FURNISHING CERTAIN INFORMATION

#### AN ACT

To provide immunity to physicians furnishing information to hospital or extended care facility committees and members thereof.

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

**Section 1. Hospital Utilization Committees—Reports—Immunity.)** Any information, data, reports, or records made available to a mandatory hospital committee or extended care facility committee as required by state or federal law by a hospital or extended care facility in this state shall be confidential and shall be used by such committee and the members thereof only in the exercise of the proper functions of the committee. No physician, hospital, or institution furnishing information, data, reports, or records to any such committee with respect to any patient examined or treated by such physician or confined in such hospital or institution shall, by reason of furnishing such information, be liable in damages to any person, or be held to answer for willful violation of a privileged communication. No member of such a committee of a hospital or extended care facility shall be liable in damages to any person for any action taken or recommendation made within the scope of the functions of such committee if such committee member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him.

Approved March 5, 1969.

## CHAPTER 252

H. B. No. 224

(Boustead, Boyum, Hentges, Weber, Berg)

REPORTING OF CERTAIN PHYSICAL  
AND MENTAL DISORDERS TO THE  
HIGHWAY COMMISSIONER

## AN ACT

To create and enact section 23-02-32.1 of the North Dakota Century Code, relating to reporting deaths to the highway commissioner; to create and enact section 23-07-01.1 of the North Dakota Century Code, relating to reporting certain physical or mental disorders to the highway commissioner; to create and enact section 50-08-27.1 of the North Dakota Century Code, relating to reporting names of recipient of aid to the blind to the highway commissioner; (and to create and enact a new section of the North Dakota Century Code, relating to reporting the names of blind persons for which tax exemptions are claimed.)\*\*

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

**Section 1.)** Section 23-02-32.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**23-02-32.1. Death Certificates—Information To Be Furnished.)**  
The state registrar of vital statistics shall furnish each month a report in writing to the state highway commissioner, information as to the full name, birthdate, sex and usual residence of a deceased for which a death certificate has been filed as provided in section 23-02-32. Such information to include information on all death certificates filed during the preceding month for all persons fourteen years of age and over.

**Section 2.)** Section 23-07-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**23-07-01.1. Reporting of Physical or Mental Disorders.)**  
The state department of health shall define disorders charac-

**\*\*Note:** The proposed amendments of the senate committee on transportation, as shown on pp. 905-906 of the senate journal, erred in that the amendment to the title referred to the original bill, when in fact it should have have referred to the engrossed bill.

terized by lapses of consciousness, gross physical or mental impairments for the purposes of the reports hereinafter referred to:

1. All physicians may report immediately to the state department of health in writing, the name, date of birth and address of every person fourteen years of age or over coming before him for examination, attendance, care or treatment when there is reasonable cause to believe that such person due to physical or mental reason is incapable of safely operating a motor vehicle or diagnosed as a case of a disorder defined as characterized by lapses of consciousness, gross physical or mental impairments.

2. The state department of health shall report to the state highway commissioner the name, birthdate and address of every person reported under the provisions of subsection 1 of this section. Such reports to be furnished to the state highway commissioner upon receipt.

3. Such reports as required in this section shall be for the information of the state department of health and the state highway commissioner in determining the eligibility of any person to operate a motor vehicle on the highways of this state and shall be kept confidential and not divulged to any person or used as evidence in any trial, except that the reports may be admitted in proceedings under sections 39-06-33 and 39-06-39.

4. The physician-patient privilege provided for by subsection 3 of section 31-01-06 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.

5. Any physician who fails to make a report or who in good faith makes a report, gives an opinion or recommendation pursuant to this section or participates in any proceeding founded upon this section shall be immune from any liability, civil or criminal, that might otherwise be incurred, as a result of such report, except for perjury.

**Section 3.)** Section 50-08-27.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**50-08-27.1. Reporting Name of Recipient of Aid to the Blind.)**

1. The state agency shall report to the state highway commissioner the name, birthdate and address of blind persons receiving assistance for the blind under the provisions of this chapter.

2. Such reports as required shall be for the information of the state highway department in determining the eligibility of any person to operate a motor vehicle on the highways of the state, and shall be kept confidential and not divulged to any person or used as evidence in any trial except that the reports may be admitted in proceedings under sections 39-06-33 and 39-06-39.

**Section 4. Amendment.)** A new section to the North Dakota Century Code is hereby created and enacted to read as follows:

**Reporting Name of Blind Person for Which Exemption Is Claimed.)** The county auditor of each county shall report to the state highway commissioner, the names of all blind persons for which a property exemption is claimed. Such reports as required shall be for the information of the state highway department in determining the eligibility of any person to operate a motor vehicle on the highways of this state and shall be kept confidential and not divulged to any person or used as evidence in any trial except that the reports may be admitted in proceedings under sections 39-06-33 and 39-06-39.

Approved March 29, 1969.

## CHAPTER 253

S.B. No. 151  
(Strinden, Butler)

**BURIAL OF DECEASED PERSONS**

## AN ACT

To amend and reenact sections 23-06-03 and 50-24-33 of the North Dakota Century Code, relating to the duty of burying deceased persons and the payment of burial costs.

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

**Section 1. Amendment.)** Section 23-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-06-03. Duty of Burial.)** The duty of burying the body of a deceased person devolves upon the following persons:

1. If the deceased was married, upon the surviving husband or wife;
2. If the deceased was not married but left kindred, upon the person or persons in the same degree, of adult age, nearest of kin to the deceased living within the state and possessed of sufficient means to defray the necessary expenses;
3. If an inquest is held and the deceased left no husband or wife and no kindred answering the description in subsection 2, upon the coroner conducting the inquest. The expense thereof shall be borne by the county as provided in section 11-19-18;
4. In case the person upon whom the duty of burial is cast by the foregoing provisions omits to make such burial within the time required by this chapter, upon the person next specified. If all omit to act, upon the tenant, or if there is no tenant, upon the owner of the premises in which the death occurs or the body is found; or
5. If the deceased left no husband, wife, or kindred answering the foregoing description and did not leave means sufficiently to defray his funeral expenses, including the cost of a casket, the county welfare board



of the county in which the deceased had residence for poor relief purposes or if such residence cannot be established, then the county in which the death occurs, shall employ some person to arrange for and supervise the burial. The necessary and reasonable expense thereof, not exceeding three hundred fifty dollars, shall be borne by the county. The county also shall pay reasonable costs of transporting the body to the place of burial when burial is made in a cemetery out of the county in which death occurred, but not exceeding one hundred dollars.

**Section 2. Amendment.)** Section 50-24-33 of the 1967 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, after funeral expenses for recipient and his or her spouse, not to exceed in each individual case three hundred fifty dollars, and such expenses of the last illness of recipient and spouse as are authorized or paid by the county agency, have been paid, and after the expenses of administering the estate, including the attorney's fees approved by the court, have been paid. No claim shall be enforced against 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. Personal effects, ornaments, or keepsakes of the deceased, not exceeding in value two hundred dollars;
4. Any real or personal property of a recipient which is held in trust for him by the federal government.

Approved February 25, 1969.

## CHAPTER 254

H. B. No. 336  
(Wagner, Haugland)

## AUTHORIZATION FOR DISSECTION OF A BODY

## AN ACT

To amend and reenact subsection 3 of section 23-06-13 of the North Dakota Century Code

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

**Section 1. Amendment.)** Subsection 3 of section 23-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. When the husband, wife, or one of the next of kin of a deceased person, charged by law with the duty of burial, authorizes such dissection for the purposes of ascertaining the cause of death; or

Approved March 8, 1969.

## CHAPTER 255

S. B. No. 182  
(Longmire, Lowe, Stafne, Unruh)

## ANATOMICAL GIFT AUTHORIZED

## AN ACT

To authorize the gift of all or part of a human body after death for specified purposes; to amend and reenact sections 23-06-01.1 and 23-06-01.2 of the North Dakota Century Code; and to repeal section 23-06-01 of the North Dakota Century Code.

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

**Section 1. Definitions.)** For purposes of this Act:

1. "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof.
2. "Decedent" means a deceased individual and includes a stillborn infant or fetus.
3. "Donor" means an individual who makes a gift of all or part of his body.
4. "Hospital" means a hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws.
5. "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and other portions of a human body, and "part" includes "parts".
6. "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
7. "Physician" or "surgeon" means a physician or

surgeon licensed or authorized to practice under the laws of any state.

8. "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

**Section 2. Persons Who May Execute an Anatomical Gift.)**

1. Every person of sound mind and eighteen years of age or more and every person under the age of eighteen with the written consent of one parent or guardian may direct the manner in which his body shall be disposed of after his death and may give all or any part of his body for any purposes specified in section 3 of this Act, the gift to take effect upon death or upon separation of a part from his body during his lifetime.
2. Any of the following persons, in order of priority stated, when persons in prior classes are not available at the time of death, and in the absence of actual notice of contrary indications by the decedent or actual notice of opposition by a member of the same or a prior class, may give all or any part of the decedent's body for any purposes specified in section 3 of this Act:
  - a. The spouse.
  - b. An adult son or daughter.
  - c. Either parent.
  - d. An adult brother or sister.
  - e. A guardian of the person of the decedent at the time of his death.
  - f. Any other person authorized or under obligation to dispose of the body.
3. If the donee has actual notice of contrary indica-

tions by the decedent, or that a gift by a member of a class is opposed by a member of the same or a prior class, the donee shall not accept the gift. The persons authorized by subsection 2 of this section may make the gift after death or immediately before death.

4. A gift of all or part of a body authorizes any examination necessary to assure medical acceptability of the gift for the purposes intended.
5. The rights of the donee created by the gift are paramount to the rights of others except as provided by subsection 4 of section 7 of this Act.
6. The person described in subsection 1 of this section may direct the manner of disposition of any part of his body which becomes separated therefrom during his lifetime.

**Section 3. Donees—Purposes for Which Anatomical Gifts May be Made.)** The following persons may become donees of gifts of bodies or parts thereof for the purposes stated:

1. Any hospital, surgeon, or physician, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
2. Any accredited medical or dental school, college or university for education, research, advancement of medical or dental science, or therapy.
3. Any bank or storage facility, for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation.
4. Any specified individual for therapy or transplantation needed by him.

**Section 4. Manner of Executing Anatomical Gifts.)**

1. A gift of all or part of the body under subsection 1 of section 2 of this Act may be made by will. The

- gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.
2. A gift of all or part of the body under subsection 1 of section 2 of this Act may also be made by document other than a will. The gift becomes effective upon the death of the donor or upon separation of a part from his body during his lifetime. The document, which may be a card designed to be carried on the person, must be signed by the donor, in the presence of two witnesses who must sign the document in his presence. If the donor cannot sign, the document may be signed for him at his direction and in his presence, and in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.
  3. The gift may be made to a specified donee or without specifying a donee. If no donee is specified, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.
  4. Notwithstanding subsection 2 of section 7 of this Act, 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.

5. Any gift by a person designated in subsection 2 of section 2 of this Act shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

**Section 5. Delivery of Document of Gift.)** If the gift is made by the donor to a specified donee, the will, card, or other document, or an executed copy thereof, may be delivered to the donee to expedite the appropriate procedures immediately after death, but delivery is not necessary to the validity of the gift. The will, card, or other document, or an executed copy thereof, may be deposited in any hospital, bank or storage facility, or registry office that accepts them for safekeeping or for facilitation of procedures after death. On request of any interested party upon or after the donor's death, the person in possession shall produce the document for examination.

**Section 6. Amendment or Revocation of the Gift.)**

1. If the will, card, or other document, or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:
  - a. The execution and delivery to the donee of a signed statement;
  - b. An oral statement made in the presence of two persons and communicated to the donee;
  - c. A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee; or
  - d. A signed card or document found on his person or in his effects.
2. Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection 1 of this section or by destruction, cancellation, or mutilation of the document and all executed copies thereof.
3. Any gift made by a will may also be amended or revoked in the manner provided for amendment or



revocation of wills, or as provided in subsection 1 of this section.

**Section 7. Rights and Duties at Death.)**

1. The donee may accept or reject the gift. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.
2. The time of death shall be determined by a physician who attends the donor at his death, or, if none, the physician who certifies the death. Such physician shall not participate in the procedures for removing or transplanting a part.
3. A person who acts in good faith in accordance with the terms of this Act or under the anatomical gift laws of another state or a foreign country is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.
4. The provisions of this Act are subject to the laws of this state prescribing powers and duties with respect to autopsies.

**Section 8. Uniformity of Interpretation.)** This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**Section 9. Amendment.)** Section 23-06-01.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-06-01.1. Immunity from Liability.)** A physician licensed in or authorized to practice medicine in this state who in good faith and when authorized as provided in this Act removes any part from the body of a deceased person



for the purposes of this Act shall not be liable in any civil action arising out of his good faith reliance on the terms of such authorization.

**Section 10. Amendment.)** Section 23-06-01.2 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-06-01.2. Application of Other Laws.)** The provisions of sections 23-06-03, 23-06-04, 23-06-05, 23-06-06, 23-06-07, 23-06-08, 23-06-09, 23-06-10, 23-06-11, 23-06-12, 23-06-16, 23-06-17, and 23-06-19 do not apply to any body or parts thereof disposed of after death pursuant to the authorization for disposal of a body or parts thereof provided in this Act and for the purposes of this Act.

**Section 11. Short Title.)** This Act may be cited as the Uniform Anatomical Gift Act.

**Section 12. Repeal.)** Section 23-06-01 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 5, 1969.

## CHAPTER 256

H.B. No. 198  
(Belter, Weber)

QUALIFICATIONS AND COMPENSATION OF  
COMMISSIONERS OF HOUSING AUTHORITIES

AN ACT

To amend and reenact section 23-11-05 of the North Dakota Century Code, providing for the compensation of commissioners of housing authorities.

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

**Section 1. Amendment.)** Section 23-11-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-11-05. Commissioners of Authority—Appointment, Qualifications, Tenure, Compensation.)** When the governing body of a city adopts a resolution, declaring there is need for a housing authority, it promptly shall notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons as commissioners of the authority created for said city. When the governing body of a county adopts a resolution declaring there is need for a housing authority, said body shall appoint five persons as commissioners of the authority created for said county. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four, and five years, respectively, from the date of their appointment, and thereafter, each commissioner shall be appointed for a term of office of five years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the auditor of the city or county, as the case may be, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner may receive ten dollars a day for each day necessarily devoted to the work of his office and he shall be entitled to the

necessary expenses, including traveling expenses, incurred in the discharge of his duties. The per diem compensation provided for in this section shall not exceed three hundred dollars in any one fiscal year.

Approved March 18, 1969.

---

CHAPTER 257

H. B. No. 387

(Aas, Haugland, Emerson, Sanstead, Anderson, J. Peterson)

**ACQUISITION AND DISPOSAL OF REAL  
PROPERTY BY DISTRICT HEALTH UNITS**

AN ACT

To amend and reenact section 23-14-14 of the North Dakota Century Code, relating to district health units acquiring and disposing of real and personal property and providing for the borrowing of funds and the disposition of property upon dissolution, and declaring an emergency.

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

**Section 1. Amendment.)** Section 23-14-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-14-14. Acquiring and Disposing of Property.)** The district board of health may acquire by lease, purchase, construction or gift for district health office use and control both real and personal property for all purposes authorized by law or necessary to the exercise of the powers granted herein. The district board of health may finance the purchase, construction or equipping of a building on either owned or leased property for the use and purposes for which the health district is formed, and to carry out the functions of the health unit as provided by law, in either of the following ways:

1. The district board of health may issue and sell bonds in an aggregate amount not to exceed two times the then authorized tax revenues of the district for the year in which the bonds are to be issued and sold, or

2. The district board of health may mortgage or otherwise encumber the building to be constructed in an amount of not to exceed two times the then authorized tax revenue of the district for the year in which such construction is to be commenced.

Bonds so issued, and the income therefrom, shall be exempt from any taxes except inheritance, estate and transfer taxes. The indebtedness for which the bonds are issued, or for which a mortgage may be given as hereinabove provided, shall never become an obligation or indebtedness of the state of North Dakota, or of the counties or the cities comprising the district board of health. Any such indebtedness may be foreclosed in any manner provided by law. The district board of health may also convey, sell, dispose of or otherwise transfer personal and real property acquired as provided herein. If upon dissolution of a district health unit there remains any balance in the treasury of the district after all obligations have been paid, the balance shall be paid into the general fund of the counties comprising the health district in proportion to the mill levy most recently assessed for budget purposes under the provisions of this chapter.

**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 25, 1969.

## CHAPTER 258

S. B. No. 197  
(Torgerson, Nasset, Sands, Freed)

## REGULATION OF SALE OF FIREWORKS

## AN ACT

To amend and reenact section 23-15-01 of the North Dakota Century Code, relating to the regulation of the retail sale of fireworks, and declaring an emergency.

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

**Section 1. Amendment.)** Section 23-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-15-01. "Fireworks" Defined.)** The term fireworks shall mean and include any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, and shall include blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives other than toy paper caps are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, Roman candles, daygo bombs, sparklers, or other fireworks of like construction, any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance. Nothing in this regulation shall be construed as applying to toy paper caps containing not more than twenty-five hundredths of a grain of explosive composition per cap.

Any person, firm, or corporation having operated a retail business wherein merchandise was assessed by the local taxing authority, on April first immediately preceding thereto, and having a retail license as provided in section 23-15-04 may offer for sale and sell at retail, to persons of twelve years of age or more, only during the period beginning June 27 and ending July 5, both dates in-

clusive, the following items:

1. Star lights, with wood spike cemented in one end, total pyrotechnic composition not to exceed twenty grams each in weight (10 ball);
2. Helicopter type flyers, total pyrotechnic composition not to exceed twenty grams each in weight;
3. Cylindrical fountains, total pyrotechnic composition not to exceed seventy-five grams each in weight. The inside tube diameter shall not exceed  $\frac{3}{4}$  inch;
4. Cone fountains, total pyrotechnic composition not to exceed fifty grams each in weight;
5. Wheels, total pyrotechnic composition not to exceed sixty grams in weight, for each driver unit, but there may be any number of drivers on any one wheel. The inside bore of driver tubes shall not be over  $\frac{1}{2}$  inch;
6. Illuminating torches and colored fire in any form, total pyrotechnic composition not to exceed one hundred grams each in weight;
7. Sparklers and dipped sticks, total pyrotechnic composition not to exceed one hundred grams each in weight. Pyrotechnic composition containing any chlorate shall not exceed five grams;
8. Comets and shells, of which the mortar is an integral part, except those designed to produce an audible effect, total pyrotechnic composition not to exceed forty grams each in weight;
9. Soft shell firecrackers not to exceed one and one-half inches in length and one-fourth inch in diameter; total pyrotechnic composition not to exceed two grains each in weight;
10. Whistles without report, total pyrotechnic composition not to exceed forty grams each in weight.

**Section 2. Emergency.)** This Act is hereby declared

to be an emergency and shall have full force and effect from and after the date of its passage and approval.

Approved March 4, 1969.

---

CHAPTER 259

S. B. No. 474  
(Committee on Delayed Bills)

ALTERNATIVE COUNTY HOSPITAL LEVY

AN ACT

To amend and reenact sections 23-18-01 and 23-18-03 of the North Dakota Century Code, providing for an alternative county tax levy for hospitals of five mills for not more than fifteen years; and declaring an emergency.

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

**Section 1. Amendment.)** Section 23-18-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-18-01. Hospital Associations Authorized—County Tax Levy in Aid—Election.)** A county or community hospital association may be established in any county in this state. The executive officers and directors shall be residents of the county. The association may apply to the board of county commissioners of the county for a grant to aid in the erection of a nonsectarian county hospital. The application for the grant shall be in writing and shall state the incorporation of the association, the names and places of residence of all of its executive officers, and the assets of the association, and shall specify the mill rate of levy applied for, which shall not be in excess of eight mills upon the assessed valuation of the taxable property in the county. If the board of county commissioners shall be satisfied that the statements in the applications are true and that the association intends in good faith to establish a nonsectarian county or community hospital, it shall submit to the electors of the county the question of levying a tax in aid of such nonsectarian county or community hospital, for not more than five years at the mill rate as specified in the application, but not in ex-

cess of eight mills in any one year, or, in the alternative, for not more than fifteen years at a mill rate not in excess of five mills in any one year. The county auditor shall give notice of such election within the time and in the manner prescribed by law for the holding of county elections.

**Section 2. Amendment.)** Section 23-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**23-18-03. Fifteen-Year Levy Authorized—Rate.)** If two-thirds of the ballots cast at such election are in favor of the authorization of the levy, the board of county commissioners shall make an annual levy for a period of not more than fifteen years at the mill rate approved at such election upon the assessed valuation of the taxable property in the county, which tax shall be spread and collected in the same manner as other taxes are collected. Such levy shall not be subject to the county levy limitations.

**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 14, 1969.



## CHAPTER 260

S. B. No. 130  
(Trenbeath, Van Horn, Decker)

## AIR POLLUTION CONTROL

## AN ACT

To maintain or obtain reasonable levels of air quality consistent with the protection of health, and the prevention of injury to plants, animal life and property, to promote the economic and social development of the state; to provide for the comfortable enjoyment of the natural attractions of the state to the greatest extent practical; to establish a statewide program of air pollution prevention, abatement and control; and to coordinate the activities of local and regional air pollution control programs within the state; and creating an air pollution control advisory council.

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

**Section 1. Definitions.)** For purposes of this Act, the following words and phrases are defined:

1. "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, or any combination thereof, not including water vapor, water mist, or steam condensate;
2. "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as to threaten or endanger or is injurious to human health or welfare, animal or plant life, or property;
3. "Emission" means a release of air contaminants into the outdoor atmosphere;
4. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof and any legal successor, representative agent or agency of the foregoing.

**Section 2. State Air Pollution Control Agency—Advisory Council.)**

1. The North Dakota state department of health, hereinafter referred to as the department, is hereby designated as the agency to administer and coordinate a statewide program of air pollution control consistent with the provisions of this Act;
2. There is hereby established an air pollution control advisory council, hereinafter referred to as "the advisory council", of seven members to include the state health officer, the state geologist, and the state highway commissioner, and four other members to be appointed by the governor, one of whom shall be a representative of county or municipal government, one a representative of the solid fuels industry, one a representative of the fluid and gas fuels industry, and one appointed at large;
3. The term of office for the appointed members of the advisory council shall be four years, but of those first appointed two shall serve for two years and two for four years, and the lengths of their terms shall be designated by the governor at the time of appointment;
4. The advisory council shall select its own chairman from among its members. The state health officer, state geologist and state highway commissioner each may designate a principal deputy or assistant to act in his place and stead. The chief sanitary engineer of the state department of health, or his designated assistant, shall be the principal administrative officer of the council;
5. The advisory council shall hold at least one regular meeting each year, and such additional meetings as the chairman deems necessary, at a time and place to be fixed by the chairman. Special meetings shall be called by the chairman on the written request of any three members. Five members shall constitute a quorum;
6. The advisory council shall hold a public hearing to consider the adoption, amendment or repeal of rules, regulations and standards as provided in

this Act, and notice of such public hearing or hearings shall be given by publication of a notice of such hearing or hearings in each of the official county newspapers within the state of North Dakota by at least two publications, one week apart, the last publication being at least thirty days prior to said hearing and which hearing shall be held in the state capitol in Bismarck, at which hearings interested parties may present witnesses and other evidence pertinent and relevant to proposed rules, regulations and standards, and the advisory council shall consider any other matters related to the purposes of this Act and may make recommendations on its own initiative to the department concerning the administration of this Act.

**Section 3. Power and Duties of the Department.)**

1. Encourage the voluntary cooperation of persons or affected groups to achieve the purposes of this Act;
2. Determine by scientifically oriented field studies and sampling the degree of air pollution in the state and several parts thereof;
3. Encourage and conduct studies, investigations, and research relating to air pollution and its causes, effects, prevention, abatement, and control;
4. Advise, consult, and cooperate with other public agencies and with affected groups and industries; and
5. Issue such orders as may be necessary to effectuate the purposes of this Act and enforce the same by all appropriate administrative and judicial procedures.

Subject to the approval of the advisory council the department is empowered to:

1. Adopt, amend, and repeal rules and regulations implementing and consistent with this Act.

**Section 4. Classification and Reporting of Air Pollution Sources.)**

1. Subject to the approval of the advisory council the department, by rule or regulation, may classify air contaminant sources according to levels and types of emissions and other criteria which relate to air pollution and may require reporting for any of such class or classes. Classifications made pursuant to this subsection may apply to the state as a whole or to any designated area of the state and shall be made with special reference to effects on health, economic, and social factors, and physical effects on property.
2. Any person operating or responsible for the operation of air contaminant sources of any class for which rules and regulations of the department require reporting shall make reports containing information as may be required by the department relevant to air pollution and available or capable of being assembled in the normal course of operations.

**Section 5. Right of On-Site Inspection.)** Any duly authorized officer, employee, or representative of the department may, with the consent of the person or persons in control of an air contaminant source, enter and inspect any property, premise, or place on or at which such an air contaminant source is located or is being constructed, installed or established at any reasonable time for the purposes of ascertaining the state of compliance with this Act and rules and regulations in force pursuant thereto. A suitably restricted search warrant, upon a showing of probable cause in writing and upon oath or affirmation, may be issued by a court of competent jurisdiction to such officer, employee, or representative of the department for the purpose of enabling him to make such inspection. No person shall refuse entry or access to any authorized representative of the department who requests entry for purposes of inspection, and who presents appropriate credentials and warrant, nor shall any person obstruct, hamper, or interfere with any such inspection. Nothing in this section shall be construed to prevent prompt inspection without consent or appropriate warrant in emergency situations. If requested, the owner

or operator of the premises shall receive a report setting forth all facts found which relate to compliance status.

**Section 6. Confidentiality of Records.)** Any records or other information furnished to or collected by the department concerning one or more air contaminant sources, which records or information relate to processes or production unique to the owner or operator or which would tend to affect adversely the competitive position of such owner or operator, shall be only for the confidential use of the department, unless such owner or operator shall expressly agree to their publication or availability to the general public. Nothing herein shall be construed to prevent the use of such records or information by the department in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere, provided that such analyses or summaries do not identify, directly or indirectly, any owner or operator or reveal any information otherwise confidential under this section.

**Section 7. Emission Control Requirements.)**

1. The department may establish emission control requirements and requirements for open burning (including appropriate prohibition thereof) for all of the areas in which local air pollution control programs are not in effect. Any emission which does not conform to a requirement in force pursuant to this subsection shall constitute a violation of the Act;
2. The department may establish air quality standards for the state as a whole on the basis of air quality to protect human health, and may require the emission control requirements of any local program to be consistent with such standards;
3. Nothing in this Act shall be construed to authorize the department to specify the type, design, method of installation or type of construction of any equipment or manufacturing processes, or the kind of composition of fuels permitted to be sold, stored or used.

**Section 8. Administrative Procedure and Judicial Review.)** Any proceeding under this Act for:

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

shall be conducted in accordance with the provisions of chapter 28-32 of the North Dakota Century Code, 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 such emergency and requiring that such action be taken as is necessary to meet this emergency. Notwithstanding any provision of this Act, such order shall be effective immediately, but on application to the department shall be afforded a hearing before the state health council 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 9. Injunction Proceedings.)** The violation of any provision of this Act, or any rule, regulation, or order issued thereunder is declared a nuisance inimical to the public health, welfare, and safety. Whenever in the judgment of the department any person has engaged in or is about to engage in any acts or practices which constitute or will constitute a violation of this Act, or any rule, regulation, or order issued thereunder, the state health officer in accordance with the laws of this state governing injunctions and other process may maintain an action in the name of the people of the state enjoining such action or practices, or for an order directing compliance, and upon a showing by the department that such person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction, restraining order, or other order may be granted.

**Section 10. Penalties.)** Any person violating any provision of this Act or any rule, regulation, or order issued thereunder, shall be guilty of a misdemeanor and upon conviction shall be punished as provided by law.

Approved March 13, 1969.

# HIGHWAYS, BRIDGES, AND FERRIES

---

## CHAPTER 261

H. B. No. 223  
(Boustead, Boyum, Kuehn)

### HIGHWAY PROPERTY RELOCATION ASSISTANCE PAYMENTS

#### AN ACT

To create and enact section 24-01-41.1 of the North Dakota Century Code, relating to the expenditure of highway funds for state participation in relocating property as necessitated in accordance with chapter 5 of title 23 of the Federal Aid Highway Act of 1968.

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

**Section 1.)** Section 24-01-41.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**24-01-41.1. Relocation of Property Other Than Utilities.)** The legislature assents that highway relocation assistance payments, as defined in chapter 5 of title 23 of the Federal Aid Highway Act of 1968, 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, 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.

Approved March 18, 1969.



## CHAPTER 262

S. B. No. 326

(Kautzmann, Doherty, Kelly, Freed, Coughlin, Roen)

**HIGHWAY COMMISSIONER TO  
PUBLISH TOURIST INFORMATION****AN ACT**

To amend and reenact section 24-03-21 of the North Dakota Century Code, relating to the publication of tourist information and making such publication mandatory upon the state highway commissioner.

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

**Section 1. Amendment.)** Section 24-03-21 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-03-21. Preparation of Road Maps—Publication of Tourist Information.)** The commissioner shall prepare for general distribution, road maps of the state highway system and such other roads as he shall deem necessary; and the commissioner shall provide for publication, advertising, and dissemination of information concerning highways or such other publicity matter as he shall deem advisable to promote the use of North Dakota highways and attract tourists to the state or to prolong their stay in the state.

Approved March 14, 1969.



## CHAPTER 263

H. B. No. 359  
(Bier)

LEASING OF POLITICAL SUBDIVISION'S  
ROAD EQUIPMENT

AN ACT

To prevent counties from leasing their county road machinery for less than cost of operation of the equipment.

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

**Section 1. County Not To Lease its Equipment for Less Than Cost of Operation.)** No county, city or township shall lease, rent, or enter into a contract or agreement for the use of any road construction or maintenance equipment belonging to any county, city or township on other than county, city or township roads or projects at a rate which is less than the current equipment rental rates adopted by the North Dakota state highway department.

Approved March 26, 1969.

## CHAPTER 264

H. B. No. 312

(S. McDonald, Reimers, Bernabucci, Haugland)  
(J. Peterson, White, Boustead, Emerson, Sanstead)

## COUNTY CONSTRUCTION OF BRIDGES

## AN ACT

To amend and reenact section 24-08-01 of the North Dakota Century Code, relating to the construction of bridges by board of county commissioners.

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

**Section 1. Amendment.)** Section 24-08-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-08-01. Construction of Bridges by Board of County Commissioners—Petition—Bids—Rejection.)** Whenever a majority of the freeholders of a civil township, or a majority of the freeholders living within a radius of three miles of the proposed location, shall petition the board of county commissioners for a bridge at a specified location within such township, or within any incorporated city, if the cost of such bridge shall exceed the sum of one hundred dollars, the board of county commissioners shall view and investigate the necessity of such proposed bridge. If the board approves the petition, it shall proceed to advertise in the official paper of the county, for a period of thirty days, the plans and specifications of the proposed bridge, asking for sealed bids for the building of such bridge, to be submitted to it at the next regular or special meeting, at which the board shall proceed to examine all proposals or bids for the building of such bridge. The board shall award the contract to the lowest responsible bidder, requiring such bidder to give a bond in a sum not less than the amount stipulated in the bid or contract, conditioned for the faithful compliance with the terms of such bid or contract, such bond to be approved by the board and filed in the office of the county auditor but the board may reject all bids. If all bids are rejected, the board shall re-advertise as provided herein. Provided, however, that in any case where the amount of the lowest responsible bid is less than seven 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.

Approved March 17, 1969.

---

CHAPTER 265

H. B. No. 313

(S. McDonald, Reimers, Bernabucci, Haugland)  
(J. Peterson, White, Boustead, Emerson, Sanstead)

COUNTY SUPERVISION AND REPAIR OF BRIDGES

AN ACT

To amend and reenact section 24-08-03 of the North Dakota Century Code, relating to the supervision and repairs of bridges.

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

**Section 1. Amendment.)** Section 24-08-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-08-03. Supervision and Repairs of Bridge—Limit of County Liability for Negligence.)** Any bridge built under the provisions of section 24-08-01 shall be under the supervision of the board of county commissioners, and the cost of rebuilding or repairing the same shall be paid by the county. Where the cost of rebuilding or repairing a bridge would exceed the sum of seven thousand dollars on estimate of the county engineer and upon the approval of the estimate by the North Dakota highway department, the county commissioners shall advertise for bids and award the contract in the manner provided by section 24-08-01. When a bridge is destroyed by flood, fire, or other casualty and the public interest would suffer by delay the county commissioners may proceed to contract for the rebuilding or repair of such bridge without advertising for bids, regardless of the cost. The board of county commissioners at least every two years, and so far as time and conditions may permit, shall cause an inspection to be made of all bridges on the county road system in the county. In case any bridge on the county road system shall be

deemed unsafe for public use by the said board of commissioners, it forthwith shall take steps to close the same and prevent the use thereof by the public. In case any bridge on the county road system shall be deemed unsafe for loads in excess of a certain weight, the board of commissioners forthwith shall post notices on both ends of such bridge stating that such bridge is unsafe for loads beyond that weight. The county shall not be immune from claims or suits for damages arising out of negligent failure to perform the inspection and repair duties set out above, but the maximum recovery from the county on such suit or suits shall not exceed the sum of ten thousand dollars for each accident or occurrence caused by any negligent failure to inspect and repair.

Approved March 17, 1969.

---

## CHAPTER 266

H. B. No. 495

(Dahl, Hoffner, Kelsch, Kuehn, Linderman)

### SAFEGUARDS AT RAILROAD CROSSINGS

#### AN ACT

To amend and reenact sections 24-09-08 and 24-09-08.1 of the North Dakota Century Code, relating to safeguards at railroad crossings.

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

**Section 1. Amendment.)** Section 24-09-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-09-08. Additional Safeguards at Crossings May Be Required.)** The commission, upon written application made to it by the state highway commissioner, the board of county commissioners of any county, the board of supervisors of any township, any municipality, the railroad company, or upon its own motion, shall investigate and determine whether any railroad grade crossing over any state, county, township or municipal highway in the state is dangerous to life and property and needs protection further than that set out in this chapter, and may

order the same protected in any manner it may find reasonable and proper, including a requirement that the railroad company separate the grades. In such cases, the commission shall give the railroad company interested such notice of the investigation as it deems reasonable and an opportunity to be heard before any order is made. The railroad company interested, within thirty days after the service of a copy of such order upon it, may appeal to the district court of the county within which such crossing is situated.

**Section 2. Amendment.)** Section 24-09-08.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-09-08.1. Public Service Commission to Apportion Cost.)** In order to promote public safety at intersections of railroad lines and all classes of highways, excepting those for which federal aid is available for automatic grade crossing protection devices, the public service commission shall apportion the cost thereof in accordance with this section. In the event that the public service commission in accordance with the provisions of section 24-09-08 orders that any grade crossing shall be protected by improved or modified automatic grade crossing protection devices, the public service commission shall in its order apportion the cost thereof between the railroad interested, the political subdivision having jurisdiction of the highway involved, and the state of North Dakota. Such cost shall be apportioned to such parties or to any one or more of such parties on the basis of the benefit derived respectively by highway users and the railroad from the installation of such crossing protection device. For the purpose of this section, the cost attributable to the benefit of the highway users shall be apportioned to the state of North Dakota or to the political subdivision having jurisdiction of the highway involved or to both of such parties. The cost apportioned to the state of North Dakota shall be paid out of the highway fund in the state treasury, provided that not more than fifty thousand dollars may be expended for this purpose in any one biennium.

Approved March 15, 1969.

S. B. No. 360  
(Nothing, Kautzmann)

## LIMITATIONS ON OUTDOOR ADVERTISING

### AN ACT

To amend and reenact section 24-17-03 of the North Dakota Century Code, relating to limitations on outdoor advertising.

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

**Section 1. Amendment.)** Section 24-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-17-03. Limitations of Outdoor Advertising.)** Subject to the provisions of this chapter, no sign shall, after January 1, 1968, or any later date established by the Congress of the United States in relation to title 23, United States Code, section 131, or waiver thereof pursuant to said title 23, be erected or maintained within six hundred and sixty feet from the nearest edge of the right-of-way and visible from the main-traveled way of any highway which is a part of the state highway system in this state except the following:

1. Official signs and notices, directional signs and notices, which shall include, but not be limited to, signs and notices pertaining to natural wonders, scenic and historic attractions and outdoor recreational areas subject to the national standards to be promulgated by the secretary of transportation.
2. Signs advertising the sale or lease of property upon which they are located.
3. Signs specifically advertising activities conducted, services rendered, goods sold, stored, produced or mined, or the name of the enterprise on the property and which are within fifty feet of the area used for the purpose advertised and upon which they are located.

4. Signs in areas which are now or hereafter zoned industrial, commercial, or the like by the board as provided in this chapter.
5. Signs in unzoned commercial or industrial areas, which now or hereafter qualify as such, pursuant to the agreement between the board and the secretary of transportation according to title 23, United States Code, section 131.
6. Signs relocated by reason of the construction or reconstruction of the state highway system.
7. Official highway signs within interstate rights-of-way giving specific information for the traveling public pursuant to title 23, United States Code, section 131(f) and the rules and regulations promulgated thereunder.
8. Signs calling attention to the location of buried utility lines.

Approved March 6, 1969.

# MENTALLY ILL AND DEFICIENT, TUBERCULAR, BLIND, AND DEAF

---

## CHAPTER 268

S. B. No. 292  
(Lips, Longmire)

### ALCOHOLICS AND ADDICTS TREATED AT STATE HOSPITAL

#### AN ACT

To amend and reenact sections 25-03-08, 25-03-10, subsections 1, 3, 5, 6, and 7 of section 25-03-11, sections 25-03-18, 25-03-21, and 25-03-23 of the North Dakota Century Code to allow alcoholics and drug addicts to be admitted and treated at the state hospital.

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

**Section 1. Amendment.)** Section 25-03-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-03-08. Hospitalization—Emergency Procedure.)** Any health or police officer or licensed physician who has reason to believe that an individual is mentally ill, an alcoholic or a drug addict and because of his illness is likely to injure himself or others if allowed to remain at liberty pending examination may take the individual into custody, and in such case shall forthwith obtain the written or verbal consent of the county judge, or in his absence any member of the county mental health board, to apply to a hospital for his emergency admission and transport him thereto. If neither the county judge or a member of the county mental health board is available to give consent a licensed physician who has reason to believe that an individual is mentally ill, an alcoholic or a drug addict and because of his illness is likely to injure himself or others if allowed to remain at liberty pending examination may by written order direct an emergency admission to the state hospital or to a private



hospital. The application for admission and licensed physician's order directing emergency admission to the state hospital or to a private hospital shall state the circumstances under which the individual was taken into custody and the reason for the officer's or physician's belief. The head of the private hospital or the superintendent of the state hospital as the case may be shall require an immediate examination of such person be made, and if he determines that hospitalization is not warranted, he shall immediately discharge such patient.

**Section 2. Amendment.)** Section 25-03-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-03-10. Right to Release—Application for Judicial Determination.)** Any patient involuntarily hospitalized under the provisions of section 25-03-08 who requests to be released or whose release is requested in writing by his legal guardian, spouse, or adult next of kin shall be released within five days after the receipt of such request. It is provided, however, that upon application by the superintendent of the state hospital, or the county judge who consented to the emergency admission, to the mental health board of either the county in which the patient is hospitalized or of the county of the patient's residence, within five days from the time of such request for release, supported by a certification by the superintendent of the state hospital or a county judge that in his opinion such release would be unsafe for the patient or others, release may be postponed for a period not to exceed twenty days as the chairman of the mental health board may determine to be necessary for the commencement of proceedings for a judicial determination pursuant to section 25-03-11. The superintendent of the state hospital or county judge shall provide reasonable means and arrangements for informing patients of their right to release as provided in this section, and for assisting them in making and presenting requests for release. If an examination as required in section 25-03-08 is not held within twenty days after the date of admission to the state hospital or local hospital, or if the superintendent of the state hospital or local hospital or an examiner designated by him fails or refuses after such examination to certify that in his opinion the patient is mentally ill, an alcoholic or a drug addict or is likely to injure himself or

others if allowed to remain at liberty, the patient shall be immediately discharged.

**Section 3. Amendment.)** Subsections 1, 3, 5, 6, and 7 of section 25-03-11 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

**25-03-11. Hospitalization Upon Order of Mental Health Board—Judicial Procedure.)**

1. Proceedings for the involuntary hospitalization of an individual may be commenced by the filing of a written application with the mental health board by a friend, relative, spouse, or guardian of the individual, or by a licensed physician, police officer, state's attorney, a health or public welfare officer, or the head of any public or private institution in which the individual may be. Any such application, unless waived by the county judge, shall be accompanied by a certificate of a licensed physician stating that he has examined the individual and is of the opinion that he is mentally ill, an alcoholic or a drug addict and should be hospitalized, or a written statement by the applicant that the individual has refused to submit to or is unable to consent to an examination by a licensed physician.
3. As soon as practicable after notice of the commencement of proceedings is given or after determination that notice should be omitted, the mental health board shall appoint at least one licensed physician as an examiner who may or may not be a member of the county mental health board to examine the proposed patient and report to the board his findings as to the condition of the proposed patient and the need for his custody, care, or treatment in a mental hospital.
5. If the report of the designated examiner shows that the proposed patient is not mentally ill, an alcoholic or a drug addict, the mental health board may without taking any further action terminate the proceedings and dismiss the application; otherwise, it shall forthwith fix a date for and give notice to the persons designated in subsection 2 of this section of a hearing before the county mental health board to be held within ten days from receipt of the report.

6. The proposed patient, the applicant, and all other persons to whom notice is required to be given under subsection 2 of this section shall be afforded an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses, and the mental health board may in its discretion receive the testimony of any other person. The proposed patient shall not be required to be present unless he so desires and all persons not necessary for the conduct of the proceedings shall be excluded, except as the mental health board may admit persons having a legitimate interest in the proceedings. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure and in a physical setting not likely to have a harmful effect upon the health of the proposed patient. The mental health board shall receive all relevant and material evidence which may be offered and shall not be bound by the rules of evidence. An opportunity to be represented by counsel shall be afforded to every proposed patient, and if neither he nor others provide counsel, the mental health board, upon request of the proposed patient, shall appoint counsel. If it is determined that the proposed patient is unable to pay for such counsel, the attorney fees, upon approval by the mental health board, shall be paid by the county.
7. If upon completion of the hearing and consideration of the record the mental health board finds that the proposed patient
  - a. Is mentally ill, an alcoholic or a drug addict and because of his illness is likely to injure others or himself if allowed to remain at liberty; or
  - b. Is in need of custody, care, or treatment in a mental hospital and, because of his illness, lacks sufficient insight or capacity to make responsible decisions with respect to his hospitalization,

it shall order his hospitalization at the state hospital or other suitable place, or if it finds other-

wise it shall dismiss the proceedings. No person who is being treated by prayer in the practice of the religion of any well-recognized church, sect, denomination, or organization, shall be ordered detained or committed under the provisions of this chapter unless the county mental health board shall determine that he is or would likely become dangerous to himself or to the person or property of others, or unless, being an adult, he shall consent to such detention or commitment, or, being a minor, his parent or guardian having custody of his person shall consent thereto.

**Section 4. Amendment.)** Section 25-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-03-18. Right to Humane Care and Treatment—Penalties and Civil Liability for Mistreatment.)** Every patient shall be entitled to humane care and treatment and, to the extent that facilities, equipment, and personnel are available, to medical care and treatment in accordance with the highest standards accepted in medical practice. Any person having the care of a mentally ill person, an alcoholic or a drug addict and restraining such person either with or without authority, who shall treat such person with undue severity or with harshness or cruelty, or who shall abuse such person in any way, shall be guilty of a misdemeanor, and shall be further liable in a civil action for damages. Any officer or person required to perform any act under the provisions of this chapter who willfully refuses or neglects to perform his duty as prescribed in this chapter shall be guilty of a misdemeanor and shall be liable in a civil action for damages.

**Section 5. Amendment.)** Section 25-03-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-03-21. Patients Entitled to Writ of Habeas Corpus.)** All patients confined or hospitalized as mentally ill, alcoholics, drug addicts or as requiring treatment or observation in any hospital shall be entitled to the benefit of the writ of habeas corpus, and the question of mental illness, alcoholism, drug addiction or of the necessity for treat-

ment or observation in a hospital shall be decided at such hearing. If the court shall decide that the patient is mentally ill, an alcoholic, a drug addict or that he requires treatment or observation at a hospital, 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 patient shall have been cured or no longer needs hospitalization.

**Section 6. Amendment.)** Section 25-03-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-03-23. Detention Pending Judicial Determination—Detention Without Proper Authority Prohibited.)** No person alleged to be mentally ill, an alcoholic, a drug addict or in need of treatment or observation shall be restrained or deprived of his liberty by any person except pursuant to authority provided in this chapter, or except in criminal proceedings as provided by law. However, a patient or proposed patient with respect to whom proceedings for judicial hospitalization have been commenced may be detained during the pendency of such proceedings unless his release or discharge is ordered by a court of competent jurisdiction or by a mental health board having jurisdiction in the proceedings or upon the report of the superintendent of the state hospital that the patient may be discharged with safety.

Approved March 13, 1969.

## CHAPTER 269

S. B. No. 57

(Lips, Sorlie)

(Legislative Audit and Fiscal Review Committee)

PATIENT TO PAY COST OF  
CARE AT STATE HOSPITAL

## AN ACT

To amend and reenact section 25-09-02 of the North Dakota Century Code, relating to charges to patients at the state hospital.

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

**Section 1. Amendment.)** Section 25-09-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**25-09-02. Expenses Chargeable Against Patient or His Estate—Filing Claims—Duties of County Judge.)** Except as provided in section 25-09-11, expenses for care and treatment of each patient at the state hospital shall be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health, and at the state school charges for care and treatment shall be the actual average per patient cost incurred by the state. The supervising department shall recover quarterly from the patient if possible, or from the person who has been a patient in such institution after he has been discharged from the institution, expenses for care and treatment. If any patient is receiving social security or is a veteran who has received, who is receiving, or who is entitled to receive compensation or pension from the veterans administration, such expenses shall be a current claim against such patient and may be recovered monthly by the supervising department except that the amount of seven dollars and fifty cents shall be credited to the patient's personal account from any social security money received. Claims for expenses incurred by the state for care and treatment of a patient at the state hospital or state school may be filed against the estate of such patient after his death, at any time prior to final distribution thereof, by the supervising department in the same manner and with the same effect

as claims of general creditors are filed against estates of decedents. Every county judge shall forward to the supervising department a list of the names of all persons whose estates have been entered for probate or heirship proceedings in his respective county court together with the legatees, devisees, and heirs at law of such estates within thirty days after the filing of the original certificate of any probate or heirship proceedings. The supervising department shall provide all county judges with forms for the purpose of carrying out the provisions of this section.

Approved March 25, 1969.

# INSURANCE

---

## CHAPTER 270

H. B. No. 140  
(Lang, Metzger)

### NONLIABILITY FOR DISCLOSING REASONS FOR CANCELLATION OF INSURANCE

#### AN ACT

To amend and reenact section 26-02-35 of the North Dakota Century Code, relating to nonliability of parties for disclosure of reasons for cancellation or nonrenewal of insurance policies.

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

**Section 1. Amendment.)** Section 26-02-35 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**26-02-35. Nonliability of Parties.)** The specific reason for cancellation or nonrenewal which is furnished to the insured, shall not constitute grounds for any cause of action against the insurer or his authorized representative, or its agents or employees, or any firm, person or corporation who in good faith furnishes to the insurer the information upon which the reasons for cancellation or nonrenewal are based.

Approved March 8, 1969.



## CHAPTER 271

S.B. No. 133  
(Holand)

## NOTIFICATION OF DEFAULT OF PUBLIC EMPLOYEE

## AN ACT

To amend and reenact section 26-23-11 of the North Dakota Century Code, relating to commissioner to notify state auditor of default of public employee and duty of state auditor.

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

**Section 1. Amendment.)** Section 26-23-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**26-23-11. Commissioner to Notify State Auditor of Default of Public Employee—Duty of State Auditor.)** If any public employee shall default or create a liability against the fund, the commissioner shall notify the state auditor, who immediately shall check the accounts of such public employee and file a report with the commissioner stating the amount, if any, due from the fund because of such default or wrongful act. For such service, the auditor shall be paid out of the fund the same fees as he is paid for auditing the accounts of county officers.

Approved February 22, 1969.

## CHAPTER 272

S. B. No. 129  
(Holand)

EXAMINATION IN REGARD TO DEFAULTING  
PUBLIC EMPLOYEE

AN ACT

To amend and reenact section 26-23-17 of the North Dakota Century Code, relating to insurance commissioner to make examinations, request for accounting and report of defaulting employee to governor.

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

Section 1. Amendment.) Section 26-23-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**26-23-17. Commissioner May Make Examinations—Request for Accounting—Report of Defaulting Employee to Governor.)** If the commissioner shall be of the opinion at any time that the interests of the fund are jeopardized by the misconduct or inefficiency of any public employee, he shall make, or request the state auditor to make, an examination, and, if necessary, he shall cause an action for an accounting to be instituted against such public employee for the purpose of requiring a complete disclosure of the business of the office of which such public employee is an incumbent. Such action shall be brought in the name of the commissioner as plaintiff, and the court in such action may interplead all parties concerned. Whenever the commissioner deems it advisable, he shall make a complaint to the governor requesting the governor to institute an investigation with the purpose of removing from office any defaulting public employee or any public employee who so conducts the affairs of his office as to endanger the fund.

Approved February 22, 1969.

## CHAPTER 273

S.B. No. 324

(Melland, Nething, Torgerson)

**ESTABLISHING PRIMARY AND EXCESS  
AUTOMOBILE LIABILITY COVERAGE**

## AN ACT

Establishing a primary and excess insurance on automobile liability policies for anyone in the business of selling, repairing, servicing, storing, leasing, or parking of motor vehicles.

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

**Section 1. Establishment of Primary and Excess Automobile Liability Coverages in Certain Instances.)** When an automobile liability insurance policy is in force for anyone engaged in the business of selling, repairing, servicing, storing, leasing, or parking motor vehicles and the owner of said vehicle loans, rents, or leases a vehicle to any other person or organization and the vehicle is involved in an accident out of which bodily injury or property damage arises, the following automobile insurance policies shall be applicable:

1. In the event no other automobile liability insurance policy is in force at the time of the accident for the person or organization to whom the vehicle was loaned, rented, or leased, the coverage provided by the motor vehicle owner's automobile liability policy shall extend to the borrower, rentee, or lessee in the event the owner's automobile liability insurance policy extends coverage to said borrower, rentee, or lessee.
2. In the event that another automobile liability insurance policy is in force for the person or organization to whom the vehicle was loaned, rented, or leased, any coverage provided by the motor vehicle owner's automobile liability insurance policy shall be excess coverage only but limited, however, by the terms of the owner's applicable automobile liability insurance policy. The limits of liability in the policy afforded the person or organization to whom the vehicle was loaned, rented, or leased shall be primary.

**Section 2. Enactment Prospective Only—Interpretation of Policies.)** The provisions of this Act shall apply only to policies and renewals having effective dates subsequent to the effective date of this Act.

Any policy provisions used by automobile insurance writing companies in this state, subsequent to the effective date of this Act, at variance with this Act, are to be interpreted as to comply with the above section 1.

Approved March 13, 1969.

---

CHAPTER 274

S. B. No. 374  
(Nothing)

REGULATION OF CREDIT LIFE,  
ACCIDENT, AND HEALTH INSURANCE

AN ACT

To provide for the regulation of credit life insurance and credit accident and health insurance, and providing a penalty.

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

**Section 1. Purpose.)** The purpose of this Act is to promote the public welfare by regulating credit life insurance and credit accident and health insurance. Nothing in this Act is intended to prohibit or discourage reasonable competition. The provisions of this Act shall be liberally construed.

**Section 2. Citation and Scope.)**

1. This Act may be cited as "The Model Act for the Regulation of Credit Life Insurance and Credit Accident and Health Insurance".
2. All life insurance and all accident and health insurance in connection with loans or other credit transactions shall be subject to the provisions of this Act, except such insurance in connection with a loan or other credit

transactions of more than ten years' duration; nor shall insurance be subject to the provisions of this Act where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor.

**Section 3. Definitions.)** For the purpose of this Act:

1. "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction;
2. "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy;
3. "Creditor" means the lender of money or vendor or lessor of goods, services, or property, rights or privileges, for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor, or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employee of any of them or any other person in any way associated with any of them;
4. "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction;
5. "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction;
6. "Commissioner" means the commissioner of insurance.

**Section 4. Forms of Credit Life Insurance and Credit Accident and Health Insurance.)** Credit life insurance and credit accident and health insurance shall be issued only in the following forms:

1. Individual policies of life insurance issued to debtors on the term plan;

2. Individual policies of accident and health insurance issued to debtors on a term plan or disability benefit provisions in individual policies of credit life insurance;
3. Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan;
4. Group policies of accident and health insurance issued to creditors on a term plan insuring debtors or disability benefit provisions in group credit life insurance policies to provide such coverage.

**Section 5. Amount of Credit Life Insurance and Credit Accident and Health Insurance.)**

1. Credit life insurance:

- a. The initial amount of credit life insurance shall not exceed the total amount repayable under the contract indebtedness and, where an indebtedness is repayable in substantially equal installments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.
- b. Notwithstanding the provisions of subdivision a, insurance on agricultural credit transaction commitments, not exceeding one year in duration may be written up to the amount of the loan commitment, on a nondecreasing or level term plan.
- c. Notwithstanding the provisions of subdivisions a or b, insurance on educational credit transaction commitments may be written for the amount of the portion of such commitment that has not been advanced by the creditor.

2. Credit accident and health insurance:

The total amount of periodic indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity

payment shall not exceed the original indebtedness divided by the number of periodic installments.

**Section 6. Term of Credit Life Insurance and Credit Accident and Health Insurance.)** The term of any credit life insurance or credit accident and health insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than thirty days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in section 9.

**Section 7. Provisions of Policies and Certificates of Insurance—Disclosure to Debtors.)**

1. All credit life insurance and credit accident and health insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.
2. Each individual policy or group certificate of credit life insurance or credit accident and health insurance shall, in addition to other requirements of law, set forth the name and home-office address of the insurer, the name or names of the debtor or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor, the premium or amount of payment, if any, by the debtor separately for credit life insurance and credit accident and health insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or ex-



tinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

3. Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.
4. If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home-office address of the insurer, the name or names of the debtor, the premium or amount of payment by the debtor, if any, separately for credit life insurance and credit accident and health insurance, the amount, term, and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within thirty days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificates of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in section 6.
5. If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home-office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.



**Section 8. Filing, Approval and Withdrawal of Forms.)**

1. All policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner.
2. The commissioner shall, within thirty days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance laws or of any rule or regulation promulgated thereunder.
3. If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, endorsement or rider, shall be issued or used until the expiration of thirty days after it has been so filed, unless the commissioner shall give his prior written approval thereto.
4. The commissioner may, at any time after a hearing held not less than twenty days after written notice to the insurer, withdraw his approval of any such form on any ground set forth in subsection 2 above. The written notice of such hearing shall state the reason for the proposed withdrawal.
5. It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.
6. If a group policy of credit life insurance or credit accident and health insurance

- a. has been delivered in this state before the effective date of this Act, or
- b. has been or is delivered in another state before or after the effective date of this Act,

the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in subsections 2 and 4 of section 7 of this Act and such forms shall be approved by the commissioner if they conform with the requirements specified in said subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner; provided, however, the premium rate in effect on existing group policies may be continued until the first policy anniversary date following the effective date of this Act.

7. Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.

#### **Section 9. Premiums and Refunds.)**

1. Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy or credit accident and health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.
2. Each individual policy, or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

3. If a creditor requires a debtor to make any payment for credit life insurance or credit accident and health insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.
4. The amount charged to a debtor for any credit life or credit health and accident insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined.
5. Nothing in this Act shall be construed to authorize any payments for insurance now prohibited under any statute, or rule thereunder, governing credit transactions.

**Section 10. Issuance of Policies.)** All policies of credit life insurance and credit accident and health insurance shall be delivered or issued for delivery in this state only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner.

**Section 11. Claims.)**

1. All claims shall be promptly reported to the insurer or its designated claim representative, and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.
2. All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.
3. No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the insurer in adjusting claims; provided, that a group policyholder may, by arrangement with the group insurer, draw drafts or checks

in payment of claims due to the group policyholder subject to audit and review by the insurer.

**Section 12. Existing Insurance—Choice of Insurer.)** When credit life insurance or credit accident and health insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state.

**Section 13. Enforcement.)** The commissioner may, after notice and hearing, issue such rules and regulations as he deems appropriate for the supervision of this Act. Whenever the commissioner finds that there has been a violation of this Act or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction. The provisions of sections 6, 7, 8 and 9 of this Act shall not be operative until ninety days after the effective date of this Act, and the commissioner in his discretion may extend by not more than an additional ninety days the initial period within which the provisions of said sections shall not be operative.

**Section 14. Judicial Review.)** Any party to the proceeding affected by an order of the commissioner shall be entitled to judicial review by following the procedure set forth in chapter 28—32.

**Section 15. Penalties.)** In addition to any other penalty provided by law, any person, firm or corporation which violates an order of the commissioner after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of North Dakota a sum not to exceed two hundred fifty dollars, which may be recovered in a civil action, except that if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed one thousand dollars. The commissioner, in

his discretion, may revoke or suspend the license or certificate of authority of the person, firm or corporation guilty of such violation. Such order for suspension or revocation shall be upon notice and hearing, and shall be subject to judicial review as provided in section 14 of this Act.

**Section 16. Separability Provision.)** If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to any person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Approved March 29, 1969.

---

## CHAPTER 275

S.B. No. 383  
(Longmire)

### INSURANCE COMMISSIONER TO STUDY COORDINATION OF BENEFITS

#### AN ACT

To direct a study of coordination of benefits provisions in health insurance policies.

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

**Section 1. Study by Insurance Commissioner.)** The commissioner of insurance is hereby directed to study during the 1969-71 biennium the problem of pro rata liability provisions, otherwise known as coordination of benefits provisions, of group and individual health insurance policies and non-profit medical and hospital service plans. The commissioner shall report his findings and recommendations to the forty-second legislative assembly.

Approved March 28, 1969.

# JUDICIAL BRANCH OF GOVERNMENT

---

## CHAPTER 276

S.B. No. 376

(Lips, Chesrown, Holand)  
(Longmire, Meschke, Coughlin)

### ADDITIONAL COMPENSATION FOR SUPREME AND DISTRICT COURT JUDGES

#### AN ACT

To provide for additional compensation for the supreme and district court judges of the state, without additional retirement benefits as provided by section 27-17-01.

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

**Section 1. Additional Compensation—Supreme and District Court Judges.)** In addition to the judicial salaries provided by sections 27-02-02 and 27-05-03 of the Code, each judge of the supreme court and each district court judge serving in such capacity on and after the effective date of this Act shall receive compensation in the sum of two thousand dollars annually paid in equal monthly payments. This Act shall not be construed to increase the benefits to which retired judges of the supreme court and district courts are entitled.

Approved March 29, 1969.

## CHAPTER 277

S. B. No. 270  
(Chesrown, Freed, Nething, Holand)

SALE OF BOOKS BY SUPREME  
COURT REPORTER

AN ACT

To amend and reenact section 27-04-08 of the North Dakota Century Code, relating to the sale and distribution of official reports by supreme court reporter, to authorize the sale or disposal of books and other library materials by supreme court reporter; and to repeal section 27-04-05 of the North Dakota Century Code, relating to opinions and reports of supreme court printed and published by reporter.

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

**Section 1. Amendment.)** Section 27-04-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-04-08. Sale and Disposal of Books and Other Library Materials by Supreme Court Reporter.)** The supreme court reporter, subject to the direction and control of the supreme court and under such rules and regulations as it may prescribe, may sell or otherwise dispose of such books, pamphlets, leaflets, periodicals, and other library materials as shall come within his care and custody as the state law librarian and as shall be determined by the supreme court to be obsolete or to be useful in trade for other books, pamphlets, leaflets, periodicals, and other library materials. All money received from the sale of such library materials shall be paid to such reporter and shall be deposited by him monthly in the state treasury.

**Section 2. Repeal.)** Section 27-04-05 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1969.

S. B. No. 397  
(Ringsak, Nething)

## LOCATION OF DISTRICT JUDGES' CHAMBERS

### AN ACT

To amend and reenact section 27-05-08 of the North Dakota Century Code, relating to the location of the chambers of the district judges.

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

**Section 1. Amendment.)** Section 27-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-05-08. Chambers—Residence.)**

1. The locations of the chambers of the district judges in each of the respective districts, until changed by order of the supreme court, shall be as follows:
  - a. First judicial district, in the cities of Grand Forks, Fargo, and Valley City;
  - b. Second judicial district, in the cities of Devils Lake, Rugby, and Grafton;
  - c. Third judicial district, in the cities of Wahpeton and Lisbon;
  - d. Fourth judicial district, in the cities of Bismarck and Jamestown;
  - e. Fifth judicial district, in the cities of Minot and Williston;
  - f. Sixth judicial district, in the cities of Mandan, Dickinson, and Hettinger.
2. Each district judge shall reside within the county where his chambers are located, and, for the purposes of this section, the chief justice of the supreme court shall



designate the respective chambers within the district to which each district judge is assigned.

Approved March 20, 1969.

---

CHAPTER 279

S. B. No. 184  
(Longmire)

HOLDING OF CONSECUTIVE JURY TERMS  
OF COURT

AN ACT

To amend and reenact section 27-05-18 of the North Dakota Century Code, relating to the holding of consecutive jury terms of court.

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

**Section 1. Amendment.)** Section 27-05-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-05-18. District Judges Prohibited from Holding Consecutive Jury Terms—Exception.)** Except in the counties of Cass, Burleigh, Grand Forks, and Ward, no judge of a district court of this state shall hold two consecutive jury terms of court in any county in his judicial district unless permission therefor has been given by the supreme court upon good cause shown.

Approved March 17, 1969.

## CHAPTER 280

H. B. No. 139

(Bunker, Atkinson, Ganser, Kelsch, Bullis)

(Aas, Register)

## SALARY AND EXPENSES OF COURT REPORTER

## AN ACT

To amend and reenact section 27-06-02 of the North Dakota Century Code, relating to salary and expenses of court reporter.

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

**Section 1. Amendment.)** Section 27-06-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-06-02. Salary and Expenses of Court Reporter.)** Each court reporter shall receive a salary not to exceed ten thousand five hundred dollars per annum, payable in equal monthly installments by the counties constituting the judicial district in which such reporter is employed. Such salary shall be set by each district court judge involved and shall be apportioned according and in proportion to the number of suits entered and commenced in the district court of the respective counties of such district in the preceding year. 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 for 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 item-

ized form showing the mileage traveled, the days when and how traveled, and the purposes thereof, and verified by affidavit. No claim for living expenses or transportation expenses shall be approved for payment to a court reporter by the board of county commissioners unless such claim shall have been first approved by the district judge.

Approved March 5, 1969.

---

CHAPTER 281

S. B. No. 395  
(Meschke)

COLLECTION AND DEPOSIT OF CERTAIN  
FEES BY COUNTY COURT

AN ACT

To amend and reenact section 27-07-40 of the North Dakota Century Code, to permit the county court to collect certain fees as set forth and to deposit them monthly with the county treasurer.

**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 county court for deposit by that office into the county treasury of the county in which the court is located which shall be in the sum of seven dollars and fifty cents, except that the filing fee for applications in joint tenancy to determine estate tax shall be in the sum of three dollars and such filing fee for applications in joint tenancy to determine estate tax shall not be subject to the provisions of section 27-07-41.

Approved March 20, 1969.

## CHAPTER 282

H. B. No. 322  
(Kelsch, Aamoth)

**SALARY OF JUDGE OF COUNTY COURT  
OF INCREASED JURISDICTION**

**AN ACT**

To amend and reenact section 27-08-08 of the North Dakota Century Code, relating to the salaries of judges of county courts of increased jurisdiction.

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

**Section 1. Amendment.)** Section 27-08-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-08-08. Salaries of Judges of County Courts of Increased Jurisdiction—Amount, Payment.)** A county judge of a county court of this state having increased jurisdiction shall receive the following salary: eleven thousand dollars in counties having a population not exceeding fifteen thousand inhabitants; thirteen thousand five hundred dollars in counties having a population exceeding fifteen thousand inhabitants but not exceeding twenty-two thousand inhabitants; and fifteen thousand dollars in counties having a population exceeding twenty-two thousand inhabitants. Such salary shall be payable by the county in equal monthly installments and shall be full remuneration for all official duties including all fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies. All fees collected for official acts as judge of the county court except fees charged for performing marriage ceremonies shall be deposited by the court into the county treasury of the county in which the court is located.

Approved March 29, 1969.

## CHAPTER 283

S. B. No. 118  
(Chesrown, Freed, Holand)

APPELLATE JURISDICTION OF COUNTY COURTS  
OF INCREASED JURISDICTION

AN ACT

To amend and reenact sections 27-08-21 and 40-18-19 of the North Dakota Century Code, relating to appellate jurisdiction of county courts of increased jurisdiction and appeals from determinations of municipal judge.

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

**Section 1. Amendment.)** Section 27-08-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-08-21. Appellate Jurisdiction of County Courts of Increased Jurisdiction.)** County courts having increased jurisdiction shall have concurrent jurisdiction with the district courts in appeals from all final judgments entered in municipal courts, and the proceedings on such appeals shall be the same as those which now are or hereafter may be provided for appeals from judgments of county justices to district courts.

**Section 2. Amendment.)** Section 40-18-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-18-19. Appeals from Determinations of Municipal Judge.)** An appeal may be taken to the district court or to the county court of increased jurisdiction as provided for in section 27-08-21 from a judgment of conviction in a municipal judge's court in the same form and manner as appeals are taken and perfected from a judgment of conviction of a defendant in justice court, and in accordance with sections 33-12-34, 33-12-35, and 33-12-39, and shall be tried in the district court or county court of increased jurisdiction in accordance with sections 33-12-40 and 33-12-41, and bail shall be taken in accordance with sections 33-12-36 and 33-12-37, and witnesses may be

placed under bond as provided for in section 33-12-38. On all appeals from a determination in a municipal judge's court the court shall take judicial notice of all of the ordinances of the city. No filing fee shall be required for the filing of an appeal from a judgment of conviction for the violation of a municipal ordinance.

Approved March 8, 1969.

---

## CHAPTER 284

S. B. No. 117  
(Chesrown, Freed, Holand)

### PLEAD COUNTERCLAIMS IN EXCESS OF JURISDICTION OF COUNTY COURT OF INCREASED JURISDICTION

#### AN ACT

Permitting the pleading of cross-claims or counterclaims in civil actions in county courts of increased jurisdiction in excess of the jurisdiction of the court and providing for the procedure and filing fee for the transfer of such actions to the district court.

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

**Section 1. Procedure Permitting Pleading of Cross-Claims or Counterclaims in Excess of Jurisdiction of County Courts of Increased Jurisdiction.)** In all civil actions instituted in a county court of increased jurisdiction a defendant shall have the right to plead a cross-claim or a counterclaim, compulsory or permissive, in excess of the jurisdiction of the court. When the amount in controversy measured by the value of the relief sought in either a cross-claim or counterclaim exceeds one thousand dollars or asks for affirmative equitable relief, the county court shall proceed no further with a determination of the rights of the parties provided that such pleading in excess of jurisdiction shall be accompanied by a motion requesting that the case be transferred to the district court of the same county as the court from which the transfer is requested. The movant shall tender, with his motion, a filing fee of seven dollars and fifty cents which shall be paid to the clerk

of the district court in event the motion is granted. In the absence of such motion the cross-claim or counterclaim must be stricken and the case must proceed as though no counterclaim or cross-claim had been pleaded.

When the transfer of a case from the county court to the district court has been ordered pursuant to this Act the clerk of the county court shall forthwith certify to the district court all of the original pleadings and other papers and documents pertaining to the case accompanied by a certified copy of the order of transfer and an itemized certificate of transmittal. Upon receipt of a certificate and order as above provided the district court shall have the jurisdiction to proceed with the case as though it had been originally commenced in the district court including the power to permit or direct appropriate amendments of pleadings.

Approved March 8, 1969.

---

## CHAPTER 285

H. B. No. 58  
(Aamoth)

### ATTORNEY LICENSE FEE

#### AN ACT

To amend and reenact section 27-11-22 of the North Dakota Century Code, relating to annual licenses to practice law—requirement—issuance—fees.

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

**Section 1. Amendment.)** Section 27-11-22 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-11-22. Annual Licenses to Practice Law—Requirement—Issuance—Fees.)** Every person who has an unrevoked certificate of admission to the bar of this state and who desires to engage in the practice of law or hold judicial office therein, on or before the first day of January of each calendar year, shall secure an

annual license from the state bar board. Such license shall be issued by the secretary-treasurer of such board upon payment of a fee established by the state bar association at their last annual meeting, by a majority vote of its members in attendance at the meeting, not to exceed one hundred dollars and shall be good for one year from and after the first day of January of the year for which it is issued.

Approved March 8, 1969.

---

## CHAPTER 286

H. B. No. 159  
(Bullis, Aas, Atkinson)

### ANNUAL PAYMENTS TO STATE BAR ASSOCIATION

#### AN ACT

To amend and reenact section 27-12-04 of the North Dakota Century Code, relating to moneys payable from the state bar fund to the state bar association.

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

**Section 1. Amendment.)** Section 27-12-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-12-04. Moneys payable from State Bar Fund to State Bar Association.)** The state bar association of North Dakota, out of the state bar fund, annually shall receive eighty percent of the annual license fees paid by licensed members, for the purpose of paying for the printing and distribution of the annual report and proceedings of said association and for the payment of other necessary expenses of the association. Such sum shall be paid quarterly into the treasury of the said association by the secretary-treasurer of the state bar board upon vouchers drawn by the president and secretary-treasurer of said association.

Approved March 5, 1969.



## CHAPTER 287

H. B. No. 164  
(Giffey)

## COUNTY JUSTICE'S TERM OF OFFICE

## AN ACT

To amend and reenact section 27-18-02 of the North Dakota Century Code extending the term of county justice to four (4) years.

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

**Section 1. Amendment.)** Section 27-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-18-02. Qualifications and Tenure of County Justice.)** The county justice shall be licensed to practice law in this state but need not be an elector of the county for which he is elected or appointed, and shall hold office for a term of four years commencing at the same date as the term of the county judge. The county justice so elected or appointed may serve more than one county.

Approved March 5, 1969.

## CHAPTER 288

H. B. No. 257  
(Bullis)

## COMPENSATION OF COUNTY JUSTICES

## AN ACT

To amend and reenact section 27-18-03 of the North Dakota Century Code, relating to the salary of county justices.

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

**Section 1. Amendment.)** Section 27-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-18-03. Compensation of County Justice—Amount—Payment.)** The county justice shall receive as full compensation for his services an annual salary not exceeding the sum of five thousand dollars, as may be determined from time to time by the board of county commissioners of the county for which he is elected or appointed. In addition thereto, the county justice shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his official duties, in accordance with the amount allowed the district court reporter. The salary and travel expenses, as the case may be, shall be paid by the county for which he is elected or appointed or shall be equitably apportioned by the several boards of county commissioners among the several counties as are served by such county justice. Such compensation shall be paid monthly by the county treasurers of the respective counties upon properly verified claims as other claims against the county are allowed and paid.

Approved March 13, 1969.

## CHAPTER 289

S. B. No. 350  
(Longmire, Holand)

UNIFORM JUVENILE COURT  
ACT

AN ACT

To create and enact chapter 27-20 of the North Dakota Century Code, relating to the creation of the juvenile court and constituting the Uniform Juvenile Court Act; to provide for the jurisdiction of the juvenile court, the care and custody of deprived children, the termination of the relationship of parent and child, and the care, custody, control, treatment and rehabilitation of delinquent and unruly children; to amend sections 12-46-14 and 27-05.1-16 of the North Dakota Century Code, relating to the transportation of persons committed to the state training school and the assistance to be given by juvenile commissioners to the family court; and to repeal chapters 27-16 and 50-14 of the North Dakota Century Code.

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

**Section 1.)** Chapter 27-20 of the North Dakota Century Code is hereby created and enacted to read as follows:

**27-20-01. Interpretation.)** This chapter shall be construed to effectuate the following public purposes:

1. To provide for the care, protection, and wholesome moral, mental, and physical development of children coming within its provisions;
2. Consistent with the protection of the public interest, to remove from children committing delinquent acts the taint of criminality and the consequences of criminal behavior and to substitute therefor a program of treatment, training and rehabilitation;
3. To achieve the foregoing purposes in a family environment whenever possible, separating the child from his parents only when necessary for his welfare or in the interest of public safety;
4. To provide a simple judicial procedure through which this chapter is executed and enforced and in which the

parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced; and

5. To provide simple interstate procedures which permit resort to cooperative measures among the juvenile courts of the several states when required to effectuate the purposes of this chapter.

**27-20-02. Definitions.)** As used in this chapter:

1. "Child" means an individual who is:
  - a. Under the age of eighteen years, or
  - b. Under the age of twenty-one years who committed an act of delinquency before reaching the age of eighteen years.
2. "Delinquent act" means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in that state, or under federal law, and the crime does not fall under paragraph c of subsection 4 and is not a minor traffic offense as defined in subsection 10.
3. "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.
4. "Unruly child" means a child who:
  - a. While subject to compulsory school attendance is habitually and without justification truant from school;
  - b. Is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; or
  - c. Has committed an offense applicable only to a child; and
  - d. In any of the foregoing is in need of treatment or rehabilitation.

5. "Deprived child" means a child who:
  - a. Is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, or morals, and the deprivation is not due primarily to the lack of financial means of his parents, guardian, or other custodian;
  - b. Has been placed for care or adoption in violation of law; or
  - c. Has been abandoned by his parents, guardian, or other custodian.
6. "Shelter care" means temporary care of a child in physically unrestricted facilities.
7. "Protective supervision" means supervision ordered by the court of children found to be deprived or unruly.
8. "Custodian" means a person, other than a parent or legal guardian, who stands in 'loco parentis' to the child or a person to whom legal custody of the child has been given by order of a court.
9. "Juvenile court" means the district court of this state.
10. "Minor traffic offense" means a violation of a law or local ordinance or resolution governing the operation of a vehicle upon the highways of this state, or the waterways within or adjoining this state, other than negligent homicide, manslaughter, driving or being in control of a vehicle upon a highway while under the influence of intoxicating liquor, a narcotic or a drug, aggravated reckless driving, and driving a motor vehicle without, or during suspension of, a driver's license or permit.

**27-20-03. Jurisdiction.)**

1. The juvenile court has exclusive original jurisdiction of the following proceedings, which are governed by this chapter:
  - a. Proceedings in which a child is alleged to be delin-

- quent, unruly, or deprived;
- b. Proceedings for the termination of parental rights except when a part of an adoption proceeding; and
  - c. Proceedings arising under sections 27-20-39 through 27-20-42.
2. The juvenile court also has exclusive original jurisdiction of the following proceedings, which are governed by the laws relating thereto without regard to the other provisions of this chapter:
- a. Proceedings to obtain judicial consent to the marriage, employment, or enlistment in the armed services of a child, if consent is required by law;
  - b. Proceedings under the Interstate Compact on Juveniles; and
  - c. Proceedings under the Interstate Compact on the Placement of Children.

**27-20-04. Concurrent Jurisdiction.)** The juvenile court has concurrent jurisdiction with the county mental health board of proceedings to treat or commit a mentally retarded or mentally ill child otherwise subject to the jurisdiction of the court.

**27-20-05. Juvenile Court Personnel.)**

1. The court may appoint one or more juvenile supervisors who shall serve at the pleasure of the court. Juvenile supervisors have the powers and duties stated in section 27-20-06. If more than one juvenile supervisor is appointed, one may be designated by the court as the chief juvenile supervisor or director of court services, who shall be responsible for the administration of juvenile court services under the direction of the court.
2. Each juvenile supervisor shall receive as full compensation for his services such amount as may be fixed from time to time by the judge who appointed him, or by his successor, either upon a per diem basis not exceeding ten dollars per day for the time actually and necessarily employed in the discharge of his duties, or upon a salary

basis not exceeding eleven thousand dollars per annum. In addition, the juvenile supervisor shall be paid the reasonable travel expenses for mileage and subsistence necessarily incurred in the discharge of his duties, in accordance with the amount allowed to county officials.

3. In addition to referees authorized by section 27-20-07, a judge of the juvenile court, in his discretion and subject to approval of the board of county commissioners of the county or counties affected, may also provide for the employment of probation officers, clerical and other specialized personnel under the direction and supervision of the judge, to assist the court and juvenile supervisors in carrying out the provisions of this chapter. Personnel so employed shall receive as full compensation for their services such amount as may be fixed and approved from time to time by the judge of the juvenile court assisted, subject to approval of the board of county commissioners of the county or counties affected, together with reasonable travel expenses, in the manner and subject to the limitations and apportionment applicable to juvenile supervisors.
4. All salaries, per diem, and other compensation payable to juvenile court personnel, other than the judge, the cost of providing suitable quarters for conducting official business, all necessary books, forms, stationery, office supplies and equipment, postage, telephone, travel and other necessary expenses incurred in carrying out the provisions of this chapter shall be borne by the counties affected and may be apportioned among them by the judge. Such compensation and expenses shall be paid monthly by the county treasurer of the respective counties affected upon properly certified claims and upon approval of the judge as other claims against the county are allowed and paid.

**27-20-06. Powers and Duties of Juvenile Supervisors.)**

1. For the purpose of carrying out the objectives and purposes of this chapter and subject to the limitations of this chapter or imposed by the court, a juvenile supervisor shall:
  - a. Make investigations, reports, and recommendations

- to the juvenile court;
- b. Receive and examine complaints and charges of delinquency, unruly conduct or deprivation of a child for the purpose of considering the commencement of proceedings under this chapter;
  - c. Supervise and assist a child placed on probation or in his protection, supervision, or care by order of the court or other authority of law;
  - d. Make appropriate referrals to other private or public agencies of the community if their assistance appears to be needed or desirable;
  - e. Take into custody and detain a child who is under his supervision or care as a delinquent, unruly, or deprived child if he has reasonable cause to believe that the child's health or safety is in imminent danger, or that he may abscond or be removed from the jurisdiction of the court, or when ordered by the court pursuant to this chapter. Except as provided by this chapter, a juvenile supervisor does not have the powers of a law enforcement officer. He may not conduct accusatory proceedings under this chapter against a child who is or may be under his care or supervision; and
  - f. Perform all other functions designated by this chapter or by order of the court pursuant thereto, including, if qualified, those of a referee. Juvenile supervisors who are serving as juvenile commissioners on the effective date of this chapter may perform the functions of a referee under this chapter without being members of the bar.
2. Any of the foregoing functions may be performed in another state if authorized by the court of this state and permitted by the laws of the other state.

**27-20-07. Referees.)**

1. The judge may appoint one or more persons to serve at the pleasure of the judge as referees on a full or part-time basis. A referee shall be a member of the bar. His



- compensation shall be fixed by the judge with the approval of the board of county commissioners of each county affected and paid as provided in subsection 4 of section 27-20-05.
2. The judge may direct that hearings in any case or class of cases be conducted in the first instance by the referee in the manner provided by this chapter and Rule 53 of the North Dakota Rules of Civil Procedure.
  3. The parties to the proceedings are entitled to have the matter heard by the judge if written request therefor is filed within three days after receiving an order of reference or a written notice of the hearing which must also inform them of this right.
  4. Upon the conclusion of a hearing before a referee, he shall promptly transmit written findings and recommendations for disposition to the judge. Written notice and copies of the findings and recommendations shall be promptly given to the parties.
  5. A review of the findings and recommendations pursuant to Rule 53 of the North Dakota Rules of Civil Procedure may be ordered at any time by the judge and shall be ordered if a party files written request therefor within three days after receiving the notice required in subsection 4 which must also inform them of this right.
  6. Unless a review is ordered, the findings and recommendations become the findings and order of the court upon confirmation in writing by the judge.

**27-20-08. Commencement of Proceedings.)** A proceeding under this chapter may be commenced:

1. By transfer of a case from another court as provided in section 27-20-09;
2. By the court accepting jurisdiction as provided in section 27-20-40 or accepting supervision of a child as provided in section 27-20-42; or
3. In other cases by the filing of a petition as provided in this chapter. The petition and all other documents in the

proceeding shall be entitled "In the interest of \_\_\_\_\_, a child."

**27-20-09. Transfer from Other Courts.)** If it appears to the court in a criminal proceeding that the defendant is a child, the court shall forthwith transfer the case to the juvenile court together with a copy of the accusatory pleading and other papers, documents, and transcripts of testimony relating to the case. It shall order that the defendant be taken forthwith to the juvenile court or to a place of detention designated by the juvenile court, or release him to the custody of his parent, guardian, custodian, or other person legally responsible for him, to be brought before the juvenile court at a time designated by that court. The accusatory pleading may serve in lieu of a petition in the juvenile court unless that court directs the filing of a petition.

**27-20-10. Informal Adjustment.)**

1. Before a petition is filed, the juvenile supervisor or other officer of the court designated by it, subject to its direction, may give counsel and advice to the parties and impose conditions for the conduct and control of the child with a view to an informal adjustment if it appears:
  - a. The admitted facts bring the case within the jurisdiction of the court;
  - b. Counsel, advice and conditions, if any, for the conduct and control of the child without an adjudication would be in the best interest of the public and the child; and
  - c. The child and his parents, guardian or other custodian consent thereto with knowledge that consent is not obligatory.
2. The giving of counsel and advice and any conditions imposed for the conduct and control of the child cannot extend beyond three months from the day commenced unless extended by the court for an additional period not to exceed three months and does not authorize the detention of the child if not otherwise permitted by this chapter.

3. An incriminating statement made by a participant to the person giving counsel or advice and in the discussions or conferences incident thereto shall not be used against the declarant over objection in any hearing except in a hearing on disposition in a juvenile court proceeding or in a criminal proceeding against him after conviction for the purpose of a pre-sentence investigation.

**27-20-11. Venue.)** A proceeding under this chapter may be commenced in the county in which the child resides. If delinquent or unruly conduct is alleged, the proceeding may be commenced in the county in which the acts constituting the alleged delinquent or unruly conduct occurred. If deprivation is alleged, the proceeding may be brought in the county in which the child is present when it is commenced.

**27-20-12. Transfer to Another Juvenile Court Within the State.)**

1. If the child resides in a county of the state and the proceeding is commenced in a court of another county, the court, on motion of a party or on its own motion made prior to final disposition, may transfer the proceeding to the county of the child's residence for further action. Like transfer may be made if the residence of the child changes pending the proceeding. The proceeding shall be transferred if the child has been adjudicated delinquent or unruly and other proceedings involving the child are pending in the juvenile court of the county of his residence.
2. Certified copies of all legal and social documents and records pertaining to the case on file with the clerk of the court shall accompany the transfer.

**27-20-13. Taking Into Custody.)**

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 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.

2. The taking of a child into custody is not an arrest, except for the purpose of determining its validity under the Constitution of this state or of the United States.

**27-20-14. Detention of Child.)** A child taken into custody shall not be detained or placed in shelter care prior to the hearing on the petition unless his detention or care is required to protect the person or property of others or of the child or because the child may abscond or be removed from the jurisdiction of the court or because he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention or shelter care has been made by the court pursuant to this chapter.

**27-20-15. Release or Delivery to Court.)**

1. A person taking a child into custody, with all reasonable speed and without first taking the child elsewhere, shall:
  - a. Release the child to his parent, guardian, or other custodian upon his promise to bring the child before the court when requested by the court, unless his detention or shelter care is warranted or required under section 27-20-14; or
  - b. Bring the child before the court or deliver him to a detention or shelter care facility designated by the court or to a medical facility if the child is believed to suffer from a serious physical condition or illness which requires prompt treatment. He shall promptly give written notice thereof, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court. Any temporary detention or questioning of the child necessary to comply with this subsection shall conform to the procedures and conditions prescribed by this chapter and rules of court.

2. If a parent, guardian, or other custodian, when requested, fails to bring the child before the court as provided in subsection 1 the court may issue its warrant directing that the child be taken into custody and brought before the court.

**27-20-16. Place of Detention.)**

1. A child alleged to be delinquent may be detained only in:
  - a. A licensed foster home or a home approved by the court;
  - b. A facility operated by a licensed child welfare agency;
  - c. A detention home or center for delinquent children which is under the direction or supervision of the court or other public authority or of a private agency approved by the court; or
  - d. Any other suitable place or facility, designated or operated by the court. The child may be detained in a jail or other facility for the detention of adults only if the facility in subdivision c is not available, the detention is in a room separate and removed from those for adults, it appears to the satisfaction of the court or the juvenile supervisor that public safety and protection reasonably require detention, and it is so ordered.
2. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately if a person who is or appears to be under the age of eighteen years is received at the facility and shall bring him before the court upon request or deliver him to a detention or shelter care facility designated by the court.
3. If a case is transferred to another court for criminal prosecution the child may be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of persons charged with crime.

4. A child alleged to be deprived or unruly may be detained or placed in shelter care only in the facilities stated in subdivisions a, b, and d, of subsection 1 and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or of children alleged to be delinquent.

**27-20-17. Release from Detention or Shelter Care—Hearing—Conditions of Release.)**

1. If a child is brought before the court or delivered to a detention or shelter care facility designated by the court the intake or other authorized officer of the court shall immediately make an investigation and release the child unless it appears that his detention or shelter care is warranted or required under section 27-20-14.
2. If he is not so released, a petition under section 27-20-21 shall be promptly made and presented to the court. An informal detention hearing shall be held promptly and not later than seventy-two hours after he is placed in detention to determine whether his detention or shelter care is required under section 27-20-14. Reasonable notice thereof, either oral or written, stating the time, place, and purpose of the detention hearing shall be given to the child and if they can be found, to his parents, guardian, or other custodian. Prior to the commencement of the hearing, the court shall inform the parties of their right to counsel and to appointed counsel if they are needy persons, and of the child's right to remain silent with respect to any allegations of delinquency or unruly conduct.
3. If the child is not so released and a parent, guardian or custodian has not been notified of the hearing, did not appear or waive appearance at the hearing, and files his affidavit showing these facts, the court shall rehear the matter without unnecessary delay and order his release, unless it appears from the hearing that the child's detention or shelter care is required under section 27-20-14.

**27-20-18. Subpoena.)** Upon application of a party the court or the clerk of the court shall issue, or the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of papers at any hearing under this chapter.

**27-20-19. Petition—Preliminary Determination.)** A petition under this chapter shall not be filed unless the juvenile supervisor, the court, or other person authorized by the court has determined and endorsed upon the petition that the filing of the petition is in the best interest of the public and the child.

**27-20-20. Petition—Who May Make.)** Subject to section 27-20-19 the petition may be made by any person, including a law enforcement officer, who has knowledge of the facts alleged or is informed and believes that they are true.

**27-20-21. Contents of Petition.)** The petition shall be verified and may be on information and belief. It shall set forth plainly:

1. The facts which bring the child within the jurisdiction of the court, with a statement that it is in the best interest of the child and the public that the proceeding be brought and, if delinquency or unruly conduct is alleged, that the child is in need of treatment or rehabilitation;
2. The name, age, and residence address, if any, of the child on whose behalf the petition is brought;
3. The names and residence addresses, if known to petitioner, of the parents, guardian, or custodian of the child and of the child's spouse, if any. If none of his parents, guardian, or custodian resides or can be found within the state, or if their respective places of residence address are unknown, the name of any known adult relative residing within the county, or, if there be none, the known adult relative residing nearest to the location of the court; and
4. Whether the child is in custody and, if so, the place of his detention and the time he was taken into custody.

**27-20-22. Summons.)**

1. After the petition has been filed the court shall fix a time for hearing thereon, which, if the child is in detention, shall not be later than ten days after the filing of the petition. The court shall direct the issuance of a summons to the parents, guardian, or other custodian, a guardian

ad litem, and any other persons as appear to the court to be proper or necessary parties to the proceeding, requiring them to appear before the court at the time fixed to answer the allegations of the petition. The summons shall also be directed to the child if he is fourteen or more years of age or is alleged to be a delinquent or unruly child. A copy of the petition shall accompany the summons unless the summons is served by publication in which case the published summons shall indicate the general nature of the allegations and where a copy of the petition can be obtained.

2. The court may endorse upon the summons an order directing the parents, guardian or other custodian of the child to appear personally at the hearing and directing the person having the physical custody or control of the child to bring the child to the hearing.
3. If it appears from affidavit filed or from sworn testimony before the court that the conduct, condition, or surroundings of the child are endangering his health or welfare or those of others, or that he may abscond or be removed from the jurisdiction of the court or will not be brought before the court, notwithstanding the service of the summons, the court may endorse upon the summons an order that a law enforcement officer shall serve the summons and take the child into immediate custody and bring him forthwith before the court.
4. The summons shall state that a party is entitled to counsel in the proceedings and that the court will appoint counsel if the party is unable without undue financial hardship to employ counsel.
5. A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing. If the child is present at the hearing, his counsel, with the consent of the parent, guardian or other custodian, or guardian ad litem, may waive service of summons in his behalf.

**27-20-23. Service of Summons.)**

1. If a party to be served with a summons is within this state and can be found, the summons shall be served up-



on him personally at least twenty-four hours before the hearing. If he is within this state and cannot be found, but his address is known or can with reasonable diligence be ascertained, the summons may be served upon him by mailing a copy by registered or certified mail at least five days before the hearing. If he is without this state but he can be found or his address is known, or his whereabouts or address can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy to him personally or mailing a copy to him by registered or certified mail at least five days before the hearing.

2. If after reasonable effort he cannot be found or his post-office address ascertained, whether he is within or without this state, the court may order service of the summons upon him by publication in accordance with Rule 4 of the North Dakota Rules of Civil Procedure. The hearing shall not be earlier than five days after the date of the last publication.
3. Service of the summons may be made by any suitable person under the direction of the court.
4. The court may authorize the payment from county funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

**27-20-24. Conduct of Hearings.)**

1. Hearings under this chapter shall be conducted by the court without a jury, in an informal but orderly manner, and separately from other proceedings not included in section 27-20-03.
2. The state's attorney upon request of the court shall present the evidence in support of any allegations of the petition not admitted and otherwise conduct the proceedings on behalf of the state.
3. The proceedings shall be recorded by stenographic notes or by electronic, mechanical, or other appropriate means.

4. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under this chapter. Only the parties, their counsel, witnesses, and other persons accompanying a party for his assistance, and any other persons as the court finds have a proper interest in the proceedings or in the work of the court may be admitted by the court. The court may temporarily exclude the child from the hearing except while allegations of his delinquency or unruly conduct are being heard.

**27-20-25. Service By Publication—Interlocutory Order of Disposition.)**

1. If service of summons upon a party is made by publication the court may conduct a provisional hearing upon the allegations of the petition and enter an interlocutory order of disposition if:
  - a. The petition alleges delinquency, unruly conduct, or deprivation of the child;
  - b. The summons served upon any party (1) states that prior to the final hearing on the petition designated in the summons a provisional hearing thereon will be held at a specified time and place, (2) requires the party who is served other than by publication to appear and answer the allegations of the petition at the provisional hearing, (3) states further that findings of fact and orders of disposition made pursuant to the provisional hearing will become final at the final hearing unless the party served by publication appears at the final hearing, and (4) otherwise conforms to section 27-20-22; and
  - c. The child is personally before the court at the provisional hearing.
2. All provisions of this chapter applicable to a hearing on a petition, to orders of disposition, and to other proceedings dependent thereon shall apply under this section, but findings of fact and orders of disposition have only interlocutory effect pending the final hearing on the petition. The rights and duties of the party served by publication are not affected except as provided in subsection 3.

3. If the party served by publication fails to appear at the final hearing on the petition the findings of fact and interlocutory orders made become final without further evidence and are governed by this chapter as if made at the final hearing. If the party appears at the final hearing the findings and orders shall be vacated and disregarded and the hearing shall proceed upon the allegations of the petition without regard to this section.

**27-20-26. Right to Counsel.)**

1. Except as otherwise provided under this chapter, a party is entitled to representation by legal counsel at all stages of any proceedings under this chapter and, if as a needy person he is unable to employ counsel, to have the court provide counsel for him. If a party appears without counsel the court shall ascertain whether he knows of his right thereto and to be provided with counsel by the court if he is a needy person. The court may continue the proceeding to enable a party to obtain counsel and shall provide counsel for an unrepresented needy person upon his request. Counsel must be provided for a child not represented by his parent, guardian, or custodian. If the interests of two or more parties conflict separate counsel shall be provided for each of them.
2. A needy person is one who at the time of requesting counsel is unable without undue financial hardship to provide for full payment of legal counsel and all other necessary expenses for representation.

**27-20-27. Other Basic Rights.)**

1. A party is entitled to the opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine adverse witnesses.
2. A child charged with a delinquent act need not be a witness against or otherwise incriminate himself. An extrajudicial statement, if obtained in the course of violation of this chapter or which would be constitutionally inadmissible in a criminal proceeding, shall not be used against him. Evidence illegally seized or obtained shall not be received over objection to establish the allega-

tions made against him. A confession validly made by a child out of court is insufficient to support an adjudication of delinquency unless it is corroborated in whole or in part by other evidence.

**27-20-28. Investigation and Report.)**

1. If the allegations of a petition are admitted by a party or notice of a hearing under section 27-20-34 has been given, the court, prior to the hearing on need for treatment or rehabilitation and disposition, may direct that a social study and report in writing to the court be made by the juvenile supervisor or other person designated by the court, concerning the child, his family, his environment, and other matters relevant to disposition of the case. If the allegations of the petition are not admitted and notice of a hearing under section 27-20-34 has not been given, the court shall not direct the making of the study and report until after the court has heard the petition upon notice of hearing given pursuant to this chapter and the court has found that the child committed a delinquent act or is an unruly or deprived child.
2. During the pendency of any proceeding the court may order the child to be examined at a suitable place by a physician or psychologist and may also order medical or surgical treatment of a child who is suffering from a serious physical condition or illness which in the opinion of a licensed physician requires prompt treatment, even if the parent, guardian, or other custodian has not been given notice of a hearing, is not available, or without good cause informs the court of his refusal to consent to the treatment.

**27-20-29. Hearing—Findings—Dismissal.)**

1. After hearing the evidence on the petition the court shall make and file its findings as to whether the child is a deprived child, or if the petition alleges that the child is delinquent or unruly, whether the acts ascribed to the child were committed by him. If the court finds that the child is not a deprived child or that the allegations of delinquency or unruly conduct have not been established it shall dismiss the petition and order the child discharged from any detention or other restriction theretofore or-

dered in the proceeding.

2. If the court finds on proof beyond a reasonable doubt that the child committed the acts by reason of which he is alleged to be delinquent or unruly it shall proceed immediately or at a postponed hearing to hear evidence as to whether the child is in need of treatment or rehabilitation and to make and file its findings thereon. In the absence of evidence to the contrary evidence of the commission of acts which constitute a felony is sufficient to sustain a finding that the child is in need of treatment or rehabilitation. If the court finds that the child is not in need of treatment or rehabilitation it shall dismiss the proceeding and discharge the child from any detention or other restriction theretofore ordered.
3. If the court finds from clear and convincing evidence that the child is deprived or that he is in need of treatment or rehabilitation as a delinquent or unruly child, the court shall proceed immediately or at a postponed hearing to make a proper disposition of the case.
4. In hearings under subsections 2 and 3 all evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and relied upon to the extent of its probative value even though not otherwise competent in the hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making the reports. Sources of confidential information need not be disclosed.
5. On its motion or that of a party the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition or the need for treatment or rehabilitation. In this event the court shall make an appropriate order for detention of the child or his release from detention subject to supervision of the court during the period of the continuance. In scheduling investigations and hearings the court shall give priority to proceedings in which a child is in detention or has otherwise been removed from his home before an order of disposition has been made.

**27-20-30. Disposition of Deprived Child.)**

1. If the child is found to be a deprived child the court may make any of the following orders of disposition best suited to the protection and physical, mental, and moral welfare of the child:
  - a. Permit the child to remain with his parents, guardian, or other custodian, subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of the child;
  - b. Subject to conditions and limitations as the court prescribes, transfer temporary legal custody to any of the following:
    - (1) Any individual who, after study by the juvenile supervisor or other person or agency designated by the court, is found by the court to be qualified to receive and care for the child;
    - (2) An agency or other private organization licensed or otherwise authorized by law to receive and provide care for the child;
    - (3) The director of the county welfare board or other public agency authorized by law to receive and provide care for the child;
    - (4) An individual in another state with or without supervision by an appropriate officer under section 27-20-40; or
  - c. Without making any of the foregoing orders transfer custody of the child to the juvenile court of another state if authorized by and in accordance with section 27-20-39 if the child is or is about to become a resident of that state.
2. Unless a child found to be deprived is found also to be delinquent he shall not be committed to or confined in an institution or other facility designed or operated for the benefit of delinquent children.

**27-20-31. Disposition of Delinquent Child.)** If the child is found to be a delinquent child the court may make any of the following orders of disposition best suited to his treatment, rehabilitation, and welfare:

1. Any order authorized by section 27-20-30 for the disposition of a deprived child;
2. Placing the child on probation under the supervision of the juvenile supervisor, probation officer, or other appropriate officer of the court or of the court of another state as provided in section 27-20-41 or the director of the county welfare board under conditions and limitations the court prescribes;
3. Placing the child in an institution, camp, or other facility for delinquent children operated under the direction of the court or other local public authority; or
4. Committing the child to the state industrial school or to a state department to which commitment of delinquent or unruly children may be made.

**27-20-32. Disposition of Unruly Child.)** If the child is found to be unruly the court may make any disposition authorized for a delinquent child except commitment to the state industrial school. If after making the disposition the court finds upon a further hearing that the child is not amenable to treatment or rehabilitation under the disposition made it may make a disposition otherwise authorized by section 27-20-31.

**27-20-33. Order of Adjudication—Non-Criminal.)**

1. An order of disposition or other adjudication in a proceeding under this chapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment. A child shall not be committed or transferred to a penal institution or other facility used primarily for the execution of sentences of persons convicted of a crime.
2. The disposition of a child and evidence adduced in a hearing in juvenile court may not be used against him

in any proceeding in any court other than a juvenile court, whether before or after reaching majority, except in dispositional proceedings after conviction of a felony for the purposes of a pre-sentence investigation and report.

**27-20-34. Transfer to Other Courts.)**

1. After a petition has been filed alleging delinquency based on conduct which is designated a crime or public offense under the laws, including local ordinances or resolutions of this state, the court before hearing the petition on its merits may transfer the offense for prosecution to the appropriate court having jurisdiction of the offense if:
  - a. The child was sixteen or more years of age at the time of the alleged conduct;
  - b. A hearing on whether the transfer should be made is held in conformity with sections 27-20-24, 27-20-26, and 27-20-27;
  - c. Notice in writing of the time, place, and purpose of the hearing is given to the child and his parents, guardian, or other custodian at least three days before the hearing;
  - d. The court finds that there are reasonable grounds to believe that
    - (1) The child committed the delinquent act alleged;
    - (2) The child is not amenable to treatment or rehabilitation as a juvenile through available facilities;
    - (3) The child is not committable to an institution for the mentally retarded or mentally ill; and
    - (4) The interests of the community require that the child be placed under legal restraint or discipline.
2. The transfer terminates the jurisdiction of the juvenile court over the child with respect to the delinquent acts



alleged in the petition.

3. No child, either before or after reaching eighteen years of age, shall be prosecuted for an offense previously committed unless the case has been transferred as provided in this section.
4. Statements made by the child after being taken into custody and prior to the service of notice under subsection 1 or at the hearing under this section are not admissible against him over objection in the criminal proceedings following the transfer.
5. If the case is not transferred the judge who conducted the hearing shall not over objection of an interested party preside at the hearing on the petition. If the case is transferred to a court of which the judge who conducted the hearing is also a judge he likewise is disqualified over objection from presiding in the prosecution.

**27-20-35. Disposition of Mentally Ill or Mentally Retarded Child.)**

1. If, at a dispositional hearing of a child found to be a delinquent or unruly child or at a hearing to transfer a child to another court under section 27-20-34, the evidence indicates that the child may be suffering from mental retardation or mental illness the court before making a disposition shall commit the child for a period not exceeding sixty days to an appropriate institution, agency, or individual for study and report on the child's mental condition.
2. If it appears from the study and report that the child is committable under the laws of this state as a mentally retarded or mentally ill child the court shall order the child detained and direct that within ten days after the order is made the appropriate authority initiate proceedings for the child's commitment.
3. If it does not so appear, or proceedings are not promptly initiated, or the child is found not to be committable, the court shall proceed to the disposition or transfer of the child as otherwise provided by this chapter.

**27-20-36. Limitations of Time on Orders of Disposition.)**

1. An order terminating parental rights is without limit as to duration.
2. An order of disposition committing a delinquent or unruly child to the state industrial school continues in force for two years, excluding any period of time the child is on parole from the institution, or until the child is sooner discharged by the institution. The court which made the order may extend its duration for additional two-year periods subject to like discharge, if:
  - a. A hearing is held upon motion of the institution, or on the court's own motion, prior to the expiration of the order;
  - b. Reasonable notice of the hearing and an opportunity to be heard are given to the child and the parent, guardian, or other custodian; and
  - c. The court finds that the extension is necessary for the treatment or rehabilitation of the child.
3. Any other order of disposition continues in force for not more than two years. The court may sooner terminate its order or extend its duration for further periods. An order of extension may be made if:
  - a. A hearing is held prior to the expiration of the order upon motion of a party or on the court's own motion;
  - b. Reasonable notice of the hearing and opportunity to be heard are given to the parties affected;
  - c. The court finds that the extension is necessary to accomplish the purposes of the order extended; and
  - d. The extension does not exceed two years from the expiration of the prior order.
4. Except as provided in subsection 2 the court may terminate an order of disposition or extension prior to its expiration, on or without an application of a party, if

it appears to the court that the purposes of the order have been accomplished. If a party may be adversely affected by the order of termination the order may be made only after reasonable notice and opportunity to be heard have been given to him.

5. Except as provided in subsection 1 when the child reaches twenty-one years of age, all orders affecting him then in force terminate and he is discharged from further obligation or control.

**27-20-37. Modification or Vacation of Orders.)**

1. An order of the court shall be set aside if (a) it appears that it was obtained by fraud or mistake sufficient therefor in a civil action, or (b) the court lacked jurisdiction over a necessary party or of the subject matter, or (c) newly discovered evidence so requires.
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 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.
3. Any party to the proceeding, the juvenile supervisor or other person having supervision or legal custody of or an interest in the child may petition the court for the relief provided in this section. The petition shall set forth in concise language the grounds upon which the relief is requested.
4. After the petition is filed the court shall fix a time for hearing and cause notice to be served (as a summons is served under section 27-20-23) on the parties to the proceeding or affected by the relief sought. After the hearing, which may be informal, the court shall deny or grant relief as the evidence warrants.

**27-20-38. Rights and Duties of Legal Custodian.)** A custodian to whom legal custody has been given by the court under

this chapter has the right to the physical custody of the child, the right to determine the nature of the care and treatment of the child, including ordinary medical care and the right and duty to provide for the care, protection, training, and education, and the physical, mental, and moral welfare of the child, subject to the conditions and limitations of the order and to the remaining rights and duties of the child's parents or guardian.

**27-20-39. Disposition of Nonresident Child.)**

1. If the court finds that a child who has been adjudged to have committed a delinquent act or to be unruly or deprived is or is about to become a resident of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to section 27-20-39 and 27-20-40, the court may defer hearing on need for treatment or rehabilitation and disposition and request by any appropriate means the juvenile court of the county of the child's residence or prospective residence to accept jurisdiction of the child.
2. If the child becomes a resident of another state while on probation or under protective supervision under order of a juvenile court of this state, the court may request the juvenile court of the county of the state in which the child has become a resident to accept jurisdiction of the child and to continue his probation or protective supervision.
3. Upon receipt and filing of an acceptance the court of this state shall transfer custody of the child to the accepting court and cause him to be delivered to the person designated by that court to receive his custody. It also shall provide that court with certified copies of the order adjudging the child to be a delinquent, unruly, or deprived child, of the order of transfer, and if the child is on probation or under protective supervision under order of the court, of the order of disposition. It also shall provide that court with a statement of the facts found by the court of this state and any recommendations and other information it considers of assistance to the accepting court in making a disposition of the case or in supervising the child on probation or otherwise.

4. Upon compliance with subsection 3 the jurisdiction of the court of this state over the child is terminated.

**27-20-40. Disposition of Resident Child Received from Another State.)**

1. If a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to sections 27-20-39 and 27-20-40, requests a juvenile court of this state to accept jurisdiction of a child found by the requesting court to have committed a delinquent act or to be an unruly or deprived child, and the court of this state finds, after investigation that the child is, or is about to become, a resident of the county in which the court presides, it shall promptly and not later than fourteen days after receiving the request issue its acceptance in writing to the requesting court and direct its juvenile supervisor or other person designated by it to take physical custody of the child from the requesting court and bring him before the court of this state or make other appropriate provisions for his appearance before the court.
2. Upon the filing of certified copies of the orders of the requesting court (a) determining that the child committed a delinquent act or is an unruly or deprived child, and (b) committing the child to the jurisdiction of the juvenile court of this state, the court of this state shall immediately fix a time for a hearing on the need for treatment or rehabilitation and disposition of the child or on the continuance of any probation or protective supervision.
3. The hearing and notice thereof and all subsequent proceedings are governed by this chapter. The court may make any order of disposition permitted by the facts and this chapter. The orders of the requesting court are conclusive that the child committed the delinquent act or is an unruly or deprived child and of the facts found by the court in making the orders, subject only to section 27-20-37. If the requesting court has made an order placing the child on probation or under protective supervision, a like order shall be entered by the court of this state. The court may modify or vacate the order in

accordance with section 27-20-37.

**27-20-41. Ordering Out-Of-State Supervision.)**

1. Subject to the provisions of this chapter governing dispositions and to the extent that funds of the county are available the court may place a child in the custody of a suitable person in another state. On obtaining the written consent of a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar act which includes provisions corresponding to sections 27-20-41 and 27-20-42 the court of this state may order that the child be placed under the supervision of a probation officer or other appropriate official designated by the accepting court. One certified copy of the order shall be sent to the accepting court and another filed with the clerk of the board of county commissioners of the county of the requesting court of this state.
2. The reasonable cost of the supervision including the expenses of necessary travel shall be borne by the county of the requesting court of this state. Upon receiving a certified statement signed by the judge of the accepting court of the cost incurred by the supervision the court of this state shall certify if it so appears that the sum so stated was reasonably incurred and file it with the county auditor of the county for payment. The appropriate officials shall thereupon issue a warrant for the sum stated payable to the appropriate officials of the county of the accepting court.

**27-20-42. Supervision Under Out-Of-State Order.)**

1. Upon receiving a request of a juvenile court of another state which has adopted the Uniform Juvenile Court Act, or a substantially similar act which includes provisions corresponding to sections 27-20-41 and 27-20-42 to provide supervision of a child under the jurisdiction of that court, a court of this state may issue its written acceptance to the requesting court and designate its juvenile supervisor, probation officer, or other appropriate officer who is to provide supervision, stating the probable cost per day therefor.

2. Upon the receipt and filing of a certified copy of the order of the requesting court placing the child under the supervision of the officer so designated the officer shall arrange for the reception of the child from the requesting court, provide supervision pursuant to the order and this chapter, and report thereon from time to time together with any recommendations he may have to the requesting court.
3. The court in this state from time to time shall certify to the requesting court the cost of supervision that has been incurred and request payment therefor from the appropriate officials of the county of the requesting court to the appropriate officials of the county of the accepting court.
4. The court of this state at any time may terminate supervision by notifying the requesting court. In that case, or if the supervision is terminated by the requesting court, the officer of the court supervising the child shall return the child to a representative of the requesting court authorized to receive him.

**27-20-43. Powers of Out-Of-State Probation Officers.)** If a child has been placed on probation or protective supervision by a juvenile court of another state which has adopted the Uniform Juvenile Court Act or a substantially similar act which includes provisions corresponding to this section, and the child is in this state with or without the permission of that court, the juvenile supervisor or probation officer of that court or other person designated by that court to supervise or take custody of the child has all the powers and privileges in this state with respect to the child as given by this chapter to like officers or persons of this state including the right of visitation, counseling, control, and direction, taking into custody, and returning to that state.

**27-20-44. Termination of Parental Rights.)**

1. The court by order may terminate the parental rights of a parent with respect to his child if:
  - a. The parent has abandoned the child;
  - b. The child is a deprived child and the court finds



that the conditions and causes of the deprivation are likely to continue or will not be remedied and that by reason thereof the child is suffering or will probably suffer serious physical, mental, moral, or emotional harm; or

- c. The written consent of the parent acknowledged before the court has been given.
2. If the court does not make an order of termination of parental rights it may grant an order under section 27-20-30 if the court finds from clear and convincing evidence that the child is a deprived child.

**27-20-45. Proceeding for Termination of Parental Rights.)**

1. The petition shall comply with section 27-20-21 and state clearly that an order for termination of parental rights is requested and that the effect thereof will be as stated in the first sentence of section 27-20-46.
2. If the paternity of a child born out of wedlock has been established prior to the filing of the petition the father shall be served with summons as provided by this chapter. He has the right to be heard unless he has relinquished all parental rights with reference to the child. The putative father of the child whose paternity has not been established, upon proof of his paternity of the child, may appear in the proceedings and be heard. He is not entitled to notice of hearing on the petition unless he has custody of the child.

**27-20-46. Effect of Order Terminating Parental Rights.)**

An order terminating parental rights of a parent terminates all his rights and obligations with respect to the child and of the child to or through him arising from the parental relationship. The parent is not thereafter entitled to notice of proceedings for the adoption of the child by another nor has he any right to object to the adoption or otherwise to participate in the proceedings.

**27-20-47. Commitment to Agency.)**

1. If, upon entering an order terminating the parental rights of a parent, there is no parent having parental



rights, the court shall commit the child to the custody of the executive director of the public welfare board or a licensed child-placing agency willing to accept custody for the purpose of placing the child for adoption or, in the absence thereof, in a foster home or take other suitable measures for the care and welfare of the child. The custodian has authority to consent to the adoption of the child, his marriage, his enlistment in the armed forces of the United States, and surgical and other medical treatment for the child.

2. If the child is not adopted within two years after the date of the order and a general guardian of the child has not been appointed by the county court, the child shall be returned to the court for entry of further orders for the care, custody, and control of the child.

**27-20-48. Guardian Ad Litem.)** The court at any stage of a proceeding under this chapter, on application of a party or on its own motion, shall appoint a guardian ad litem for a child who is a party to the proceeding if he has no parent, guardian, or custodian appearing on his behalf or their interests conflict with his or in any other case in which the interests of the child require a guardian. A party to the proceeding or his employee or representative shall not be appointed.

**27-20-49. Costs and Expenses for Care of Child.)**

1. The following expenses shall be a charge upon the funds of the county upon certification thereof by the court:
  - a. The cost of medical and other examinations and treatment of a child ordered by the court;
  - b. The cost of care and support of a child committed by the court to the legal custody of a public agency other than an institution for delinquent children, or to a private agency or individual other than a parent;
  - c. Reasonable compensation for services and related expenses of counsel appointed by the court for a party;
  - d. Reasonable compensation for a guardian ad litem;

and

- e. The expense of service of summons, notices, subpoenas, travel expense of witnesses, transportation of the child, and other like expenses incurred in the proceedings under this chapter.
2. If, after due notice to the parents or other persons legally obligated to care for and support the child, and after affording them an opportunity to be heard, the court finds that they are financially able to pay all or part of the costs and expenses stated in subdivisions a, b, c, and d of subsection 1, the court may order them to pay the same and prescribe the manner of payment. Unless otherwise ordered payment shall be made to the clerk of the juvenile court for remittance to the person to whom compensation is due, or if the costs and expenses have been paid by the county to the county treasurer of the county.

**27-20-50. Protective Order.)** On application of a party or on the court's own motion the court may make an order restraining or otherwise controlling the conduct of a person if:

1. An order of disposition of a delinquent, unruly, or deprived child has been or is about to be made in a proceeding under this chapter;
2. The court finds that the conduct (a) is or may be detrimental or harmful to the child and (b) will tend to defeat the execution of the order of disposition; and
3. Due notice of the application or motion and the grounds therefor and an opportunity to be heard thereon have been given to the person against whom the order is directed.

**27-20-51. Inspection of Court Files and Records.)** All files and records of the court in a proceeding under this chapter shall not be disclosed to the public and are open to inspection only by:

1. The judge, officers, and professional staff of the court;

2. The parties to the proceeding and their counsel and representatives;
3. A public or private agency or institution providing supervision or having custody of the child under order of the court, which shall be given a copy of the findings and order of disposition when it receives custody of the child;
4. A court and its probation and other officials or professional staff and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to the proceeding in juvenile court; and
5. With leave of court any other person or agency or institution having a legitimate interest in the proceeding or in the work of the court.

**27-20-52. Law Enforcement Records.)** Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under section 27-20-34, the interest of national security requires, or the court otherwise orders in the interest of the child, the records and files shall not be open to public inspection or their contents disclosed to the public; but inspection of the records and files is permitted by:

1. A juvenile court having the child before it in any proceeding;
2. Counsel for a party to the proceeding;
3. The officers of public institutions or agencies to whom the child is committed;
4. Law enforcement officers of other jurisdictions when necessary for the discharge of their official duties; and
5. A court in which he is convicted of a criminal offense for the purpose of a pre-sentence report or other dispositional proceeding, or by officials of penal institutions and other penal facilities to which he is committed, or

by a parole or pardon board in considering his parole or discharge or in exercising supervision over him.

**27-20-53. Children's Fingerprints—Photographs.)**

1. No child under fourteen years of age shall be fingerprinted in the investigation of a crime except as provided in this section. Fingerprints of a child fourteen or more years of age who is referred to the court may be taken and filed by law enforcement officers in investigating the commission of the following crimes: murder, manslaughter, forcible rape, robbery, aggravated assault, burglary, unlawful entry, grand larceny, and automobile theft.
2. Fingerprint files of children shall be kept separate from those of adults. Copies of fingerprints known to be those of a child shall be maintained on a local basis only and not sent to a central state or federal depository unless needed in the interest of national security.
3. Fingerprint files of children may be inspected by law enforcement officers when necessary for the discharge of their official duties. Other inspections may be authorized by the court in individual cases upon a showing that it is necessary in the public interest.
4. Fingerprints of a child shall be removed from the file and destroyed if:
  - a. A petition alleging delinquency is not filed, or the proceedings are dismissed after either a petition is filed or the case is transferred to the juvenile court as provided in section 27-20-09, or the child is adjudicated not to be a delinquent child; or
  - b. The child reaches twenty-one years of age and there is no record that he committed a criminal offense after reaching sixteen years of age.
5. If latent fingerprints are found during the investigation of an offense and a law enforcement officer has probable cause to believe that they are those of a particular child he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent

fingerprints. If the comparison is negative the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is referred to the court, the fingerprint card and other copies of the fingerprints taken shall be delivered to the court for disposition. If the child is not referred to the court, the fingerprints shall be immediately destroyed.

6. Without the consent of the judge, a child shall not be photographed after he is taken into custody unless the case is transferred to another court for prosecution.

**27-20-54. Sealing of Records.)**

1. On application of a person who has been adjudicated delinquent or unruly or on the court's own motion, and after a hearing, the court shall order the sealing of the files and records in the proceeding, including those specified in sections 27-20-52 and 27-20-53, if the court finds:
  - a. Two years have elapsed since the final discharge of the person;
  - b. Since the final discharge he 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; and
  - c. He has been rehabilitated.
2. Reasonable notice of the hearing 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; and
  - c. The law enforcement officers or department having custody of the files and records if the files and records specified in sections 27-20-52 and 27-20-53 are included in the application or motion.

3. Upon the entry of the order the proceeding shall be treated as if it never occurred. All index references shall be deleted and the person, the court, and law enforcement officers and departments shall properly reply that no record exists with respect to the person upon inquiry in any matter. 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 an order of the court upon petition by the person who is the subject of the records and only by those persons named in the order.

**27-20-55. Contempt Powers.)** The court may punish a person for contempt of court for disobeying an order of the court or for obstructing or interfering with the proceedings of the court or the enforcement of its orders subject to the laws relating to the procedures therefor and the limitations thereon.

**27-20-56. Appeals.)**

1. An aggrieved party, including the state or a subdivision of the state, may appeal from a final order, judgment, or decree of the juvenile court to the supreme court by filing written notice of appeal within thirty days after entry of the order, judgment, or decree, or within any further time the supreme court grants, after entry of the order, judgment, or decree. The appeal shall be heard by the supreme court upon the files, records, and minutes or transcript of the evidence of the juvenile court, giving appreciable weight to the findings of the juvenile court. The name of the child shall not appear on the record on appeal.
2. The appeal does not stay the order, judgment, or decree appealed from, but the supreme court may otherwise order on application and hearing consistent with this chapter if suitable provision is made for the care and custody of the child. If the order, judgment, or decree appealed from grants the custody of the child to, or withholds it from, one or more of the parties to the appeal it shall be heard at the earliest practicable time.

**27-20-57. Rules of Court.)** The supreme court of this state may adopt rules of procedure not in conflict with this chapter governing proceedings under it.

**27-20-58. Uniformity of Interpretation.)** This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**27-20-59. Short Title.)** This chapter may be cited as the Uniform Juvenile Court Act.

**Section 2. Amendment.)** Section 12-46-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**12-46-14. Transportation of Persons Committed to State Industrial School.)** The juvenile supervisor, or other officer or person designated by the court at the time commitment is ordered, shall conduct to the state industrial school all persons committed to it. Such person shall receive the amount of mileage allowed in section 11-15-25.

**Section 3. Amendment.)** Section 27-05.1-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**27-05.1-16. Juvenile Supervisors and Welfare Boards To Assist.)** The juvenile supervisors and county welfare boards in every county in which a family court is established shall give such assistance to the family court as the court may request to carry out the purposes of this chapter and for that purpose may exercise all the powers pertaining to their offices granted or imposed pursuant to the laws of this state. The court may utilize the services, personnel, and facilities of the state and county welfare boards in effectuating the purposes of this chapter and may appoint personnel thereof as family court counselors.

**Section 4. Repeal.)** Chapters 27-16 and 50-14 of the North Dakota Century Code are hereby repealed.

Approved March 26, 1969.

## CHAPTER 290

## H. B. No. 45

(Aamoth, Ganser, Haugland, Hilleboe, Leibhan)  
(Opedahl, Rundle, I. Solberg, Stoltenow, Tweten, Wells)

(From Legislative Research Committee Study)

## STATE YOUTH AUTHORITY

## AN ACT

To provide for a state youth authority for the placement, treatment and rehabilitation of delinquent and unruly children committed to its custody to provide for an advisory board and for contracting with other states.

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

**Section 1. 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 Act. The state youth authority shall be created within the public welfare board, and its chief administrative officer shall be the executive director of the public welfare board, or his designee.

**Section 2. 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; or

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 twenty-one 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.

**Section 3. Temporary Custody.)** The state youth authority may place a child committed to its custody in the temporary custody of the state industrial school, a vocational, training, medical, psychiatric, psychological, or other institution suitable for children within this state for not more than sixty days, in order to provide for diagnostic testing and evaluation pending disposition under section 2.

**Section 4. Creation of State Youth Authority Advisory Board—Members—Meetings—Powers and Duties.)** There is hereby created and established, with the powers and duties prescribed by this Act, a state youth authority advisory board which shall consist of a juvenile court judge designated by the chief justice of the supreme court, the superintendent of the state industrial school, and the superintendent of the state hospital.

The advisory board shall meet at such times and places as they may decide by majority vote, upon due notice to all members by the director. It shall be the duty of the advisory board to evaluate and recommend proposals for placement, custody, and rehabilitation programs for children committed to the custody of the state youth authority. The advisory board may also review specific initial placements and changes in custody and make recommendations to the director concerning them.

**Section 5. State Youth Authority to Report to Committing**

**Judge—Concurrence of Judge for Placement Out-Of-State.)**

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 3. 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 board.

**Section 6. State Youth Authority to Contract with Facilities in Other States for Custody.)**

- a. The state youth authority is hereby empowered to contract with the appropriate agencies or department of other states in order that they may receive custody of committed children for vocational, training, or other purposes contemplated by this Act. Before contracting with any agency or department of another state, the director shall assess the facilities that are offered by such department or agency, and, after contracting, forward to each district judge in the state a summary on the facilities that are furnished by such agency or department and such other information pertaining thereto as may reasonably be requested.
- b. Any contract entered into shall provide for:
  1. Its duration.
  2. Payments to be made to the other state for maintenance and extraordinary medical and dental expense of children received, and for participation in or receipt of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.
  3. Participation in programs of youth employment, the crediting of payments received by children on account thereof, and the crediting of proceeds from the disposal of any products resulting from such programs.
  4. Transportation of children to and from the other

state.

5. The right of the director, or his designee, to have at all reasonable times access to any institution in which a child in its custody may be committed, either temporarily or otherwise, for the purpose of inspecting the facilities thereof and visiting the child under commitment to the state youth authority.
6. The submission of reports by each institution in accordance with section 7 concerning the progress of treatment or rehabilitation of each child placed in its custody.
7. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of both states.

Children under the jurisdiction of the state youth authority who are in the custody of an institution of another state shall at all times be subject to the jurisdiction of this state, and at any time may be removed therefrom for change of placement as provided in section 2. All children placed in custody in another state shall be treated in a reasonable and humane manner and shall be treated equally with other children placed in custody in the same institution. Placement of a child in another state shall not deprive him of any legal rights he would have had if placed in an institution in this state.

**Section 7. 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 Act, 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 board.

**Section 8. Planning—Development—Assessment of Existing Facilities.)** The state youth authority shall aid in the development of new or improved means of prevention, control, treatment and rehabilitation of children committed to its custody. It shall utilize research and other information available from all sources and, if necessary, initiate studies to aid in the general planning and development of appropriate programs for the placement, treatment and rehabilitation of children. The state youth authority shall assess existing programs and activities within the state, and keep informed of current developments relating to placement, treatment and rehabilitation of children.

**Section 9. 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 board, the board of administration, 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 Act. 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 Act, and may examine any child it has placed in the custody of such institution.

**Section 10. Cooperation with Federal Agencies and Departments.)** The state youth authority is empowered to cooperate with and receive any technical and financial assistance from the United States or any department, agency, or officer thereof as may be necessary to carry out the objectives of this Act in the manner authorized by law.

Approved March 14, 1969.

## CHAPTER 291

H. B. No. 365  
(Kuehn, Sanstead, Haugland)

## INTERSTATE COMPACT ON JUVENILES

## AN ACT

Establishing an interstate compact on juveniles and providing for the return of runaway juveniles and escapees, the out-of-state supervision of delinquent juveniles, and authorizing cooperative institutionalization of psychotic and defective delinquent juveniles.

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

**Section 1. Legislative Findings and Policy.)** It is hereby found and declared that juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others; and, that the cooperation of this state with other states is necessary to provide for the welfare and protection of juveniles and of the people of this state.

It shall therefore be the policy of this state, in adopting the Interstate Compact on Juveniles, to cooperate fully with other states in returning juveniles to such other states whenever their return is sought; and, in accepting the return of juveniles whenever a juvenile residing in this state is found or apprehended in another state and in taking all measures to initiate proceedings for the return of such juveniles.

**Section 2. Execution of Compact—Text.)** The governor is hereby authorized and directed to execute a compact on behalf of this state with any other state or states legally joining therein in the form substantially as follows:

## ARTICLE I

## Findings and Purposes

That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of



the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to:

1. Cooperative supervision of delinquent juveniles on probation or parole;
2. The return, from one state to another, of delinquent juveniles who have escaped or absconded;
3. The return, from one state to another, of nondelinquent juveniles who have run away from home; and
4. Additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively.

In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformatory and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.

## ARTICLE II

### Existing Rights and Remedies

That all remedies and procedures provided by this compact shall be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.

## ARTICLE III

### Definitions

That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made

such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.

## ARTICLE IV

### Return of Runaways

1. That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing,

that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parent, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding. Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a



parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

2. That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.
3. That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.

## ARTICLE V

### Return of Escapees and Absconders

1. That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has

absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole,

or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.

2. That the state to which a delinquent juvenile is returned under this Article shall be responsible for the payment of the transportation costs of such return.

## ARTICLE VI

### Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV, 1. or of Article V, 1., may consent to his immediate return to the state from which he absconded,

escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return to the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned, order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

## ARTICLE VII

### Cooperative Supervision of Probationers and Parolees

1. That the duly constituted judicial and administrative authorities of a state party to this compact, herein called "sending state", may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact, herein called "receiving state", while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept

- supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.
2. That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.
  3. That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact without interference.
  4. That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

## ARTICLE VIII

## Responsibility for Costs

1. That the provisions of Articles IV, 2., V, 2. and VII, 4. of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.
2. That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV, 2., V, 2. or VII, 4. of this compact.

## ARTICLE IX

## Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

## ARTICLE X

## Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment, and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall:

1. Provide the rates to be paid for the care, treatment and custody of such delinquent juveniles, taking into consid-



- eration the character of facilities, services and subsistence furnished;
2. Provide that the delinquent juvenile shall be given a court hearing prior to his being sent to another state for care, treatment and custody;
  3. Provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile;
  4. Provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state;
  5. Provide for reasonable inspection of such institutions by the sending state;
  6. Provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and
  7. Make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

## ARTICLE XI

### Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

## ARTICLE XII

### Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of

other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

### ARTICLE XIII

#### Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form or execution to be in accordance with the laws of the executing state.

### ARTICLE XIV

#### Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

### ARTICLE XV

#### Severability

That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstances shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as



to the remaining states and in full force and effect as to the state affected as to all severable matters.

**Section 3. Juvenile Compact Administrator.)** Pursuant to said compact, the governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the governor. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state hereunder.

**Section 4. Supplementary Agreements.)** The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this state or require or contemplate the provision of any service by this state, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

**Section 5. Responsibilities of State Departments, Agencies and Officers.)** The courts, departments, agencies and officers of this state and its subdivisions shall enforce this compact and shall do all things appropriate to the effectuation of its purposes and intent which may be within their respective jurisdictions.

**Section 6. Additional Procedures Not Precluded.)** In addition to any procedure provided in Articles IV and VI of the compact for the return of any runaway juvenile, the particular states, the juvenile or his parents, the courts, or other legal custodian involved may agree upon and adopt any other plan of procedure legally authorized under the laws of this state and the other respective party states for the return of any such runaway juvenile.

Approved March 29, 1969.

# JUDICIAL PROCEDURE, CIVIL RULES OF COURT

---

## CHAPTER 292

S. B. No. 465  
(Morgan, Holand, Freed)

### STATUTE OF LIMITATIONS ON CERTAIN CAUSES OF ACTION

#### AN ACT

To amend and reenact section 28-01-18 of the North Dakota Century Code, providing that the two-year statute of limitations applies to causes of action arising under chapter 5-01 of the North Dakota Century Code, relating to alcoholic beverages.

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

**Section 1. Amendment.)** Section 28-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**28-01-18. Actions Having Two-year Limitations.)** The following actions must be commenced within two years after the cause of action has accrued:

1. An action for libel, slander, assault, battery, or false imprisonment.
2. An action upon a statute for a forfeiture or penalty to the state.
3. An action for the recovery of damages resulting from malpractice.
4. An action for injuries done to the person of another, when death ensues from such injuries, and the cause of action shall be deemed to have accrued at the time of the death of the party injured.

5. An action for recovery of damages arising under chapter 5-01 of the North Dakota Century Code, and the cause of action shall be deemed to have accrued at the time of the alleged offense. This limitation shall not apply to any cause of action existing at the time of the enactment of this subsection.

Approved March 28, 1969.

---

## CHAPTER 293

S. B. No. 412  
(Chesrown, Holand, Freed)

### JURISDICTION OVER AND SERVICE OF PROCESS ON NONRESIDENTS

#### AN ACT

To provide for jurisdiction over and service of process upon nonresidents in connection with causes of action arising out of the transaction of business within the state; the commission of any act which results in accrual within this state of a tort action; the ownership, use, or possession of any property, or of any interest therein, situated within this state; contracting to insure any person, property, or risk located within this state at the time of contracting; entering into a contract for services to be rendered or for materials to be furnished in this state by such person; or acting as director, manager, trustee, or other officer of any corporation organized under the laws of, or having its principal place of business within this state, or as executor or administrator of any estate within this state by such nonresident or through any employee or through an agent.

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

**Section 1. Definition of Person.)** As used in this Act, the word "person", whether or not a citizen or resident of this state, and whether or not organized under the laws of this state includes an individual whether operating in his own name or under his trade name, an individual's agent or personal representative, a corporation, a business trust, an estate, a trust, a partnership, an unincorporated association, and any two or more persons having a joint or common interest or any other legal or commercial entity.

**Section 2. Subject to Jurisdiction.)** Any person is subject to the jurisdiction of the courts of this state as to any cause of action arising from the doing personally, through an employee, or through an agent, of any of the following acts:

1. The transaction of any business within the state.
2. The commission of any act which results in accrual within this state of a tort action.
3. The ownership, use, or possession of any property, or of any interest therein, situated within this state.
4. Contracting to insure any person, property, or risk located within this state at the time of contracting.
5. Entering into a contract for services to be rendered or for materials to be furnished in this state by such person.
6. Acting as director, manager, trustee, or other officer of any corporation organized under the laws of or having its principal place of business within this state, or as executor or administrator of any estate within this state.

**Section 3. Acquisition of Jurisdiction.)** Service of process upon the persons subject to this Act may be made by service outside this state in the same manner provided for service within this state with the same force and effect as though service had been made within this state.

Approved April 2, 1969.

## CHAPTER 294

S. B. No. 205  
(Freed, Meschke)

## ENFORCEMENT OF FOREIGN JUDGMENTS

## AN ACT

To provide for the filing and enforcement of foreign judgments; to amend section 28-20-22 of the North Dakota Century Code, relating to affidavit of renewal; to repeal section 28-20-18 relating to docketing judgments of United States courts.

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

**Section 1. Definition.)** In this Act "foreign judgment" means any judgment, decree, or order of a court of the United States or of any other court which is entitled to full faith and credit in this state.

**Section 2. Filing and Status of Foreign Judgments.)** A copy of any foreign judgment authenticated in accordance with the Act of Congress or the statutes of this state may be filed in the office of the clerk of any district court of any county of this state. The clerk shall treat the foreign judgment in the same manner as a judgment of the district court of any county of this state. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating, or staying as a judgment of a district court of any county of this state and may be enforced or satisfied in like manner.

**Section 3. Notice of Filing.)**

1. At the time of filing of the foreign judgment, the judgment creditor or his lawyer shall make and file with the clerk of court an affidavit setting forth the name and last known post-office address of the judgment creditor and otherwise complying with section 28-20-15 of the North Dakota Century Code.
2. Promptly upon the filing of a foreign judgment and the affidavit, the clerk shall mail notice of the filing of the foreign judgment to the judgment debtor

at the address given and shall make a note of the mailing in the docket. The notice shall include the name and post-office address of the judgment creditor and the judgment creditor's lawyer, if any, in this state. In addition, the judgment creditor may mail a notice of the filing of the judgment to the judgment debtor and may file proof of mailing with the clerk. Lack of mailing notice of filing by the clerk shall not affect the enforcement proceedings if proof of mailing by the judgment creditor has been filed.

3. No execution or other process for enforcement of a foreign judgment filed hereunder shall issue until ten days after the date the judgment is filed.

#### **Section 4. Stay.)**

1. If the judgment debtor shows the district court of any county that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated, upon proof that the judgment debtor has furnished the security for the satisfaction of the judgment required by the state in which it was rendered.
2. If the judgment debtor shows the district court of any county any ground upon which enforcement of a judgment of any district court of any county of this state would be stayed, the court shall stay enforcement of the foreign judgment for an appropriate period, upon requiring the same security for satisfaction of the judgment which is required in this state.

**Section 5. Fees.)** Any person filing a foreign judgment shall pay to the clerk of court a filing fee of seven dollars and fifty cents. Fees for docketing, transcription, or other enforcement proceedings shall be as provided for judgments of the district court of any county of this state.

**Section 6. Optional Procedure.)** The right of a judgment creditor to bring an action to enforce his judgment instead of proceeding under this Act remains unimpaired.

**Section 7. Uniformity of Interpretation.)** This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**Section 8. Short Title.)** This Act may be cited as the Uniform Enforcement of Foreign Judgments Act.

**Section 9. Amendment.)** Section 28-20-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**28-20-22. Affidavit of Renewal—Where Filed—Entry.)** If the judgment was rendered in a district court of this state, or was entered upon a transcript from a county court with increased jurisdiction, or upon an abstract of a judgment of a justice of the peace, the affidavit for renewal shall be filed with the clerk of the district court where such judgment was first docketed. If the judgment filed and docketed was a foreign judgment, the affidavit for renewal may be filed with the clerk of any district court where the same has been docketed. The clerk of the district court immediately shall enter the affidavit for renewal at length in the judgment book in the same manner and with the same effect as the original judgment, and he shall enter in his judgment docket, after a statement of the original judgment, the fact of renewal, the date of renewal, and the amount for which the judgment is renewed. A copy of the affidavit of renewal and the docket entries thereon, certified by the clerk of the district court wherein the same is filed, may be filed and docketed in any other county of the state in which a transcript of the original judgment was filed.

**Section 10. Repeal.)** Section 28-20-18 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1969.

## CHAPTER 295

H. B. No. 199  
(Atkinson, Kelsch, Burke, Lang)

## AMERCEMENT OF SHERIFF

## AN ACT

To amend and reenact section 28-21-19 of the 1967 Supplement to the North Dakota Century Code, relating to the amercement of a sheriff.

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

**Section 1. Amendment.)** Section 28-21-19 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**28-21-19. Amercement of Sheriff.)** If any sheriff or other officer shall refuse or neglect to execute any writ of execution directed to him which has come to his hands as to real or personal property of the debtor which has been made known to the sheriff by the judgment creditor, or his agent or attorney of record, or shall refuse or neglect to sell any personal or real property, or shall refuse or neglect to return any writ of execution to the proper court, on or before the return day, or shall refuse or neglect on demand to pay over to the judgment creditor or his agent or attorney of record all moneys by him collected or received for the use of said party at any time after collecting or receiving the same, except as otherwise provided, or shall refuse or neglect on demand made by the judgment debtor or his agent or attorney of record, to pay all surplus received from any sale, such sheriff or other officer, on motion in court and two days' notice thereof in writing, shall be amerced in an amount not to exceed that which would have been realized by the judgment creditor or judgment debtor, plus reasonable attorney's fees, plus two hundred dollars.

Approved March 8, 1969.



## CHAPTER 296

S. B. No. 241  
(Holand)

REDEMPTION OF PROPERTY FROM  
EXECUTION SALE

AN ACT

To amend and reenact section 28-24-02 of the North Dakota Century Code, relating to redemption of real estate from execution sale.

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

**Section 1. Amendment.)** Section 28-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**28-24-02. Payment on and Period of Redemption.)** The judgment debtor or redemptioner may redeem the property from the purchaser within one year (six months in redemptions under subsection 1 of section 32-19.1-04 of the 1967 Supplement to the North Dakota Century Code) after the sale on paying the purchaser the amount of his purchase with interest thereon at the same rate as is provided in the original instrument upon which the judgment is based, which rate shall not exceed the maximum rate provided in section 47-14-09, together with the amount of any insurance premiums, assessments or taxes which the purchaser may have paid thereon after the purchase, and interest at the same rate on such amount, and, if the purchaser is also a creditor having a lien prior to that of the redemptioner other than the judgment under which such purchase was made, the amount of such lien with interest.

Approved March 25, 1969.

## CHAPTER 297

H. B. No. 148  
(Aamoth)

## EXPERT WITNESS FEES

## AN ACT

To amend and reenact subsection 5 of section 28-26-06 of the North Dakota Century Code, relating to expert witness fees and to permit fees for initial appraisals in eminent domain cases.

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

**Section 1. Amendment.)** Subsection 5 of section 28-26-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The fees of expert witnesses. Such fees shall not exceed one hundred dollars per day for each witness, plus his actual expense. The following shall nevertheless be in the sole discretion of the trial court:

- a. The number of expert witnesses who shall be allowed fees or expenses;
- b. The amount of fees to be paid such allowed expert witnesses, up to the one hundred-dollar per-day individual limitation, including an amount for time expended in preparation for trial and an amount not to exceed two hundred fifty dollars for an initial appraisal in eminent domain cases; and
- c. The amount of costs for actual expenses to be paid such allowed expert witnesses.

Approved March 5, 1969.

## CHAPTER 298

S. B. No. 308  
(Meschke, Chesrown)

**AWARDING OF EXPENSES TO PARTY  
INJURED BY BAD FAITH PLEADINGS**

AN ACT

To authorize payment of reasonable expenses and attorney's fees where untrue allegations and denials in pleadings are made without reasonable cause and not in good faith.

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

**Section 1. Pleadings Not Made in Good Faith.)** Allegations and denials in any pleadings in court, made without reasonable cause and not in good faith, and found to be untrue, shall subject the party pleading them to the payment of reasonable expenses, actually incurred by the other party by reason of the untrue pleading, together with a reasonable attorney's fee, to be summarily taxed by the court at the trial.

Approved March 20, 1969.

## CHAPTER 299

S. B. No. 277  
(Chesrown, Meschke)

TIME FOR APPEAL TO  
SUPREME COURT

## AN ACT

To amend and reenact section 28-27-04 of the North Dakota Century Code, relating to the time for appeal to the supreme court in civil cases.

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

**Section 1. Amendment.)** Section 28-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**28-27-04. Time for Appeal.)** An appeal from a judgment may be taken within ninety days after the entry thereof by default or after written notice of the entry thereof in case the party against whom it is entered has appeared in the action, and from an order within sixty days after written notice of the same shall have been given to the party appealing.

Approved March 17, 1969.

# JUDICIAL PROCEDURE, CRIMINAL

---

## CHAPTER 300

S. B. No. 283  
(Chesrown, Freed)

### BAIL IN TRAFFIC VIOLATION CASES

#### AN ACT

To amend and reenact sections 29-08-02 and 29-08-21 of the North Dakota Century Code, relating to bail and the authorization of persons to arrange, receive, and approve bail in traffic cases, and relating to forfeiture of bail and the disposition of cases involving traffic law violations.

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

**Section 1. Amendment.)** Section 29-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**29-08-02. "Admission to Bail" Defined—Delegation of Authority by Magistrate.)** Admission to bail is the order of a competent court or magistrate that the defendant be discharged from actual custody upon an undertaking with sufficient sureties for his appearance. Any magistrate or municipal judge in this state may in his discretion designate, authorize, and appoint an additional person or persons to arrange, receive, and approve bail in cases involving traffic violations.

**Section 2. Amendment.)** Section 29-08-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**29-08-21. Forfeiture of Bail—Excuse—Disposition of Traffic Violation Cases.)** If, without sufficient excuse, any person who has given an undertaking in a criminal action or proceeding neglects to appear according to the terms or conditions of the same, either as a witness or for hearing, arraignment, trial,

or judgment, or upon any other occasion when his presence in court or before the magistrate may be lawfully required, or to surrender himself in execution of the judgment, the court must direct that the fact be entered upon its minutes and that the bail furnished, whether by money deposited or an undertaking of bail, as the case may be, shall be declared forfeited, but if, at any time before the final adjournment of the court, such person or his surety for bail shall appear and satisfactorily excuse his neglect, the court may direct the forfeiture to be vacated upon such terms as may be just. After the forfeiture, the prosecuting attorney must proceed by action against the obligors for bail jointly or severally upon the undertaking furnished. If money deposited for bail is forfeited, the clerk of the court or other officer with whom it is deposited, immediately after the final adjournment, or at such time as the court may direct, must pay over the money deposited to the county treasurer, or to the treasurer of the city in actions to enforce municipal ordinances; and the court, at the time bail is ordered forfeited in cases charging violation of vehicular traffic laws or ordinances, may in his judicial discretion order that no further proceedings be had in the case.

Approved March 17, 1969.

## CHAPTER 301

H. B. No. 277  
(Welder, Kelsch, Aamoth, Schaffer)

## NOTICE OF DEFENSE OF ALIBI

## AN ACT

To provide that a defendant in a criminal case must give notice of the defense of alibi.

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

**Section 1. Defendant in Criminal Case to Give Notice of Alibi.)** Whenever a defendant in a criminal case in a court of record in this state intends to rely upon an alibi as a defense, he shall give to the prosecuting state's attorney, not later than five days prior to the trial of such cause, a notice in writing setting forth with particularity the place or places where he claims to have been when the crime was committed, together with the names and addresses of the witnesses to his alibi, if known to the defendant. Names of additional witnesses may be filed with the court and served on the prosecuting state's attorney subsequent to the time of delivery of such notice only upon such conditions as the court may determine. In default of the notice required by this section, evidence of the alibi shall not be received by the court, unless otherwise ordered for good cause shown.

Approved March 14, 1969.

## CHAPTER 302

H. B. No. 399  
(J. Peterson)

TEMPORARY QUESTIONING OF PERSONS  
IN PUBLIC PLACES AND SEARCH FOR  
WEAPONS

## AN ACT

To provide for temporary questioning of persons in public places, and allowing a search for weapons.

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

**Section 1. Temporary Questioning of Persons in Public Places—Search for Weapons.)** A peace officer may stop any person abroad in a public place whom he reasonably suspects is committing, has committed, or is about to commit:

1. Any felony.
2. A misdemeanor relating to the possession of a concealed or dangerous weapon or weapons.
3. Burglary or unlawful entry.
4. A violation of any provision relating to possession of narcotic drugs.

The peace officer may demand of such person his name, address, and an explanation of his actions. When a peace officer has stopped a person for questioning pursuant to this section and reasonably suspects that he is in danger of life or limb, he may search such person for a dangerous weapon. If the peace officer finds such a weapon or any other thing, the possession of which may constitute a crime, he may take and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person.

Approved March 25, 1969.



## CHAPTER 303

H. B. No. 266  
(Atkinson, Bullis)

## ADMINISTRATIVE INSPECTION WARRANTS

## AN ACT

To provide for the issuance of warrants to conduct administrative and other inspections authorized by law.

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

**Section 1. Warrants to Conduct Inspections Authorized by Law.)**

1. Notwithstanding the provisions of chapter 29-29 of the North Dakota Century Code, any official or employee of the state or of a unit of county or local government of North Dakota may, under the conditions specified herein, obtain a warrant authorizing to conduct a search or inspection of property if such a search or inspection is one that is elsewhere authorized by law, either with or without the consent of the person whose privacy would be thereby invaded, and is one for which such a warrant is constitutionally required.
2. The warrant may be issued by any magistrate whose territorial jurisdiction encompasses the property to be inspected.
3. The issuing magistrate shall issue the warrant when he is satisfied the following conditions are met:
  - a. The one seeking the warrant must establish under oath or affirmation that the property to be searched or inspected is to be searched or inspected as a part of a legally authorized program of inspection which naturally includes that property, or that there is probable cause for believing that there is a condition, object, activity or circumstance which legally justifies such a search or inspection of that property;
  - b. An affidavit indicating the basis for the establishment

- of one of the grounds described in "a" above must be signed under oath or affirmation by the affiant;
- c. The issuing magistrate must examine the affiant under oath or affirmation to verify the accuracy of the matters indicated by the statement in the affidavit.
4. The warrant shall be validly issued only if it meets the following requirements:
    - a. It must be signed by the issuing magistrate and must bear the date and hour of its issuance above his signature with a notation that the warrant is valid for only twenty-four hours following its issuance;
    - b. It must describe, either directly or by reference to the affidavit, the property where the search or inspection is to occur and be accurate enough in description so that the executor of the warrant and the owner or the possessor of the property can reasonably determine from it what person or property the warrant authorizes an inspection of;
    - c. It must indicate the conditions, objects, activities or circumstances which the inspection is intended to check or reveal;
    - d. It must be attached to the affidavit required to be made in order to obtain the warrant.
  5. Any warrant issued under this section for a search or inspection shall be valid for only twenty-four hours after its issuance, must be personally served upon an owner or possessor of the property, or upon any person present on the premises if an owner or possessor cannot reasonably be found between the hours of 8:00 a.m. and 8:00 p.m., and must be returned within forty-eight hours.
  6. No facts discovered or evidence obtained in a search or inspection conducted under authority of a warrant issued under this section shall be competent as evidence in any civil, criminal or administrative action, nor considered in imposing any civil, criminal, or administrative sanc-

tion against any person, nor as a basis for further seeking to obtain any warrant, if the warrant is invalid or if what is discovered or obtained is not a condition, object, activity or circumstance which it was the legal purpose of the search or inspection to discover; but this shall not prevent any such facts or evidence to be so used when the warrant issued is not constitutionally required in those circumstances.

7. The warrants authorized under this section shall not be regarded as search warrants for the purpose of application of chapter 29-29 of the North Dakota Century Code.

Approved March 18, 1969.

## CHAPTER 304

S. B. No. 116  
(Chesrown, Freed, Holand)

## UNIFORM POST-CONVICTION PROCEDURE

## AN ACT

To provide an exclusive remedy to a person convicted of or sentenced for a crime and prescribing the procedure subsequent to conviction for challenging the validity of the conviction or sentence.

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

**Section 1. Remedy—To Whom Available—Conditions.)**

1. Any person who has been convicted of, or sentenced for, a crime and who claims:
  - a. That the conviction or the sentence was in violation of the Constitution, laws, or treaties of the United States or the Constitution or laws of this state;
  - b. That the court was without jurisdiction to impose sentence;
  - c. That the sentence exceeds the maximum authorized by law;
  - d. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
  - e. That his sentence has expired, that his probation, parole, or conditional release has been unlawfully revoked, or that he is otherwise unlawfully held in custody or other restraint; or
  - f. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding, or remedy;

may institute, without paying a filing fee, a proceeding under this Act to secure relief.

2. This remedy is not a substitute for nor does it affect any remedy incident to the proceedings in the trial court, or of direct review of the sentence or conviction. Except as otherwise provided in this Act it comprehends and takes the place of all other common law, statutory, or other remedies heretofore available for challenging the validity of the conviction or sentence. It shall be used exclusively in place of them.

**Section 2. Exercise of Original Jurisdiction in Habeas Corpus.)** The district court in which, by the Constitution of this state, original jurisdiction in habeas corpus is vested, may entertain in accordance with its rules a proceeding under this Act in the exercise of its original jurisdiction. In that event, this Act, to the extent applicable, governs the proceeding.

**Section 3. Commencement of Proceedings—Verification—Filing—Service.)** A proceeding is commenced by filing an application verified by the applicant with the clerk of the court in which the conviction took place. An application may be filed at any time. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the state's attorney of the county in which the criminal action was venued.

**Section 4. Application—Contents.)** The application shall identify the proceedings in which the applicant was convicted, give the date of the entry of the judgment and sentence complained of, specifically set forth the grounds upon which the application is based, and clearly state the relief desired. Facts within the personal knowledge of the applicant shall be set forth separately from other allegations of facts and shall be verified as provided in section 3 of this Act. Affidavits, records, or other evidence supporting its allegations shall be attached to the application or the application shall recite why they are not attached. The application shall identify all previous proceedings, together with the grounds therein asserted, taken by the applicant to secure relief from his conviction or sentence. Argument, citations, and discussion of authorities are unnecessary.



**Section 5. Inability to Pay Costs.)** If the applicant is unable to pay court costs and expenses of representation, including stenographic, printing, and legal services, these costs and expenses, except in cases of misdemeanors exempted under the federal supreme court decisions and violations of municipal ordinances, shall be made available to the applicant in the preparation of the application, in the trial court, and on review. Costs and expenses made available to the applicant shall, upon approval by the judge, be paid by the county in which the criminal action was venued.

**Section 6. Pleadings and Judgment on Pleadings.)**

1. Within thirty days after the docketing of the application, or within any further time the court may fix, the state shall respond by answer or by motion which may be supported by affidavits. At any time prior to entry of judgment the court may grant leave to withdraw the application. The court may make appropriate orders for amendment of the application or any pleading or motion for pleading over, for filing further pleadings or motions, or for extending the time of the filing of any pleading. In considering the application the court shall take account of substance regardless of defects of form. If the application is not accompanied by the record of the proceedings challenged therein, the respondent shall file with its answer the record or portions thereof that are material to the questions raised in the application.
2. When a court is satisfied, on the basis of the application, the answer or motion, and the record, that the applicant is not entitled to post-conviction relief and no purpose would be served by any further proceedings, it may indicate to the parties its intention to dismiss the application and its reasons for so doing. The applicant shall be given an opportunity to reply to the proposed dismissal. In light of the reply, or on default thereof, the court may order the application dismissed or grant leave to file an amended application or direct that the proceedings otherwise continue. Disposition on the pleadings and record is not proper if there exists a material issue of fact.
3. The court may grant a motion by either party for summary disposition of the application when it appears from the pleadings, depositions, answers to interrogatories,

and admissions and agreements of fact, together with any affidavits submitted, that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

**Section 7. Hearing—Evidence—Order.)** The application shall be heard in, and before any judge or his successor of, the court in which the conviction took place. A record of the proceedings shall be made and preserved. All rules and statutes applicable in civil proceedings including pre-trial and discovery procedures are available to the parties. The court may receive proof by affidavits, depositions, oral testimony, or other evidence and may order the applicant brought before it for the hearing. If the court finds in favor of the applicant, it shall enter an appropriate order with respect to the conviction or sentence in the former proceedings, and any supplementary orders as to re-arraignment, retrial, custody, bail, discharge, correction of sentence, or other matters that may be necessary and proper. The court shall make specific findings of fact, and state expressly its conclusions of law, relating to each issue presented. This order is a final judgment.

**Section 8. Waiver of or Failure to Assert Claims.)** All grounds for relief available to an applicant under this Act must be raised in his original, supplemental, or amended application. Any ground finally adjudicated or not so raised, or knowingly, voluntarily, and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding the applicant has taken to secure relief may not be the basis for a subsequent application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental, or amended application.

**Section 9. Review.)** A final judgment entered under this Act may be reviewed by the supreme court of this state on appeal brought either by the applicant within six months or by the state within thirty days from the entry of the judgment.

**Section 10. Short Title.)** This Act may be cited as the Uniform Post-Conviction Procedure Act.

Approved March 26, 1969.

# JUDICIAL PROCEDURE, PROBATE

---

## CHAPTER 305

S. B. No. 173  
(Stroup, Freed)

### SUMMARY GUARDIANSHIP PROCEDURE

#### AN ACT

To amend and reenact sections 30-10-25 and 30-10-26 of the North Dakota Century Code, relating to summary guardianships.

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

**Section 1. Amendment.)** Section 30-10-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-10-25. Summary Guardianship Permitted.)** In all cases arising hereafter where the county court shall have jurisdiction to appoint guardians of the estate of minors or other persons, and where the value of the property involved does not exceed the sum of three thousand dollars, and does not involve real estate, the county court having jurisdiction shall have power, at its discretion, to dispense with the requirements of law generally governing the appointment and qualification of guardians, and to make a summary appointment of a guardian to have charge of such property.

**Section 2. Amendment.)** Section 30-10-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-10-26. Procedure for Summary Guardianship.)** Whenever the court shall find that the property involved does not exceed the value of three thousand dollars and that no part thereof is real estate, and that the circumstances are such that



the usual requirements for the establishment of a guardianship would be unduly cumbersome and expensive, the court may, upon its own motion or upon the application of some interested party, make a summary order appointing some suitable person to take charge of such property and in lieu of the otherwise applicable provisions of law for the guidance and control of such guardian, the court may include in such order such provisions for the application and use of the funds of the guardianship as the court deems wise and necessary, making provisions for such things as the bond of such guardian, his reports to the court, his investment, disposal and use of the funds entrusted to him and any other provisions which a court might make in instructing or controlling a trustee. The court shall have continuing jurisdiction to make such modifications of its original order as circumstances may require.

Approved March 13, 1969.

## CHAPTER 306

S. B. No. 106  
(Stroup)

INVESTMENT OF ESTATE FUNDS BY  
EXECUTOR OR ADMINISTRATOR

AN ACT

To amend and reenact section 30-13-22 of the North Dakota Century Code, relating to the investment of funds of an estate by an executor or administrator.

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

**Section 1. Amendment.)** Section 30-13-22 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-13-22. Investment of Funds Only on Order of Court.)** No executor or administrator shall invest funds of the estate unless authorized to do so by an order made and entered in the county court of the county in which such executor or administrator was appointed, except that he may invest without liability in bonds of the state of North Dakota, bonds of the United States of America, commercial banks to the extent that certificates of deposit or savings accounts may be used which are fully insured and guaranteed by the United States or an instrumentality or agency thereof and in investments classified as legal investments under section 21-10-07 of the North Dakota Century Code.

Approved March 17, 1969.

## CHAPTER 307

S. B. No. 287  
(Chesrown, Freed)

REMOVAL OF GUARDIANSHIP OR  
ESTATE PROPERTY FROM STATE

AN ACT

To create and enact section 30-14-32.1 of the North Dakota Century Code, relating to the removal of guardianship or estate property from the state without the consent of the court, and providing a penalty.

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

Section 1.) Section 30-14-32.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**30-14-32.1. Removal of Property from State—Consent Required—Penalty.)** No guardian, executor, or administrator shall remove any property of a guardianship or of an estate from the state of North Dakota with intent to avoid control of the property by the court, without obtaining the written consent of the court. Any person who violates the provisions of this section shall be guilty of a felony and punishable by imprisonment in the penitentiary for not less than one year nor more than three years, or by imprisonment in the county jail for not more than one year, or by a fine of not more than three times the value of the property involved, or by both such fine and imprisonment.

Approved March 17, 1969.

## CHAPTER 308

H. B. No. 271  
(Kelsch, Aamoth)

## SUMMARY ADMINISTRATION OF SMALL ESTATES

## AN ACT

To create and enact sections 30-17-07 and 30-17-08 of the North Dakota Century Code, relating to summary administration by affidavit, and to amend and reenact sections 30-16-06, 30-17-01, 30-17-03, 30-17-04, and 30-17-05 of the North Dakota Century Code, relating to personal property exemptions and the summary administration of small estates.

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

**Section 1. Amendment.)** Section 30-16-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-16-06. Exempt Personal Property—Selection.)** There also shall be set apart absolutely to the surviving wife or husband or minor children of a decedent all of the personal property of the decedent which by law is absolutely exempt to the head of the family, and other personal property selected by the surviving wife or husband or minor children to the amount in value of five thousand dollars according to the appraisal. Such property shall not be liable for any prior debt of the decedent except the necessary charges of his last sickness and funeral and expenses of the administration, if there are no other assets available for the payment of such charges.

**Section 2. Amendment.)** Section 30-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-17-01. Summary Administration Permitted.)** There may be a summary administration of the estate of a deceased person as provided in this chapter, if:

1. Upon the return of the inventory of the estate of a deceased person whether he died testate or intestate, it appears that the value of the whole estate after deduction of expenses of the last illness of decedent,

funeral expenses, and expenses of administration, does not exceed the sum of five thousand dollars.

2. A petition for a summary administration is filed as provided in section 30-17-02.
3. An affidavit in lieu of a petition for summary administration is filed as provided in section 30-17-07.

**Section 3. Amendment.)** Section 30-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-17-03. Petition for Summary Administration—Contents.)**

A petition for the summary administration of an estate of small value shall set forth:

1. The name, address, and place of death of the deceased testator or intestate;
2. The name and relationship of the petitioner to the deceased person;
3. In case the deceased person died testate and left a surviving spouse or a minor child or children, the whereabouts of the will if known to the petitioner, and if it is in the custody of the petitioner it must be presented to the court with the petition. In all other cases the petition must state and the court must find that the deceased died intestate in order to qualify for summary administration by petition under this chapter;
4. The name, age, and address of the surviving husband, or wife, or minor child or children of the deceased, as the case may be, and the name, age, address, and relationship of any other heir, devisee, or legatee of the deceased person;
5. Each encumbrance shown of record in the office of the register of deeds which is a lien upon any property of the estate, together with the name and address of the lien holder and the amount still due upon the lien;
6. So far as is known to the petitioner, the name and

address of every other creditor of the decedent and the amount owing to each, with a further statement that if there are other unnamed creditors they are unknown to the petitioner and cannot be ascertained;

7. A statement as to all property left by the decedent, with a legal description of each tract of real estate and a description of the items of personal property sufficient to identify the same, with a statement of the value of each item according to petitioner's best knowledge, information, and belief;
8. If the decedent left a homestead, a description of the tracts constituting the same, the encumbrances thereon, and the facts regarding the occupancy thereof as a homestead at the time of the death of the decedent, and if not so occupied, the basis for the homestead claim and the name of any person entitled to the possession thereof as a homestead;
9. If any person designated in subsection 4 or subsection 5 of this section is a minor or has been adjudged mentally incompetent, the name and post-office address of any guardian of the person and estate, or either, of such person, and the name and post-office address of any guardian ad litem;
10. The amount due and to whom such payments are due for expenses of the last illness, funeral expenses, and expenses of administration, or if such payments have been made, the amounts of such payments and to whom paid.

**Section 4. Amendment.)** Section 30-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-17-04. Citation and Service Thereof.)** If the inventory returned discloses the facts mentioned in subsection 1 of section 30-17-01, or if a petition for a summary administration is filed as provided in section 30-17-03, the court shall issue a citation fixing the time for a hearing upon such inventory or petition, as the case may be. Such citation shall be served in the manner provided by chapter 30-02. If the record discloses that there is no surviving spouse or minor child or children of



the deceased, the court shall order that a short term of notice to creditors be given in the following form:

### SHORT TERM NOTICE TO CREDITORS

STATE OF NORTH DAKOTA

COUNTY OF \_\_\_\_\_

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_,  
deceased.

Notice is given by the undersigned to all creditors of, and all persons having claims against \_\_\_\_\_ deceased, to file them with the necessary vouchers within 15 days after the publication of this notice, with the County Court of \_\_\_\_\_ County, North Dakota, in the Court-house in the City of \_\_\_\_\_ in said County and State, or stand forever barred.

You are further notified that Honorable \_\_\_\_\_, Judge of said County Court, has by order fixed the \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_, at the hour of \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon of said day at said County Courtrooms as the time and place for hearing and adjusting all claims against the estate of said decedent which have been filed as hereinbefore provided, and all persons interested in said estate are required then and there to show cause why such claims should not be allowed.

Dated \_\_\_\_\_ A.D. 19\_\_\_\_\_.

(Seal) \_\_\_\_\_

Such notice shall be published once in a newspaper published in the city of decedent's residence, or if decedent did not reside in a city or resided in a city where no newspaper is published, then in the newspaper in the county of his residence or in the county closest to decedent's residence. Such publication shall be deemed complete service upon all parties interested in the estate. The time for hearing or examining and adjusting claims shall be held not less than twenty days nor more than thirty days after publication of the notice. All claims not filed within the time allowed shall be barred as provided in section 30-18-04 and all claims filed shall be in conform-

ity with chapter 30-18. The person signing the petition and notice to creditors under this chapter shall have all of the powers and duties of an executor or administrator under chapter 30-18 dealing with approval and allowance of claims, and all procedures of chapter 30-18 dealing with allowance and priority of claims shall be followed.

**Section 5. Amendment.)** Section 30-17-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**30-17-05. Assignment of Estate.)** If, upon the hearing held pursuant to a petition made as provided in section 30-17-02, or upon the return of an inventory as provided in section 30-17-01, the court finds that the value of the estate after deduction of the expenses of the last illness of the decedent, funeral expenses, and expenses of administration, does not exceed the sum of five thousand dollars, it, by a decree for that purpose, shall assign the estate, real and personal, after payment of such expenses, as follows:

1. The entire estate to the surviving spouse, if there is a surviving spouse; or
2. The entire estate to the minor child or children of the deceased, if there are minor children and no surviving spouse; or
3. If there is no surviving spouse and no minor child or children of the deceased, that portion of the estate remaining after assignment to all creditors of the sum in cash equal to the amount of their claims as allowed, shall be assigned to the person or persons entitled thereto under the will admitted to probate, if any, or to the person or persons entitled thereto under the law of succession of this state. In the event there is not sufficient cash to satisfy all creditors' claims as allowed, the court, upon petition showing that fact, may order the sale of estate assets pursuant to section 30-17-06. All claims shall be paid in the order and under conditions provided by chapter 30-18.

The title to such real and personal property shall vest absolutely in the person or persons entitled thereto subject to the mortgages, liens, or encumbrances upon said estate at the



time of the death of the decedent and there must be no further proceedings in the administration unless further estate is discovered.

In its decree assigning the estate, the court may order any person, firm, or corporation holding assets of the estate to pay or deliver all or a part of such assets to such persons as are entitled thereto in order to make proper distribution under the decree, and such payment or delivery under the decree shall relieve the person, firm, or corporation holding such assets from further liability.

**Section 6.** Section 30-17-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

**30-17-07. Affidavit in Lieu of Petition for Summary Administration—Transfer by Affidavit—Contents.)** The surviving spouse, if there be one, otherwise any person entitled to personal property of the decedent by will or intestate succession, hereafter termed "distributee", shall have a defeasible right to the personal property thereof, without awaiting the appointment of a personal representative or the probate of a will if:

1. The value of the entire estate does not exceed the sum of five hundred dollars.
2. Thirty days have elapsed since the death of the decedent.
3. No petition has been presented to the probate court as provided for under chapter 30-05, chapter 30-08, or under this chapter.

The surviving spouse, distributee, or distributees, shall be entitled to receive the personal property or to have evidence of ownership thereof transferred to said surviving spouse, distributee, or distributees upon such person or persons filing with the county court in the county where the deceased person last resided an affidavit showing that such surviving spouse, distributee, or distributees have a defeasible right to receive the personal property or properties set forth in such affidavit, or to have evidence of ownership thereof transferred from the decedent to said surviving spouse, distributee, or distributees. A copy of any will of which the decedent may have died possessed shall be attached to such affidavit upon

filing. Upon the filing of such affidavit, and upon the payment of a filing fee of three dollars, the court may order the transfer of the personal property or evidence of ownership thereof, as the same shall appear in the affidavit. Upon delivering a certified copy of such affidavit an order to any person owing any money to the decedent, having custody of any personal property belonging to the decedent, or acting as registrar or transfer agent of any evidence of interest, indebtedness, or property right of the decedent, such person shall forthwith make such transfer to the surviving spouse, distributee, or distributees as the court may direct in its order.

The defeasible right of the surviving spouse, distributee, or distributees declared by this section shall be subject only to any proceedings to administer the estate or probate of the will of the decedent, and to the superior rights of any other person to such personal property as may be established by such probate proceedings.

**Section 7.** Section 30-17-08 of the North Dakota Century Code is hereby created and enacted to read as follows:

**30-17-08. Effect of Affidavit—Release—Action—Accountability of Spouse, Distributees, or Transferor.)** The person making payment, delivery, transfer, or issuance of personal property or evidence of ownership thereof pursuant to the provisions of section 30-17-07 shall be discharged and released to the same extent as if such payment, delivery, transfer, or issuance had been made to a personal representative of the decedent, and he shall not be required to see to the application thereof or to inquire into the truth of any statement in the affidavit. If any person to whom such affidavit and order are delivered refused to pay, deliver, transfer, or issue any personal property or evidence of ownership thereof, as required by section 30-17-07, payment, delivery, transfer, or issuance may be compelled in an action brought for such purpose by or on behalf of the person entitled thereto under section 30-17-07, upon proof of the defeasible right declared by such section. Any person to whom payment, delivery, transfer, or issuance is made shall be answerable therefor to any personal representative of the estate of the decedent, his heirs, or distributees, or to any other person or public body having a superior right.

Approved March 29, 1969.



# JUDICIAL PROOF

---

## CHAPTER 309

S. B. No. 75  
(Longmire)

### SCHOOL COUNSELORS IMMUNE FROM DISCLOSING PRIVILEGED INFORMATION

#### AN ACT

To create and enact section 31-01-06.1 of the North Dakota Century Code, providing immunity for counselors of school pupils from the disclosure of privileged information.

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

**Section 1.)** Section 31-01-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**31-01-06.1. Counselors Shall Be Immune from Disclosing Information Given by Pupils.)** For the purpose of counseling in a school system, any elementary or secondary school counselor possessing a valid North Dakota guidance credential from the department of public instruction, and who has been duly appointed a counselor for a school system by its proper authority, shall be legally immune from disclosing any privileged or confidential communication made to such counselor in a counseling interview. Such communication shall be disclosed when requested by the counselee.

Approved March 26, 1969.

# JUDICIAL REMEDIES

## CHAPTER 310

S. B. No. 41

(Freed, Holand, Nething, Ringsak)  
(From Legislative Research Committee Study)

### REIMBURSEMENT OF MOVING EXPENSES IN EMINENT DOMAIN PROCEEDINGS

#### AN ACT

To amend and reenact section 32-15-22.1 of the North Dakota Century Code, relating to reimbursement for moving expenses pursuant to eminent domain proceedings.

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

**Section 1. Amendment.)** Section 32-15-22.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-15-22.1. Eminent Domain—Compensation for Moving Personal Property.)** Whenever property is taken or is about to be taken under eminent domain, and the owner or former owner of such property has, at the time of the taking or of taking possession of the property, personal property located on it, he shall be compensated for the cost of moving such personal property to a new location within this state, selected by him, such cost to be determined on the basis of reasonable estimates or to be evidenced by actual paid receipts to be produced to the condemning authority; provided, however, that such cost shall not exceed the value of the property to be moved. The amount therefor shall be paid directly to the owner or former owner by the condemning authority, and in case of inability to agree, either party may bring an action in the same court in which the condemnation action has been or might have been brought, for a judicial determination of the issues between the parties, or, the matter may be determined in the condemnation action itself.

Approved March 25, 1969.



## CHAPTER 311

H. B. No. 147

(Aamoth)

ACCRUAL OF RIGHT TO DAMAGES  
IN EMINENT DOMAIN CASES

## AN ACT

To amend and reenact section 32-15-23 of the North Dakota Century Code, relating to the time when the right to damages accrues in eminent domain cases.

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

**Section 1. Amendment.)** Section 32-15-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-15-23. When Right to Damages Accrues.)** For the purpose of assessing compensation and damages the right thereto shall be deemed to have accrued at the date of the taking and its actual value at that date shall be the measure of compensation for all property actually to be taken, and the basis of damages to the property not actually taken, but injuriously affected, in all cases when such damages are allowed as provided in section 32-15-22. The time of the taking shall be determined by the court.

Approved March 5, 1969.

## CHAPTER 312

S. B. No. 201  
(Goldberg, Chesrown)

COSTS IN EMINENT DOMAIN  
ACTIONS

AN ACT

To amend and reenact section 32-15-32 of the North Dakota Century Code, relating to costs in eminent domain actions.

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

**Section 1. Amendment.)** Section 32-15-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-15-32. Costs.)** The court may in its discretion award to the defendant reasonable actual or statutory costs or both, which may include interest from the time of taking except interest on the amount of a deposit which is available for withdrawal without prejudice to right of appeal, costs on appeal, and reasonable attorney's fees for all judicial proceedings. If the defendant appeals and does not prevail, the costs on appeal may be taxed against him. In all cases when a new trial has been granted upon the application of the defendant and he has failed upon such trial to obtain greater compensation than was allowed him upon the first trial, the costs of such new trial shall be taxed against him.

Approved March 28, 1969.

## CHAPTER 313

H. B. No. 356  
(Kelsch)

**SHORT-TERM MORTGAGE FORECLOSURE****AN ACT**

To amend and reenact section 32-19.1-01 of the 1967 Supplement to the North Dakota Century Code, relating to the power of parties to a real estate mortgage to agree to short-term foreclosure and eliminating therefrom the necessity for a power of sale; and to amend and reenact section 32-19.1-06 of the 1967 Supplement to the North Dakota Century Code, relating to the manner in which notice of record shall be given of the amount due on foreclosure of a short-term mortgage.

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

**Section 1. Amendment.)** Section 32-19.1-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-19.1-01. Mortgage May Provide For Foreclosure Under Chapter.)** The parties to a real estate mortgage upon property involving an area not to exceed three acres may provide in said mortgage that upon default in the conditions of the mortgage, may be foreclosed as provided in this chapter.

**Section 2. Amendment.)** Section 32-19.1-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**32-19.1-06. Sheriff's Certificate of Sale to Contain Recitation of Redemption Period.)** In the event of a foreclosure under this chapter where authorized by the terms of the mortgage and by law, there shall be contained in the sheriff's certificate of sale a statement as to the period of redemption fixed by the court according to law and contained in the judgment.

Approved March 14, 1969.



H. B. No. 402  
(Atkinson, Aafedt, R. Peterson, Gackle, Aamoth)

## VOLUNTARY PARTIAL PAYMENT OF CLAIMS

### AN ACT

To permit the voluntary partial payment of claims without having payment and receipt construed as a release of claims or an admission of liability, and to otherwise determine the effect of such payments and the procedure thereafter.

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

**Section 1.)** No voluntary partial payment of a claim against any person based on alleged liability of that person for injury or damage arising out of any occurrence shall be construed as an admission of fault or liability. Such payment shall not be admissible in any action as evidence for the purpose of determining the amount of any judgment or the liability of any person with respect to such occurrence.

**Section 2.)** No receipt of a voluntary partial payment of a claim against any person based on alleged liability of that person for injury or damage arising out of any occurrence shall be construed as a waiver or release of the claim by the person receiving such payment, unless a written waiver or release is given. No receipt or payment of a voluntary partial payment of a claim shall reduce the amount of damages which may be pleaded and proved in a court proceeding between the parties.

**Section 3.)** Upon final voluntary compromise settlement of the claim the parties may make any agreement they desire concerning previous voluntary partial payments. If the claim is tried in a court, after entry of judgment involving the claim, any such voluntary partial payment shall be treated as a credit against the judgment and shall be deducted from the amount of the judgment. If, after entry of judgment involving the claim, it shall be determined by the judgment that the amount of injury or damages is less than the voluntary payments already made, the payer of the payments shall have no right of action for the recovery of amounts by which the voluntary payments exceed such final court judgment.

Approved March 25, 1969.



# LABOR AND EMPLOYMENT

## CHAPTER 315

H. B. No. 367

(J. Peterson, Stone, Anderson, Connolly, Haugland)  
(Dawson, Wagner, Stoltenow, Lundene, I. Solberg)  
(Opedahl, White, Dornacker, Berg, DeKrey)  
(Wilkie, Glaspey, Metzger, Knudson, Hensrud)  
(Bullis, Kingsbury, Olienyk, Freeman, Aas)  
(Powers, Jenkins, Rundle, G. Larson, Eagles)  
(Davis, Emerson, K. Johnson, Diehl)  
(Linderman, Dick, Wells, Rivinius, Belter)  
(McDonald, Matheny, Burke, Boustead, Bier)  
(R. Peterson, Sandness, Austin, Froelich, Welder)  
(Gackle, Hoffner, Sanstead, Hougen, Thorsgard)  
(Bunker, Aafedt, Leibhan, Simonson, Henning)  
(Kuehn, Seibel, Bernabucci)

### PROHIBITING DISCRIMINATION AGAINST WOMEN JOCKEYS

#### AN ACT

To prohibit discrimination against women jockeys and providing a penalty.

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

**Section 1.)** No person shall discriminate between horse jockeys on the basis of the sex of the jockey and all women jockeys shall be permitted to ride a horse in any horse race conducted in accordance with the laws of this state. Any person violating the provisions of this Act shall be guilty of a misdemeanor.

Approved January 27, 1969.

H. B. No. 299  
(Metzger, Gackle, Kuehn)

## RECIPROCAL WAGE COLLECTION AGREEMENTS

### AN ACT

To create and enact sections 34-14-11, 34-14-12, and 34-14-13 of the North Dakota Century Code, relating to reciprocal agreements for the collection of wages.

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

**Section 1.)** Section 34-14-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

**34-14-11. Reciprocal Agreements for Collection of Wages.)** The commissioner of labor may enter into reciprocal agreements with the labor department or corresponding agency of any other state or with the person, board, officer or commission authorized to act for and on behalf of such department or agency, for the collection in such other state of claims or judgments for wages and other demands based upon claims previously assigned to the department of labor.

**Section 2.)** Section 34-14-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

**34-14-12. Actions in Other States for Collection of Claims; Assignments for Collection.)** The department of labor may, to the extent provided for by any reciprocal agreement entered into pursuant to section 34-14-11 of this Code, or by the laws of any other state, maintain actions in the courts of such other state for the collection of such claims for wages, judgments and other demands and may assign such claims, judgments and demands to the labor department or agency of such other state for collection to the extent that the same may be permitted or provided for by the laws of such state or by reciprocal agreement.

**Section 3.)** Section 34-14-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

**34-14-13. Claims Assigned by Other States—Actions—Collection.)** The department of labor may, upon the written request of the labor department or other corresponding agency of any other state or of any person, board, officer or commission of such state authorized to act for and on behalf of such labor department or corresponding agency, maintain actions in the courts of this state upon assigned claims for wages, judgments and demands arising in such other state in the same manner and to the same extent that such actions by the department of labor are authorized when arising in this state; provided, however, that such actions may be commenced and maintained only in those cases where such other state by appropriate legislation or by reciprocal agreement extends a like comity to cases arising in this state.

Approved March 14, 1969.



# LIENS

---

## CHAPTER 317

S. B. No. 233  
(Freed)

### INDEX AND ABSTRACT OF CROP LIENS

#### AN ACT

To repeal sections 35-05-05 and 35-05-06 of the North Dakota Century Code, relating to the index of continuing crop liens to be kept by the register of deeds, and abstracts of crop liens to be furnished by the register of deeds.

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

**Section 1. Repeal.)** Sections 35-05-05 and 35-05-06 of the 1967 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 14, 1969.

# LIVESTOCK

## CHAPTER 318

H. B. No. 171

(Gackle, Burke, Weber, Jones, Matheny, Rivinius)

### QUARANTINING OF DOMESTIC ANIMALS

#### AN ACT

To amend and reenact section 36-01-12 of the North Dakota Century Code, relating to quarantining of domestic animals, areas, and premises in relation to contagious and infectious diseases.

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

**Section 1. Amendment.)** Section 36-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**36-01-12. Powers of Board Over Contagious and Infectious Diseases.)** The state livestock sanitary board may take such steps as it may deem necessary to control, suppress, and eradicate any and all contagious and infectious diseases among any of the domestic animals of this state. For this purpose, the board may quarantine any domestic animal which is infected, or may be infected, with any such disease or which has been exposed, or may be exposed, to infection, cause any animal so infected to be killed, regulate or prohibit the arrival in or departure from this state of any such exposed or infected animal, and at the cost of the owner thereof, it may detain any domestic animal found to be in violation of any such regulation or prohibition. The board may also quarantine any city, town, civil township or county or areas within a county in this state and any inclosure, building or any domestic animal therein which is or may be infected or exposed or may be exposed to any contagious or infectious disease.

Approved March 5, 1969.

## CHAPTER 319

H. B. No. 361

(K. Johnson, Davis, Connolly, Dawson)

INSPECTION OF LIVESTOCK IN  
TRANSIT

## AN ACT

To amend and reenact section 36-01-18 of the North Dakota Century Code, relating to inspection of livestock in transit and providing a penalty.

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

**Section 1. Amendment.)** Section 36-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**36-01-18. Inspection of Livestock in Transit—Execution of Orders of Board by Peace Officers—Powers of Officers—Penalty.)** Authorized representatives of the state livestock sanitary board, for purposes of inspecting livestock in transit for health or ownership identification, may stop vehicles, except passenger vehicles, transporting livestock on public highways of this state. When signaled by such representative to stop, the operator of any such vehicle shall stop the same and cause to be shown any health or identification forms which are required to be carried in transportation of livestock, and to permit such inspector to make an inspection of the livestock being transported if deemed by the inspector to be necessary. Failure to stop when so directed constitutes a misdemeanor. Any vehicle used for such purposes shall be clearly identified in letters not smaller than three inches and is authorized to use a stop signal.

The state livestock sanitary board may call any sheriff, deputy sheriff, or constable to execute its orders, and such officers shall obey the orders of said board. Any peace officer may arrest and take before any county justice of the county any person found violating any of the provisions of this chapter, and such officers shall notify the state's attorney immediately of such arrest, and the state's attorney shall prosecute the person so offending.

Approved March 29, 1969.



## CHAPTER 320

H. B. No. 243  
(Dawson, K. Johnson)

## LIVESTOCK DEALER LICENSES

## AN ACT

To amend and reenact sections 36-04-03 and 36-04-05 of the North Dakota Century Code, relating to licensure of corporate officers acting for corporate livestock dealer licensees, and to the filing of surety bonds by livestock dealers and agents, and providing an effective date.

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

**Section 1. Amendment.)** Section 36-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**36-04-03. Dealer's License Required—Agent Licensed—Liability of Owner for Agent's Acts.)** All dealers shall be licensed as provided in this chapter. No agent shall act for any such dealer unless the dealer is licensed and has designated such agent to act in his behalf and has notified the dairy department of such appointment in his application for a license or in a separate written instrument and requested the dairy department to issue to such agent an agent's license. Every officer of a corporation, association, or partnership, acting for the corporation, association or partnership in dealing in livestock, must be licensed as an agent of the corporation, association, or partnership. A dealer shall be accountable and responsible for all the acts of his agent.

**Section 2. Amendment.)** Section 36-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**36-04-05. Dealer to File Bond with Dairy Department—Additional Bond May Be Required.)** Each applicant for a license under the provisions of this chapter shall file with this application a bond issued by an approved surety company. The dairy department shall be named as the obligee in each such bond but the bond shall be held for the purpose of protecting and for the benefit of any person selling livestock, wool, or poultry, as the case may be, to the licensed dealer or his agent. Such bond

shall be conditioned for:

1. The faithful performance by the dealer of his duties as such;
2. The compliance by the dealer with all of the provisions of this Code relating to the purchase of livestock, wool, or poultry, as the case may be;
3. The full and complete payment to the seller for all livestock, wool, or poultry purchased by the dealer; and
4. The full protection of any person who deals with such dealer.

Each such bond shall cover the entire license period of the dealer and be approved as to amount, form, and sufficiency by the dairy department. The dairy department may demand an additional bond for either the principal or agent whenever in its judgment the volume of business of the principal or of any agent named by the principal warrants such demand.

In lieu of the bond required of dealers and their agents under the provisions of this section, the applicant may file with the dairy department the dealer's bond filed by him with the United States Department of Agriculture and in effect pursuant to the provisions of the Packers and Stockyards Act, 1921 (7 U.S.C. 181), naming the dairy commissioner as the trustee of such bond. Bonds from out-of-state applicants may be in favor of a trustee who shall be a financially responsible, disinterested person satisfactory to the dairy commissioner. The minimum amount of such bond shall be ten thousand dollars, unless the dairy department shall determine that the amount of such bond is insufficient in any instance, in which event the dairy department shall require the reasonable amount of the bond required to protect the public interest. A designation of the agents of such dealer to be covered by such bond shall be filed with such bond.

**Section 3. Effective Date.)** The effective date of this Act shall be January 1, 1970.

Approved March 14, 1969.



## CHAPTER 321

H. B. No. 355

(Connolly, Opedahl, Davis, Dawson)  
(Rundle, Reimers, K. Johnson, Rivinius)

## FEES FOR LIVESTOCK INSPECTION

## AN ACT

To amend and reenact section 36-05-10 of the North Dakota Century Code, relating to the fees for inspection of livestock.

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

**Section 1. Amendment.)** Section 36-05-10 of the 1967 Supplement to 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. 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.

Approved March 29, 1969.

S. B. No. 251  
(Morgan, Roen)

## MEAT INSPECTION

### AN ACT

To provide for the post-mortem and ante-mortem inspection of all cattle, sheep, swine, goats, horses, mules, or equines which are to be slaughtered for human food; for the inspection of slaughterhouses and meatpacking plants; to amend and reenact section 19-02.0-21 of the North Dakota Century Code, relating to inspections; providing a penalty; and to repeal chapter 36-23 and section 19-02-10 of the North Dakota Century Code, relating to meat inspection and the sale of meat; and providing an appropriation.

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

**Section 1. Ante-Mortem Inspection.)** Except as otherwise provided by this Act, the state livestock sanitary board shall provide, by rule or regulation, for the ante-mortem inspection of all cattle, sheep, swine, goats, horses, mules, or other equines which are to be slaughtered for human food at any slaughtering establishment in this state. The inspection shall be performed by licensed veterinarians or other trained personnel of the board, and shall determine if the animal under inspection is disease free, and otherwise fit for human food. If the animal is found to be disease free and otherwise fit for human food, the inspecting veterinarian shall allow the slaughter of such animal.

**Section 2. Post-Mortem Inspection.)** Except as otherwise provided by this Act, the state livestock sanitary board shall provide, by rule or regulation, for the post-mortem inspection of the carcasses or the parts thereof of all cattle, sheep, swine, goats, horses, mules, or other equines which are slaughtered for human food at any slaughtering establishment in this state. The inspection service shall be performed by licensed veterinarians or other trained personnel of the board, and shall determine if the carcass or the parts thereof are wholesome, clean, healthful, and otherwise fit for use as human food, and not misbranded as defined by section 19-02.1-10 or adulterated as defined by section 19-02.1-09; and, the carcasses and parts thereof that are so determined shall be inspected and marked, stamped, or tagged by the inspector as "N. Dak. inspected and



passed". The carcasses or the parts thereof that are found to be unwholesome, unclean, unhealthful, or otherwise unfit for human food, or misbranded as defined by section 19-02.1-10 or adulterated as defined by section 19-02.1-09 shall be marked, stamped, or tagged by the inspector as "N. Dak. inspected and condemned" and shall be subject to disposition in accordance with rules and regulations issued by the board. Inspection marks, stamps, and tags shall be prescribed by the board, and shall include thereon an identification number of the establishment assigned by the board.

**Section 3. Exceptions.)** The provisions of this Act shall not apply to require inspection and examination of animals, carcasses or the parts thereof where:

1. Such animals, carcasses or the parts thereof are inspected under the terms of the Federal Meat Inspection Act, 21 U.S.C. sections 71-91, 34 Stat. 1260-65, as amended.
2. The slaughtering is performed by any person of an animal of his own raising, and the carcass or parts thereof are for the exclusive use of himself and the members of his household and his nonpaying guests and employees.
3. The slaughtering is performed by any person as a custom service for the owner of the animal, and the carcass or the parts thereof are for the exclusive use of such owner and the members of his household and his nonpaying guests and employees, regardless of whether or not such custom service slaughterer is engaged in selling inspected carcasses or the parts thereof, meat or meat food products at wholesale or retail in or on the same plant or premises where such custom service slaughtering is performed.

**Section 4. Inspection of Slaughterhouses and Meatpacking Plants—Penalty.)** The state veterinarian or his duly authorized agent shall have free access at all reasonable hours to any slaughterhouse within this state where animals are slaughtered for human food, or any plant or premises within this state where the carcass or the parts thereof are canned, salted, packed, smoked, cured, rendered, or otherwise prepared or processed for human food, except where such plants or premises are inspected under the provisions of the Federal

Meat Inspection Act, 21 U.S.C. sections 71-91, 34 Stat. 1260-65, as amended. Inspections of each such plant or premises within the state shall be made at least once every three months, and shall determine if the facilities of such plant or premises are clean, sanitary, and not contaminated with filth, and that the carcass or the parts thereof, or meat or meat food products processed or prepared by such plant or premises are not unwholesome, unclean, unhealthful, or otherwise unfit for human food, or misbranded as defined by section 19-02.1-10 or adulterated as defined by section 19-02.1-09. Any carcass or the parts thereof or meat or meat food products determined to be prepared or processed under conditions whereby they are rendered unsanitary, or contaminated with filth or that are unwholesome, unclean, unhealthful or otherwise unfit for human food, or misbranded as defined by section 19-02.1-10 or adulterated as defined by section 19-02.1-09, may be seized by the state veterinarian or his duly authorized agent in accordance with rules and regulations issued by the board.

Any person allowing the slaughter, preparation or processing of animals, carcasses or the parts thereof, or meat or meat food products under such conditions whereby they are rendered unsanitary, or contaminated with filth, or that are unwholesome, unclean, unhealthful, or otherwise unfit for human food, or misbranded as defined by section 19-02.1-10 or adulterated as defined by section 19-02.1-09; any person who forges, counterfeits, simulates, or falsely represents any mark, stamp, tag, label, or other identification device prescribed by the board under this Act; any person who refuses to permit the taking of a sample of a carcass or the parts thereof, or meat or meat food products from his plant or premises, or refuses to permit the inspection or reinspection authorized by this Act, shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

**Section 5. Reinspections.)** After a first inspection, the inspector, when he deems it advisable, may reinspect the carcass and parts thereof to determine whether the same may have become unwholesome, adulterated, or misbranded. If any carcass or the parts thereof, upon a reinspection, are found to be unwholesome, adulterated, or misbranded they shall be destroyed in accordance with rules and regulations issued by the board.



**Section 6. Sale of Unapproved Meat Prohibited.)** Any person who shall slaughter any animal in this state for the purpose of selling the carcass or the parts thereof for human food, or sell, offer for sale, or have in his possession with intent to sell such carcass or the parts thereof for human food in this state, unless the same shall have been first inspected or reinspected and approved as provided by this Act or the Federal Meat Inspection Act, 21 U.S.C. sections 71-91, 34 Stat. 1260-65, as amended, shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment.

**Section 7. Administrative Agencies Practice Act to Apply to This Act.)** Except as otherwise provided in this Act, chapter 28-32 of the North Dakota Century Code shall apply to this Act.

**Section 8. Short Title.)** This Act shall be known and may be cited as the North Dakota Meat Inspection Act.

**Section 9. Amendment.)** Section 19-02.1-21 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**19-02.1-21. Inspections—Examinations.)** The state laboratories director or his duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in commerce, for the purpose:

1. Of inspecting such factory, warehouse, establishment, or vehicle to determine if any of the provisions of this chapter are being violated;
2. To secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such sample. It shall be the duty of the state laboratories director to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this chapter is being violated.

Provided that inspections of slaughterhouses, meatpacking and meat processing plants where cattle, swine, sheep, goats, horses, or other equines are slaughtered for human food or where the carcass or the parts thereof, meat, or meat food products are salted, canned, packed, smoked, cured, rendered, or otherwise processed or prepared for human food, shall not be performed under this Act if such slaughterhouses, meatpacking or meat processing plants are inspected under the provisions of the North Dakota Meat Inspection Act, or the Federal Meat Inspection Act, 21 U.S.C. sections 71-91, 34 Stat. 1260-65, as amended.

**Section 10. Repeal.)** Chapter 36-23 and section 19-02-10 of the North Dakota Century Code are hereby repealed.

**Section 11. Appropriation.)** There is hereby appropriated the sum of \$120,000.00, or so much thereof as may be necessary, to the livestock sanitary board for the purpose of carrying out meat inspection and related activities pursuant to the North Dakota Meat Inspection Act for the biennium beginning July 1, 1969, and ending June 30, 1971, \$60,000.00 of which shall be appropriated from the general fund of the state treasury, and \$60,000.00 of which shall be federal matching funds. The appropriation shall be effective on or after the date that matching federal funds become available for purposes of this Act.

Approved March 26, 1969.



# MILITARY

---

## CHAPTER 323

### S. B. No. 139

(Torgerson, Becker, Decker, Doherty, Freed, Kautzmann)  
(Kelly, Litten, Mutch, Nasset, Nething, Redlin, Ringsak)  
(Ruemmele, Schultz, Strinden, Thoreson)  
(Trenbeath, Van Horn)

## UNIFORMITY OF VETERANS' SERVICE DATES

### AN ACT

To create and enact section 37-01-40 of the North Dakota Century Code, relating to uniformity of service dates for veterans.

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

**Section 1.)** Section 37-01-40 of the North Dakota Century Code is hereby created and enacted 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. 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 a date prescribed by the president or the Congress.

Approved March 20, 1969.



## CHAPTER 324

S. B. No. 183  
(Longmire, Lips, Holand)

## TRANSFER OF SURPLUS NATIONAL GUARD BUILDINGS

## AN ACT

Providing appropriations for the payment of special assessments and utility charges against national guard property, and reappropriating certain funds for the construction of armories; amending and reenacting section 37-10-06 of the North Dakota Century Code authorizing the transfer of surplus national guard motor storage buildings to political subdivisions, 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 of the state treasury, not otherwise appropriated, the sum of \$6,979.37, or so much thereof as may be necessary, to the North Dakota national guard for the purpose of the payment of special assessments and utility charges against national guard property in the city of Grand Forks.

**Section 2. Appropriation.)** There is hereby appropriated out of any unappropriated moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$1,769.94, or so much thereof as may be necessary, to the North Dakota national guard for the purpose of the payment of special assessments and utility charges against national guard property in the city of Bismarck.

**Section 3. Reappropriation of Funds.)** There is hereby reappropriated to the North Dakota national guard the sum of \$149,637.70, or such balance as may remain unexpended upon the effective date of this Act, from the appropriation previously made in chapter 62 of the 1967 Session Laws of the state of North Dakota. Such balance shall be expended for the construction of armories in the amounts and in the manner provided in sections 37-10-03.3 and 37-10-03.4 of the North Dakota Century Code in accordance with the intent of the original appropriation for such purposes contained in chapter 60 of the 1955 Session Laws of the state of North Dakota. A sum not exceeding \$2,355.00 may be

expended by the adjutant general from the appropriation made in this section for the repair of the armory located at Lisbon, North Dakota.

**Section 4. Amendment.)** Section 37-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-10-06. Transfer of Motor Storage Buildings.)** Any motor storage buildings owned by the state of North Dakota and used by the national guard may be transferred and conveyed to a political subdivision in which such buildings are located when so recommended by the board of armory supervisors in order to take advantage of the provisions of Public Law 783, 81st Congress, 2nd session, chapter 945, and approved September 11, 1950.

**Section 5. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 19, 1969.



## CHAPTER 325

S. B. No. 69  
(Holand)

## COMMANDANT OF SOLDIERS' HOME

AN ACT

To amend and reenact section 37-15-07 of the North Dakota Century Code, relating to the commandant of the soldiers' home.

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

**Section 1. Amendment.)** Section 37-15-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-07. **Commandant of Soldiers' Home—Appointment—Qualifications—Salary—Serves at Pleasure of Board.)** The board of trustees of the soldiers' home shall appoint as commandant of the home a person who holds an honorable discharge or honorable release from active service with the armed forces of the United States and has served in the armed forces during a period of war or armed conflict. The commandant shall serve at the pleasure of the board. He shall receive such salary as the board of trustees shall determine from the appropriations made by the legislature. He shall act as secretary of the board.

Approved February 7, 1969.

## CHAPTER 326

S. B. No. 56  
(Christensen, Lips, Sorlie)  
(Recommended by Legislative Audit and  
Fiscal Review Committee)

## CUSTODY OF SOLDIERS' HOME FUNDS

## AN ACT

To amend and reenact sections 37-15-13, 37-15-14, 37-15-15, and 37-15-16 of the North Dakota Century Code, relating to the custody and expenditure of funds of the soldiers' home.

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

**Section 1. Amendment.)** Section 37-15-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-15-13. Department of Accounts and Purchases to Receive and Deposit Federal Aid Money with State Treasurer.)** The state treasurer shall receive and receipt for all money which may become payable to this state by reason of the acceptance of the Acts of Congress as provided in section 37-15-12. He shall deposit such money to the credit of the soldiers' home operating fund for the use and benefit of the soldiers' home.

**Section 2. Amendment.)** Section 37-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-15-14. Soldiers' Home Operating Fund — Moneys for the Maintenance of the Soldiers' Home to be Deposited with State Treasurer.)** A special fund, to be known as the soldiers' home operating fund, shall be maintained in the state treasury. Moneys arising from the interest received on money derived from the sale of lands appropriated for the support of the home and from the rental of such lands, moneys received from the United States for the support and maintenance of the home, and all other moneys, income, and collections of public funds arising from any other source or endeavor of the home shall be placed in the soldiers' home operating fund for the use and maintenance of



the soldiers' home. Moneys derived from the general fund appropriation made by the legislative assembly shall be transferred periodically to the soldiers' home operating fund upon order of the director of the department of accounts and purchases whenever such operating fund's balance falls so low as to require supplementation.

**Section 3. Amendment.)** Section 37-15-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-15-15. Disbursement of Moneys from Soldiers' Home Operating Fund.)** All moneys withdrawn from the soldiers' home operating fund shall be transferred from the operating fund on the basis of an abstract approved by the commandant in accordance with policies established by the board of trustees, and approved by the auditing board, containing an enumeration of the names and amounts to be paid each payee by the commandant in accordance with the abstract. Warrant-checks drawn upon the state treasurer against the soldiers' home operating funds for transfer of funds to an account in the Bank of North Dakota for disbursement shall be prepared by the department of accounts and purchases upon approval of the abstract by the stating auditing board.

**Section 4. Amendment.)** Section 37-15-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-15-16. Commandant Shall Take Charge of Unclaimed Estates of Small Value.)** If a member of the soldiers' home shall die leaving property of the value of three hundred dollars or less, the commandant immediately shall take charge of such property. If within one year of the date of the death of such member no valid claim of any heir or legatee is made for the property and no application is made for letters of administration, the commandant shall convert the property into cash without probate or other proceedings and shall deposit the cash with the state treasurer who shall credit it to the soldiers' home operating fund. The commandant shall make a report of his action to the board of trustees which report shall be audited by, and spread upon the records of, the board.

**Section 5. Transfer of Funds.)** All existing balances, except such moneys as belong to residents of the soldiers' home and held in trust for their benefit, in the state treasury in the soldiers' home fund; United States aid fund, soldiers' home; interest and income fund, soldiers' home and institutional revolving fund, soldiers' home; on the effective date of this Act shall be transferred by the state treasurer to the soldiers' home operating fund. Any existing obligations of such funds on the effective date of this Act shall be paid out of funds transferred from the soldiers' home operating fund on the basis of an abstract approved by the auditing board. Moneys belonging to members of the soldiers' home held in trust for them and deposited in any of the funds herein enumerated, shall be remitted to the commandant of the soldiers' home by the custodian of such funds, to be administered in the manner provided for in section 37-15-21.

The balances of any moneys which have been withdrawn by the soldiers' home treasurer from the soldiers' home fund; the United States aid fund, soldiers' home; interest and income fund, soldiers' home; and institutional revolving fund, soldiers' home; and placed in bank accounts for the use of the soldiers' home shall be withdrawn from such bank accounts on the effective date of this Act by the treasurer of the soldiers' home or the custodian of the funds and remitted to the state treasurer and deposited by him in the state treasury to the credit of the soldiers' home operating fund. Any other moneys, collections, or income from any other source which is being used or is earmarked for the use and maintenance of the soldiers' home shall be remitted to the state treasurer on the effective date of this Act by the treasurer of the soldiers' home or the custodian of such moneys and deposited by the state treasurer in the state treasury to the credit of the soldiers' home operating fund. Any existing obligations against such moneys, collections, or income on the effective date of this Act shall be paid out of funds transferred from the soldiers' home operating fund on the basis of an abstract approved by the auditing board.

Approved March 14, 1969.



## CHAPTER 327

## S. B. No. 138

(Torgerson, Becker, Decker, Doherty, Freed, Kautzmann)  
(Kelly, Mutch, Nasset, Nething, Redlin, Ringsak)  
(Ruemmele, Strinden, Thoreson, Trenbeath, Van Horn)

## EDUCATIONAL ASSISTANCE FOR VETERANS

## AN ACT

To create and enact section 37-24-07 of the North Dakota Century Code, relating to educational assistance for veterans in vocational programs, and to amend and reenact subsection 1 of section 37-24-01 and sections 37-24-03, 37-24-04, 37-24-05 and 37-24-06 of the 1967 Supplement to the North Dakota Century Code, relating to educational assistance for veterans, the period of service required, and eligibility of disabled veterans, and making an appropriation.

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

**Section 1.)** Section 37-24-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

**37-24-07. Qualified Veterans to Receive Reduction in Mandatory Admission Fees in Programs of Vocational Education or Training—Reimbursement.)** Any veteran who qualified pursuant to the provisions of this chapter, and who shall receive a certification of such qualifications as determined and certified by the commissioner of veterans' affairs of the department of veterans' affairs, and who shall be admitted and enrolled in a program of vocational education or training which has been approved by the commissioner of veterans' affairs of the department of veterans' affairs but which does not otherwise qualify the veteran for benefits under the provisions of this chapter, shall be eligible for a fifteen dollar per month reduction of the mandatory admission fee charged for admission to such program for each month or part thereof during which such veteran shall have become enrolled within the limitations provided for in section 37-24-05. Such veteran may be credited with fifteen dollars per month, or fraction thereof, by the person or corporation offering the vocational education or training program in which the veteran is enrolled, on the mandatory admission fees charged by such person or corporation. Each person or corporation operating a program of vocational education or training approved by the commissioner of veterans' affairs and crediting a veteran's

mandatory admission fee hereunder shall, by the fifteenth day of the month following the end of each calendar quarter, submit to the commissioner of veterans' affairs the names of the veterans enrolled in such program with the number of months each veteran was enrolled in the program during the calendar quarter and the amount such veteran received as a reduction in his mandatory admission fee during such calendar quarter. The commissioner shall approve such voucher as to the eligibility of the veterans listed and the amounts such veterans received as reductions in their mandatory admission fees, and submit a voucher to the department of accounts and purchases, and state auditing board for approval. Upon approval by the state auditing board, the department of accounts and purchases shall issue a warrant-check on the Vietnam veterans' educational aid fund to the person or corporation submitting such voucher.

**Section 2. Amendment.)** Subsection 1 of section 37-24-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Period of service" means any service of any veteran who served on active duty in the armed services of the United States for more than one hundred eighty days, any portion of which active duty time occurred after August 5, 1964, and prior to the date of the substantial cessation, in Vietnam, of hostilities as determined by the president or the congress, or who entered and was released from active duty after August 5, 1964, and prior to the date of the substantial cessation, in Vietnam, of hostilities as determined by the president or the congress, for a service-connected disability prior to serving more than one hundred eighty days.

**Section 3. Amendment.)** Section 37-24-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-24-03. Qualified Veterans to Receive Reduction in Mandatory Admission Fees of Institutions Under Board of Higher Education.)** Any veteran who qualified pursuant to the provisions of this chapter, and who shall receive a certification of such qualifications as determined and certified by the commissioner of veterans' affairs of the department of veterans' affairs, and who shall be admitted and enrolled in an institution of higher education under the control and administration of the state board



of higher education, shall be entitled to a sixty-dollar-per-semester or forty-dollar-per-quarter or summer session reduction, whichever the case may be, of the mandatory fees charged at such institution for each semester or quarter or summer session during which such veteran shall have become enrolled and shall carry a normal course load within the limitations provided for in section 37-24-05.

**Section 4. Amendment.)** Section 37-24-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-24-04. Private Institutions and Junior Colleges May Credit Veterans with a Reduction of Mandatory Admission Fees.)** Any veteran who qualifies pursuant to the provisions of this chapter, and who shall receive a certification of such qualifications as determined and certified by the commissioner of veterans' affairs of the department of veterans' affairs, and who shall be admitted and enrolled in a junior college established pursuant to the provisions of chapter 15-18 of the North Dakota Century Code, or a private institution of higher learning located within this state, may be credited sixty dollars per semester or forty dollars per quarter or summer session, whichever the case may be, by the institution in which he is enrolled for a normal course load, on the mandatory admission fees charged at such institution for each semester or quarter or summer session during which such veteran shall have become enrolled and shall carry a normal course load within the limitations provided for in section 37-24-05.

**Section 5. Amendment.)** Section 37-24-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-24-05. Period of Time Aid Given—Maximum—Time Limitations When Benefits Are To Be Used.)** Each eligible veteran pursuant to the provisions of this chapter shall be entitled to receive the benefits of this chapter for a period of one month for each month or fraction of a month such veteran was on active duty with the armed forces of the United States, which period, however, shall not exceed a total of thirty-six months of benefits; provided that any veteran who was discharged due to a service-connected disability subsequent to August 5, 1964, and prior to the date of the substantial cessation, in Vietnam, of hostilities as determined by the president or the congress, shall be en-

titled to a total of thirty-six months of benefits regardless of actual time served on active duty. When a veteran has become enrolled at one of the institutions of higher education pursuant to this chapter, the number of months of each semester or quarter or summer school session shall be deducted from the number of months such veteran is eligible to receive the benefits of this chapter. If such veteran shall not have the sufficient number of months at any time equal to a full semester or quarter or summer school session, such fractional time shall qualify him to receive a full semester or quarter or summer school session reduction in admission fees. Provided further, that any veteran who qualifies under the provisions of this chapter shall be required to use such benefits within eight years from July 1, 1967, or from his date of discharge if the veteran is discharged after July 1, 1967. Provided, however, that if the state of North Dakota shall provide for future benefits or bonuses, the amount received under the provisions of this chapter shall be deducted from such future benefits or bonuses if the Act or Acts for future benefits or bonuses so provides.

**Section 6. Amendment.)** Section 37-24-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-24-06. Institutions To Be Reimbursed from Fund—Commissioner of Veterans' Affairs to Approve.)** Each private institution of higher learning or junior college crediting a veteran's mandatory admission fee under the authority of section 37-24-04, and each institution of higher learning under the control and administration of the board of higher education, shall, within forty-five days after the commencement of any quarter or semester or summer school session, submit to the commissioner of veterans' affairs of the department of veterans' affairs the names of the veterans enrolled at such institution with the amount such veteran received as a reduction in his mandatory admission fee. The commissioner shall approve such voucher as to the eligibility of the veterans listed and the amounts such veterans received as reductions in their mandatory admission fees, and submit a voucher to the department of accounts and purchases, and state auditing board for approval. Upon approval by the state auditing board, the department of accounts and purchases shall issue a warrant-check on the Vietnam veterans' education aid fund to the institution submitting such voucher.

**Section 7. Appropriation.)** There is hereby appropriated



out of any moneys in the state treasury, not otherwise appropriated, the sum of \$431,880.00 or so much thereof as may be necessary, to the veterans' aid commission for the purpose of carrying out the provisions of this Act for the biennium beginning July 1, 1969, and ending June 30, 1971.

Approved March 29, 1969.

SALE OF SOLDIERS' HOME PROPERTY

Section 1. The Board of Trustees of the North Dakota Soldiers' Home shall sell, transfer and convey certain real property owned by the State of North Dakota, to the Veterans' Aid Commission for the purpose of carrying out the provisions of this Act.

It is enacted by the Legislature of the State of North Dakota:

Section 1. The Board of Trustees of the North Dakota Soldiers' Home shall sell, transfer and convey certain real property owned by the State for the benefit of the Veterans' Aid Commission. The Board of Trustees of the Soldiers' Home shall sell, transfer and convey the real property described in this Act and any improvements thereon owned by the State for the benefit of the Veterans' Aid Commission in accordance with sections 324-01 and 324-02 prior to January 1, 1970. The Board of Trustees may sell the property as one unit or as logically divisible units based upon maximum value for such sale. The Board of Trustees shall provide an independent appraisal of the property and shall report all data of an amount less than the appraised value of such property. The property is described as follows:

All of lots two and three of the southeast quarter of section eleven in township one hundred thirty-four north of range five six west of the fifth principal meridian, except that portion of said above-described lot three from east of a line drawn from the southeast corner of lot eight in block eleven in block and lot subdivision in the city of Lisbon through a point in a point where it intersects the west or northwest boundary of the sixteen-foot roadway running along the right-of-way of the Fargo and Western Branch of the Northern Pacific Railway Company, as it now runs through the said city of Lisbon.

## CHAPTER 328

S. B. No. 31

(Becker, Lips, Litten, Luick, Melland, Robinson)

(Sorlie, Torgerson, Wenstrom, Wilhite).

(From Legislative Research Committee Study)

## SALE OF SOLDIERS' HOME PROPERTY

## AN ACT

Directing the board of trustees of the North Dakota soldiers' home to sell certain real property owned by the state for the benefit of the North Dakota soldiers' home, and declaring an emergency.

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

**Section 1. The Board of Trustees of the North Dakota Soldiers' Home Shall Sell, Transfer, and Convey Certain Real Property Owned by the State for the Benefit of the Soldiers' Home.)** The board of trustees of the soldiers' home shall sell, transfer, and convey the real property described in this Act and any improvements thereon owned by the state for the benefit of the soldiers' home by public bid in accordance with sections 54-01-05.1 and 54-01-05.2 prior to January 1, 1970. The board of trustees may sell the property as one unit or as logically divisible units based upon maximum, estimated proceeds from such sale. The board of trustees shall provide an independent appraisal of the property and shall reject all bids of an amount less than the appraised value of such property. The property is described as follows:

All of lots two and three of the southeast quarter of section eleven, in township one hundred thirty-four north, of range fifty-six west, of the fifth principal meridian, except that portion of said above-described lot three lying east of a line drawn from the southwest corner of lot eight, in block eleven, of Marsh and Holt's addition to the city of Lisbon, thence running due south to a point where it intersects the west or northwest boundary of the sixteen-foot roadway, running along the right-of-way of the Fargo Southwestern Branch of the Northern Pacific Railway Company, as it now runs through the said city of Lisbon.



All of out lot eleven of the south half of section eleven, in township one hundred thirty-four north, of range fifty-six west, of the fifth principal meridian, except those portions lying east of a line drawn from the southwest corner of lot eight, in block eleven, of Marsh and Holt's addition to the city of Lisbon, thence running due south to a point where it intersects the west or northwest boundary of the sixteen-foot roadway, running along the right-of-way of the Fargo Southwestern Branch of the Northern Pacific Railway Company, as it now runs through the said city of Lisbon.

All of lot six of the southeast quarter of section eleven, in township one hundred thirty-four north, of range fifty-six west, of the fifth principal meridian, except those portions of the above-described lot six lying east of a line drawn from the southwest corner of lot eight, in block eleven, of Marsh and Holt's addition to the city of Lisbon, thence running due south to a point where it intersects the west or northwest boundary of the sixteen-foot roadway, running along the right-of-way of the Fargo Southwestern Branch of the Northern Pacific Railway Company, as it now runs through the said city of Lisbon.

Out lot nine of the east half of the southwest quarter of section eleven, in township one hundred thirty-four north, of range fifty-six west, of the fifth principal meridian.

All of block eleven, of Wisner's Riverview addition to the city of Lisbon, Ransom County, North Dakota.

The tracts as described above contain fifty-seven acres more or less.

**Section 2. Proceeds from Sale Shall Be Deposited in the General Fund.)** Upon the sale of such land, the proceeds of sale shall be deposited in the general fund of the state treasury. Any such property sold, transferred, and conveyed 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 10, 1969.

# MINING AND GAS AND OIL PRODUCTION

## CHAPTER 329

H. B. No. 279  
(Boustead, Olienyk, Glaspey)

### COAL MINE INSPECTOR

#### AN ACT

To create and enact subsection 7 of section 38-03-07 of the North Dakota Century Code, relating to accident-prevention programs; to amend and reenact sections 38-03-02, 38-03-03, 38-03-05, subsection 1 of section 38-03-07, subsection 5 of section 38-03-07, and section 38-03-14 of the North Dakota Century Code, relating to the qualifications, bond, powers and duties, assistants of state coal mine inspector; to amend and reenact sections 38-04-06 and 38-04-07 of the North Dakota Century Code, relating to the contents of records to be kept by each coal mine and report to coal mine inspector; and to amend and reenact section 38-05-07 of the North Dakota Century Code, relating to certificate of qualification as mine foreman.

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

**Section 1. Amendment.)** Section 38-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-03-02. Qualifications of Inspector.)** No person shall be eligible to the office of inspector unless he:

1. Is a citizen of the United States of America;
2. Is a resident of this state;
3. Actually shall have been employed in mining in the state of North Dakota for a period of eight years prior to appointment, provided that up to four successfully completed academic years of college level training in engineering or general science may be substituted on a year-

for-year basis for such employment;

4. Shall possess a competent knowledge of coal mining.

**Section 2. Amendment.)** Section 38-03-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-03-03. Bond, Office, and Clerical Help of Inspector.)** Before entering upon the duties of his office, the inspector shall furnish a bond in the penal sum of five thousand dollars. He may employ such necessary clerical help for the purpose of carrying out the provisions of this chapter for such compensation as the legislature may designate.

**Section 3. Amendment.)** Section 38-03-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-03-05. Inspector Not To Be Agent, Manager, Superintendent, Nor Be Interested in Coal Mining Companies.)** The inspector, while he is in office, shall not act as an agent for any corporation, nor as the superintendent or manager of any mine. He shall not be in the employ of any mining company nor be interested in any coal mining operation as owner or lessee.

**Section 4. Amendment.)** Subsection 1 of section 38-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Enter, inspect, and examine any coal mine, including what is commonly known as a "strip mine", or any shaft, drift, slope, or other excavations in the process of sinking for the purpose of mining coal, and the workings and the machinery belonging thereto, at all reasonable times, either by day or night;

**Section 5. Amendment.)** Subsection 5 of section 38-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Carefully examine all the coal mines in operation in this state annually, and all mines having an annual output of twelve hundred tons or more, at least every three months and oftener, if necessary, to see that every precaution is taken to insure the safety of all the working

men that may be engaged in such coal mine;

**Section 6.)** Subsection 7 of section 38-03-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

7. Cooperate and assist in all accident-prevention programs sponsored by the workmen's compensation bureau which pertain to mining.

**Section 7. Amendment.)** Section 38-03-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-03-14. Technical Assistants and Advisers May Be Employed by Inspector—Pay—Instruments Furnished Inspector.)** For the more efficient discharge of the duties imposed upon him pursuant to the provisions of this chapter, the inspector, with the approval of the commissioners of the workmen's compensation bureau, may hire all necessary technical assistants and advisers to aid him in determining the condition, fitness, and suitability of boilers and all other machinery or equipment, both electrical and mechanical, of coal mines in this state which may affect the safety of the miners therein and the inspector shall be the sole authority in making such determination. Such assistants and advisers shall be paid from appropriations made by the legislative assembly.

**Section 8. Amendment.)** Section 38-04-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-04-06. Record of Each Coal Mine To Be Kept—Contents.)** The operator of each coal mine licensed under the provisions of this chapter shall keep a book containing the following information concerning the mine:

1. Its name;
2. Its location;
3. Date when it began business;
4. Name of the owner;



5. Name of the operator;
6. Number of tons of coal mined therein;
7. Number of men employed therein;
8. Price received for coal sold.

**Section 9. Amendment.)** Section 38-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-04-07. Coal Mine Operators to Report to Coal Mine Inspector—Contents of Report.)** Each coal mine operator within this state shall make a verified report to the state coal mine inspector annually containing all the information required to be kept under the provisions of section 38-04-06. However, the state coal mine inspector shall not make public the price received for coal sold at any individual mine but may make public the total valuation of all coal sold in the state.

**Section 10. Amendment.)** Section 38-05-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**38-05-07. Certificate of Qualification as Mine Foreman—Issuance—Grade Required—Qualifications—Form—Evidence—Record.)** The board of examiners shall issue a certificate of qualification for the position of mine foreman to each applicant who passes a successful examination showing his knowledge of mine workings, ventilation, gases, and black-damp, and his actual experience in underground or strip coal mining. No applicant receiving less than a grade of seventy-five percent on his entire examination shall be entitled to a certificate. A certificate shall be granted only to a person who is twenty-one years of age or over, of good moral character, a citizen of the United States, and a resident of this state, who has been employed in mining in the state of North Dakota for a period of five years prior to the issuance of a certificate, provided that up to four successfully completed academic years of college level training in engineering or general science may be substituted on a year-for-year basis for such employment, and shall possess a competent knowledge of coal mining. The certificate shall be in the form prescribed by the inspector, and shall show the full name, age, and birthplace of the person named therein and the length

or nature of his previous experience in coal mines, and shall designate the position for which he is qualified. A certificate shall be valid only when signed by a majority of the members of the board, and when so signed shall be sufficient evidence of the holder's competency for the duties of mine foreman under the provisions of this title. The inspector shall keep in his office a record of such certificates issued. All certificates issued shall cease to be valid in seven years after date of issuing.

Approved March 29, 1969.

---

## CHAPTER 330

S. B. No. 321  
(Wilhite)

### DISCRIMINATION BY COMMON PURCHASERS OF CRUDE PETROLEUM

#### AN ACT

To create and enact section 38-08-19 of the North Dakota Century Code, defining common purchasers of crude petroleum, prohibiting discrimination among purchasers of crude petroleum.

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

**Section 1.)** Section 38-08-19 of the North Dakota Century Code is hereby created and enacted to read as follows:

**38-08-19. Common Purchasers—Discrimination in Purchasing Prohibited.)**

1. Every person, association of persons, or corporation now engaged or hereafter engaging in the business of purchasing crude petroleum in this state shall be a common purchaser thereof.
2. Every common purchaser of crude petroleum shall, without discrimination in favor of one producer or royalty owner as against another in the same marketing district as determined by the industrial commission, purchase all oil tendered to it at the wellhead or at its

receiving terminal, which has been lawfully produced, provided that no common purchaser shall be required to purchase crude petroleum of inferior quality or grade, or which is unsuitable for its operations.

3. Whenever a common purchaser is unable to purchase all of the oil tendered to it hereunder, it shall purchase ratably from each marketing district, field, pool, or well, with respect to which such tenders are made. As between wells, purchases shall be considered ratable only if such purchases are made in proportion to the allowables which are or would be assigned to such wells under existing North Dakota industrial commission rules and regulations, and, as between marketing districts or fields or pools, purchases shall be considered ratable if such purchases are made in proportion to the sum of the allowables which are or would be assigned to all wells from which tenders are made in each such marketing district or field or pool.
4. Every common purchaser of crude petroleum is hereby expressly prohibited from discriminating in favor of its own production or that of an affiliate as against that of others, and the oil produced by such common purchaser or by an affiliate of such common purchaser shall be treated as that of any other producer for the purposes of ratable taking.
5. It shall be unlawful for any common purchaser to discriminate between oil transported from the wellhead to its receiving terminal in favor of one carrier of crude oil as against another, and nothing herein shall be construed to prevent any person, association of persons, or corporation from transporting crude oil from wellhead to receiving terminal of said common purchaser from properties in which such person, association of persons, or corporation may own an interest, and such person, association of persons, or corporation shall not be deemed to be in the business of purchasing, or of purchasing and selling crude petroleum within the meaning of this Act. Nothing herein shall be construed to prohibit any common purchaser from requiring that proper and reasonable facilities be erected and maintained at its receiving terminal by any person, association of persons, or corporation transporting crude oil to such terminal,

requiring that a surety bond be posted indemnifying said common purchaser from liability for transporter's failure to properly account to the owners of crude oil so transported, or posting a just and reasonable handling charge for accepting delivery at its receiving terminal.

6. The provisions of this Act shall cover the purchase, or purchase and sale of crude petroleum, and that gathering, handling, marketing, and all other charges assessed by a common purchaser against crude oil produced within this state shall be just and reasonable. The industrial commission, after notice and hearing as provided in section 38-08-11, may determine the justness and reasonableness of charges on its own motion or upon motion of any interested person.

Approved March 14, 1969.

## CHAPTER 331

H. B. No. 404  
(Connolly)

### HOLDER OF MINERAL INTEREST MAY FILE ADDRESS WITH SECRETARY OF STATE

#### AN ACT

To create and enact section 38-13-04 of the North Dakota Century Code, relating to the filing of addresses.

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

**Section 1.)** Section 38-13-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

**38-13-04. Filing of Addresses.)** Upon payment of a fee of five dollars, any person owning an individual mineral, leasehold or royalty interest in land may file with the secretary of state of this state a notice of his place of residence of post-office address.

Approved March 25, 1969.

## CHAPTER 332'

S. B. No. 45  
(Butler, Kelly, Rait, Schultz, Stroup)  
(From Legislative Research Committee Study)

RECLAMATION OF STRIP MINED  
LANDS

## AN ACT

To provide for the reclamation of strip mined lands, declaring a penalty, and providing an appropriation.

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

**Section 1. Declaration of Policy.)** It is declared to be the policy of this state to provide, after surface mining operations are completed, for reclamation of affected lands to encourage productive use including but not limited to: the planting of forests; the seeding of grasses and legumes for grazing purposes; the planting of crops for harvest; the enhancement of wildlife and aquatic resources; the establishment of recreational, home, and industrial sites; and for the conservation, development, management and appropriate use of all the natural resources of such areas for compatible multiple purposes, to aid in maintaining or improving the tax base, and protecting the health, safety and general welfare of the people, as well as the natural beauty and aesthetic values, in the affected areas of this state.

**Section 2. Definitions.)** Wherever used or referred to in this Act, unless a different meaning clearly appears from the context:

1. "Reclaimed or reclaim" means conditioning areas affected by surface mining to make them suitable for any uses or purposes consistent with those enumerated in the statement of policy.
2. "Overburden" means all of the earth and other materials which lie above natural deposits of coal, clay, stone, sand, gravel, or other minerals, and also means such earth and other materials disturbed from their natural state in the process of surface mining.

3. "Surface mining" relates to the mining of coal, clay, stone, sand, gravel, or other minerals by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed.
4. "Operator" means any person, firm, association, cooperative, corporation, any department, agency, or instrumentality of the state, or any governmental subdivision thereof engaged in and controlling a surface mining operation.
5. "Pit" means a tract of land, from which overburden has been or is being removed for the purpose of surface mining.
6. "Final cut" means the last pit created in a surface-mined area.
7. "High wall" means that side of the pit adjacent to unmined land.
8. "Affected land" means the area of land from which overburden has been removed for surface mining of any mineral or upon which overburden or refuse has been deposited, or both.
9. "Refuse" means all waste material directly connected with the cleaning and preparation of minerals mined by surface mining.
10. "Ridge" means a lengthened elevation of overburden created in the surface mining process.
11. "Peak" means a projecting point of overburden created in the surface mining process.
12. "Commission" means the public service commission, or such department, bureau, or commission as may lawfully succeed to the powers and duties of said commission.
13. "Permit term" means a period of time beginning with the date upon which a permit is given for strip mining of lands under the provisions of this Act, and ending

with the expiration of the next succeeding three years.

**Section 3. Necessity of License.)** It shall be unlawful, after January 1, 1970, for any operator to engage in surface mining, in an area where the overburden shall exceed ten feet in depth, without first obtaining from the commission a permit so to do, in such form as is hereinafter provided.

**Section 4. Application for License—Bond—Fee—Permit.)** Any operator desiring to engage in surface mining, in an area where the overburden shall exceed ten feet in depth, shall make written application to the commission for a permit. Application for such permit shall be made upon a form furnished by the commission, which form shall contain a description of the tract or tracts of land and the estimated number of acres thereof to be affected by surface mining by the applicant in the next succeeding three years, which description shall include the section, township, range, and county in which the land is located and shall otherwise describe the land with sufficient certainty so that it may be located and distinguished from other lands, and a statement that the applicant has the right and power by legal estate owned to mine by surface mining and to reclaim the land so described.

Such application shall be accompanied by a bond or security to attach to the described lands from and after the time a permit is granted which shall meet the requirements of section 7 of this Act; and a fee computed as follows: For an area of ten acres or less to be affected during the permit term, a fee of twenty-five dollars and an amount equal to the amount of seven dollars and fifty cents multiplied by the number of acres to be affected between two and ten acres, inclusive; for an area of more than ten acres but not more than fifty acres to be affected during the permit term, a fee of one hundred dollars and an amount equal to the amount of three dollars and fifty cents multiplied by the number of acres to be affected between eleven and fifty acres, inclusive; for an area of more than fifty acres to be affected during the permit term, a fee of two hundred seventy-five dollars and an amount equal to the amount of two dollars and fifty cents multiplied by the number of acres to be affected in excess of fifty acres. Upon the receipt of such application, a bond or security and all fees due from the operator, the commission shall issue a permit to the applicant which shall entitle him during the permit term to engage in surface mining on the land therein described.

An operator desiring to have his permit amended to cover additional land may file an amended application with the commission. Upon receipt of the amended application, and such additional fee and bond or security as may be required under the provisions of this Act, the commission shall issue an amendment to the original permit covering the additional land described in the amended application.

An operator may withdraw any land covered by a permit, excepting affected land, by notifying the commission thereof, in which case the penalty of the bond or security filed by such operator pursuant to the provisions of this Act shall be reduced proportionately.

Where acreage for which a permit has been in effect is not mined, or where mining operations have not been completed thereon during the permit term, the permit as to such acreage shall be extended by the department on a year-to-year basis without payment of any additional fee.

**Section 5. Duties of Operator.)** Every operator to whom a permit is issued pursuant to the provisions of this Act may engage in surface mining during the permit term upon the lands described in the permit upon the performance of and subject to the following requirements with respect to such lands:

1. All ridges and peaks of land affected by surface mining within six hundred and sixty feet and which are visible from any public road maintained with public funds, public building or cemetery that is being maintained in a usable condition, shall be graded to a rolling topography traversable by machines necessary for maintenance in accordance with planned use, with slopes having no more than twenty-five percent grade; but, such slopes need not be reduced to less than the original grade of the overburden of that area prior to mining.
2. The operator shall construct earth dams, where lakes may be formed, in accordance with sound engineering practices if necessary to impound water, provided the formation of the lakes or ponds will not interfere with underground or other mining operations.
3. On all affected land which is to be afforested the



operator shall construct access roads through the areas; the roads shall not be less than twenty-five feet in width and shall be constructed so that the right-of-way limits will be not more than six hundred sixty yards apart, with road grades not to exceed twenty percent and all ridges and peaks to be afforested shall be struck off to a minimum width of twenty-four feet at the top.

4. On all affected land which is to be seeded to pasture the operator shall strike off all peaks or ridges to a minimum width of thirty-five feet at the top.
5. On all affected land which is to be used for crops including hay, the operator shall grade peaks and ridges to a slope of not more than twenty-five percent and fill valleys in such manner that the area can be traversed with farm machinery reasonably necessary for such use.
6. Surface mining operations that remove and do not replace the lateral support, unless mutually agreed upon by the operator and the adjacent property owner, shall not approach property lines, established right-of-way lines of any public roads, streets or highways closer than a distance equal to ten feet plus one and one-half times the depth of the excavation, except where consolidated material or materials of sufficient hardness or ability to resist weathering and to inhibit erosion or sloughing exists in the high wall, in which case the distance from the property line or any established right-of-way line, unless mutually agreed, shall not be closer than a distance equal to ten feet plus one and one-half times the depth from the natural ground surface to the top of the consolidated material or materials.
7. The operator shall submit to the commission no later than the first day of September during each year of the permit term, a map in a form acceptable to the commission showing the location of the pit or pits by section, township, range, and county, with such other description as will identify the land which the operator has affected by surface mining during such permit term and has completed mining operations thereon, with a

- legend upon such map showing the number of acres of affected land.
8. A reclamation plan and map acceptable to the commission shall be submitted by the operator not later than the first day of December following the first year of the permit term. The operator's reclamation plan and the commission's approval or modification thereof shall be based upon the advice and technical assistance of the state soil conservation committee, the state game and fish department, the state forester, and other agencies or individuals having experience in foresting and reclaiming surface-mined lands with forest or agronomic or horticultural species, based upon scientific knowledge from research into reclaiming and utilizing forest and agronomic species on surface-mined lands. The operator's plan shall designate which parts of the affected land shall be reclaimed for forest, pasture, crop, horticultural, homesite, recreational, industrial, or other uses including food, shelter, and ground cover for wildlife and shall show the same by appropriate designation on the reclamation map. Any operator feeling aggrieved by the plan approved by the commission may request a hearing which shall be conducted in accordance with the provisions of chapter 28-32 of the North Dakota Century Code. The operator shall have the right of appeal in the manner prescribed therein.
  9. The operator shall sow, set out, or plant upon the affected land described in the reclamation plan and map or maps, seeds, plants, cuttings of trees, shrubs, grasses, or legumes as shall be approved in writing by the commission.
  10. All reclamation provided for hereunder shall be carried to completion by the operator prior to the expiration of three years after termination of the permit term, except that no planting of any kind shall be required to be made within depressed haulage roads or final cuts or any other area where pools or lakes may be formed by rainfall or drainage runoff from adjoining land.

Where natural weathering and leaching of any of such affected land fails to support plant growth at the end

of three years, the commission shall, at the request of the operator, extend the reclamation period from year to year for a period of five years from the termination of the permit term on the land in question. If further extension of the reclamation period is necessary to accomplish acceptable reclamation, such extension shall be made at the discretion of the commission, or the commission shall declare forfeiture of the surety bond or security on such land not satisfactorily reclaimed; however, after the second seeding or planting of any affected area, the area shall be deemed reclaimed.

11. If the operator is unable to acquire sufficient planting stock of desired tree species from state nurseries or any nursery within the state, or acquire such tree species elsewhere at comparable prices, the commission shall grant the operator an extension of time until planting stock is available to plant such land as originally planned, or shall permit the operator to select an alternate method of reclamation in keeping with the provisions of this Act.
12. Upon the application of the operator, the commission in its discretion may allow the modification of an approved reclamation plan, provided that justice requires the modification, and the modified plan will carry out the purposes of this Act.

**Section 6. Entry upon Lands for Inspection.)** The commission, or its accredited representatives, may enter upon lands of the operator at all reasonable times for the purpose of inspection, to determine whether the provisions of this Act have been complied with.

**Section 7. Bond of Operator—Amount—Sufficiency of Surety—Violations—Compliance.)** Any bond herein provided to be filed with the department by the operator shall be in such form as the commission shall prescribe, payable to the state of North Dakota, conditioned that the operator shall faithfully perform all requirements of this Act and comply with all rules of the commission made in accordance with the provisions of this Act. Such bond shall be signed by the operator as principal, and by a good and sufficient corporate surety, licensed to do business in North Dakota, as surety. The penalty of such bond shall be two hundred dollars for each acre or portion thereof of

land to be affected by surface mining in an area where the overburden shall exceed ten feet in depth, for the ensuing permit term. In lieu of such bonds, the operator may deposit cash or government securities or both with the commission in an amount equal to that of the required surety bond on conditions as above prescribed. The penalty of the bond or amount of cash and securities shall be increased or reduced from time to time as provided in this Act. Such bond or security shall be in effect and subject to forfeiture in accordance with this Act from and after the time a permit is granted by the commission until the mined acreages have been reclaimed, approved and released.

A bond filed as above prescribed shall not be canceled by the surety unless it shall give not less than ninety days' notice to the commission, and in no event shall a bond be canceled on lands that at the time of cancellation have become affected lands under the provisions of this Act.

If the license to do business in North Dakota of any surety upon a bond filed with the commission pursuant to this Act shall be suspended or revoked, the operator, within thirty days after receiving notice thereof from the commission, shall substitute for such surety a good and sufficient corporate surety licensed to do business in North Dakota. Upon failure of the operator to make substitution of surety as herein provided, the commission shall have the right to suspend the permit of the operator until such substitution has been made.

The commission shall give written notice to the operator of any violation of this Act or noncompliance with any of the rules and regulations promulgated by the commission hereunder and if corrective measures, approved by the commission, are not commenced, or agreed to within ninety days, the commission may proceed as provided in section 9 of this Act to request forfeiture of the bond or security. The amount of forfeiture shall be two hundred dollars for each acre or portion thereof of affected land. Such forfeiture shall fully satisfy all obligations of the operator to reclaim the affected land under the provisions of this Act.

The commission shall have the power to reclaim, in keeping with the provisions of this Act, any affected land with respect to which a bond has been forfeited.

Whenever an operator shall have completed all requirements

under the provisions of this Act as to any affected land, he shall notify the commission thereof. If the commission determines that the operator has completed reclamation requirements and achieved results appropriate to the use for which the area was reclaimed, the commission shall release the operator from further obligations regarding such affected land and the penalty of the bond shall be reduced proportionately.

**Section 8. Fees and Forfeitures—Deposit.)** All fees and forfeitures collected under the provisions of this Act shall be deposited in the general fund in the state treasury.

**Section 9. Bond Forfeiture Proceedings—Prerequisites.)** The commission may institute proceedings to have the bond of the operator forfeited for violation by the operator of any of the provisions of this Act or for noncompliance with any lawful rule or regulation promulgated by the commission thereunder.

**Section 10. Administrative Agencies Practice Act to Apply To This Act—Rules and Regulations.)** Chapter 28-32 of the North Dakota Century Code shall apply to this Act except as otherwise provided, and the commission may adopt and promulgate rules and regulations respecting the administration of this Act thereunder.

**Section 11. State Mine Inspector Shall Be Administrative Officer.)** The state mine inspector is designated as the chief administrative officer under this Act, and shall be responsible to the commission for carrying out its policies and directives in its administration. The state mine inspector shall devote an appropriate portion of his time to fulfilling his duties, and shall provide such office space as is necessary from his existing facilities.

**Section 12. Penalties.)** Any person required by this Act to have a permit who engages in surface mining in an area where the overburden shall exceed ten feet in depth, without previously securing a permit to do so as prescribed by this Act, is guilty of a misdemeanor, and on conviction thereof shall be fined not less than fifty dollars nor more than one thousand dollars. Each day of operation without the permit required by this Act shall be deemed a separate violation.

Notwithstanding any other provision of this Act, the com-

mission may by injunctive procedures, without bond or other undertaking, proceed against any operator found to be surface mining without a permit or in violation of the provisions of this Act, or the rules and regulations promulgated thereunder. No liability whatsoever shall accrue to the commission or its authorized representative in proceeding against any operator pursuant to this section.

**Section 13. 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, state, or any department, agency or officer thereof, for any purposes relating to the reclamation of any affected lands.

**Section 14. Appropriation.)** There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, to the public service commission for the purpose of administering the provisions of this Act for the biennium beginning July 1, 1969, and ending June 30, 1971. June 30, 1971.

Approved March 26, 1969.



# MOTOR VEHICLES

---

## CHAPTER 333

H.B. No. 187  
(Hensrud, Boustead)

### DEFINITION OF HOUSE CAR

#### AN ACT

To amend and reenact subsection 21.1 of section 39-01-01 of the North Dakota Century Code, relating to the definition of a house car.

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

**Section 1. Amendment.)** Subsection 21.1 of section 39-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21.1 "House car" shall mean a motor vehicle which has been reconstructed or manufactured for private use as sleeping or living quarters.

Approved March 14, 1969.

## CHAPTER 334

S. B. No. 226  
(Longmire)

POLITICAL SUBDIVISIONS AUTHORIZED TO CARRY  
INSURANCE ON VEHICLES AND AIRCRAFT

AN ACT

To amend and reenact subsection 1 of section 39-01-08 of the North Dakota Century Code, relating to authority of state, and political subdivisions to carry insurance on vehicles and aircraft.

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

**Section 1. Amendment.)** Subsection 1 of section 39-01-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The state of North Dakota or any department, agency, or bureau, as well as any county, city, or other political subdivision including townships, school and park districts using or operating motor vehicles and aircraft, are hereby authorized to carry insurance for their own protection and for the protection of any employees from claims for loss or damage arising out of or by reason of the use or operation of such motor vehicle or aircraft, whether such vehicle or aircraft at the time the loss or damage in question occurred was being operated in a governmental undertaking or otherwise. If a premium savings will result therefrom, such policies of insurance may be taken out for more than one year, but in no event beyond a period of five years.

Approved March 14, 1969.



H. B. No. 516  
(Committee on Delayed Bills)

## REGISTRATION OF RECONSTRUCTED VEHICLES

## AN ACT

To amend and reenact subsection 4 of section 39-04-01 of the North Dakota Century Code, relating to exclusion of penalties and nonuse fees for late registration of reconstructed vehicles.

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

**Section 1. Amendment.)** Subsection 4 of section 39-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Reconstructed vehicle" shall mean any vehicle of a type required to be registered hereunder materially altered from its original construction by the removal, addition or substitution of essential parts, new or used. A reconstructed vehicle may be registered upon the payment of the same fees for the calendar year that are paid for a motor vehicle of comparable make and year as the reconstructed vehicle, excluding penalties as provided in section 39-04-16 and nonuse fees as provided in section 39-04-18;

Approved March 29, 1969.

H. B. No. 463  
(R. Peterson, Weber, Metzger, Aafedt, Belter)

**MOTOR VEHICLE REGISTRATION AND  
FEES**

**AN ACT**

To provide for a change of renewal and effective dates for motor vehicle registration; to create and enact section 39-04-14.1 of the North Dakota Century Code; and to amend and reenact sections 39-04-14 and 39-04-15 of the North Dakota Century Code, relating to the date for renewal and effective dates of motor vehicle registration.

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

**Section 1. Motor Vehicle Registration and Fees—Extended Period.)** Notwithstanding the provisions of section 39-04-19, passenger motor vehicles required to be registered in this state during the period beginning January 1, 1970, through March 31, 1971, inclusive, shall be furnished license plates upon the payment of 1.25 times the annual fees that would otherwise be assessed against such vehicles pursuant to chapter 39-04.

**Section 2. Amendment.)** Section 39-04-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-04-14. Renewal of Registration.)** Every vehicle registration, except those described in sections 39-04-14.1 and 39-04-15.1, under this chapter shall expire on December thirty-first each year and shall be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of January each year. An owner who has made proper application for renewal of registration of a vehicle previous to January first but who has not received the number plates, plate, or registration card for the ensuing year shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of such new plates.



**Section 3.)** Section 39-04-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**39-04-14.1. Renewal of Passenger Motor Vehicle Registration.)** Every passenger motor vehicle registration under this chapter shall expire March thirty-first each year and shall be renewed annually upon application by the owner and by payment of the fees required by law, such renewal to take effect on the first day of April each year. An owner who has made proper application for renewal of registration of a passenger motor vehicle previous to April first but who has not received the number plates, plate, or registration card for the ensuing year shall be entitled to operate or permit the operation of such vehicle upon the highways upon displaying thereon the number plates or plate issued for the preceding year for such time, to be prescribed by the department, as may be required for the issuance of such new plates.

**Section 4. Amendment.)** Section 39-04-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-04-15. When Registration Fees Become Due and Delinquent.)** The registration fee for a motor vehicle shall become due as soon as such vehicle first is used upon the highways of this state and, except as otherwise provided in this chapter, upon January first in each year thereafter. The annual registration fee shall be paid upon transfer of ownership in the vehicle and in any event on or before February first, and shall be delinquent after February first unless paid. Except as otherwise provided in this chapter, license fees falling due between January second and December thirty-first shall become delinquent upon the expiration of ten days after the same becomes due, except that the registration fee for a passenger motor vehicle shall become due as soon as such vehicle first is used upon the highways of this state and, except as otherwise provided in this chapter, upon April first in each year thereafter. The annual registration fee shall be paid upon transfer of ownership in the vehicle and in any event on or before April first, and shall be delinquent after May first unless paid. Except as otherwise provided in the chapter, license fees falling due between April second and March thirty-first shall become delinquent upon the expiration of ten days after the same becomes due.

Approved March 25, 1969.

## CHAPTER 337

H.B. No. 186  
(Hensrud, Boustead)

## VEHICLES EXEMPT FROM REGISTRATION

## AN ACT

To amend and reenact subdivisions a and c of subsection 2 of section 39-04-18 of the North Dakota Century Code, relating to motor vehicles.

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

**Section 1. Amendment.)** Subdivisions a and c of subsection 2 of section 39-04-18 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

- a. Farm tractors as defined in subsection 17 of section 39-01-01 and road rollers and other road construction or maintenance machinery that cannot be operated on the highways and streets of this state in a normal operating manner.
- c. Motor vehicles registered in any other state or territory when coming into this state a distance not exceeding twenty miles, provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state. Nor shall such vehicles be required to pay any other tax, and no registration fee or tax shall be required when such vehicles do not leave the incorporated limits of any city while in the state of North Dakota within a zone circumscribed by a line running parallel to the corporate limits of any city or contiguous cities and twenty miles distant therefrom. Nothing contained in this section shall be construed as preventing trucks from coming into the state such distance as shall be necessary to reach the nearest railway shipping station.

Approved March 14, 1969.



## CHAPTER 338

H.B. No. 185  
(Hensrud, Boustead)

## REGISTRATION OF FARM VEHICLES

## AN ACT

To amend and reenact section 39-04-19, subsection 5 of the North Dakota Century Code, relating to the registration of farm vehicles.

**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 1967 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 73,280 pounds which are used as farm vehicles only, shall be entitled to registration pursuant to the following fee schedule and the provisions of this subsection. Farm vehicles shall be considered, for the purpose of this subsection, as trucks or combinations of trucks and trailers weighing from 24,001 to 73,280 pounds owned and operated by a bona fide resident farmer who uses such vehicles exclusively for transporting his own property between farms and the usual local trading places and not for hire.

Gross Weights	1st, 2nd and 3rd Years	4th and 5th Years	6th and 7th Years	8th and Subsequent Years
0-4,000	18.00	14.50	10.75	10.00
4,001-6,000	23.25	18.50	14.00	10.00
6,001-8,000	28.50	22.75	17.00	10.00
8,001-10,000	33.75	27.00	20.25	11.75
10,001-12,000	39.00	31.25	23.50	13.75
12,001-14,000	44.25	35.50	26.50	15.50
14,001-16,000	49.50	39.50	29.75	17.25
16,001-18,000	54.75	43.75	32.75	19.25
18,001-20,000	60.00	48.00	36.00	21.00
20,001-22,000	65.25	52.25	39.25	22.75
22,001-24,000	70.50	56.50	42.25	24.75
24,001-26,000	75.50	60.50	45.25	26.75
26,001-28,000	85.50	68.50	51.25	30.75

Gross Weights	1st, 2nd and 3rd Years	4th and 5th Years	6th and 7th Years	8th and Subsequent Years
28,001-30,000	95.50	76.50	57.25	34.75
30,001-32,000	105.50	84.50	63.25	38.75
32,001-34,000	115.50	92.50	69.25	42.75
34,001-36,000	125.50	100.50	75.25	46.75
36,001-38,000	135.50	108.50	81.25	50.75
38,001-40,000	145.50	116.50	87.25	54.75
40,001-42,000	155.50	124.50	93.25	58.75
42,001-44,000	165.50	132.50	99.25	62.75
44,001-46,000	175.50	140.50	105.25	66.75
46,001-48,000	185.50	148.50	111.25	70.75
48,001-50,000	195.50	156.50	117.25	74.75
50,001-52,000	205.50	164.50	123.25	78.75
52,001-54,000	215.50	172.50	129.25	82.75
54,001-56,000	225.50	180.50	135.25	86.75
56,001-58,000	235.50	188.50	141.25	90.75

  

Gross Weights	1st, 2nd, 3rd and 4th Years	5th, 6th, 7th, 8th and 9th Years	10th and Subsequent Years
58,001-60,000	750.00	600.00	525.00
60,001-62,000	785.00	628.00	549.50
62,001-64,000	820.00	656.00	574.00
64,001-66,000	855.00	684.00	598.50
66,001-68,000	890.00	712.00	623.00
68,001-70,000	925.00	740.00	647.50
70,001-72,000	960.00	768.00	672.00
72,001-73,280	995.00	796.00	696.50

Approved March 25, 1969.

## CHAPTER 339

H. B. No. 261  
(Atkinson, Jenkins)

## MOTOR VEHICLE CERTIFICATES OF TITLE

## AN ACT

To amend and reenact sections 39-05-09 and 39-05-17 of the North Dakota Century Code, relating to the transfer and contents of motor vehicle certificates of title.

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

**Section 1. Amendment.)** Section 39-05-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-05-09. Issuance, Contents, Delivery, and Term of Certificate.)** After checking the application for a certificate as provided in section 39-05-09, the department, if it is satisfied that the applicant is the person entitled to the possession of the vehicle, shall issue in the name of the owner a certificate of title bearing a serial number, the signature of the registrar, and the seal of his office. Such certificate shall set forth further the date issued, a description of the vehicle as determined by the department, a statement of the owner's title and of all liens or encumbrances upon the vehicle therein described and whether possession is held by the legal owner. Upon the reverse side of such certificate shall be contained forms for the assignment of title or interest and warranty thereof by the owner with a space for the notation of liens and encumbrances upon such vehicle at the time of a transfer. The amount of any lien or encumbrance upon the vehicle need not be shown anywhere on the certificate of title, only the fact of such lien or encumbrance, and the identity of the lienholder or encumbrancer. The department shall deliver the certificate of title to the owner. Said certificate shall be good for the life of the vehicle as long as the vehicle is owned or held by the original holder of such certificate.

**Section 2. Amendment.)** Section 39-05-17 of 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 vehicle shall endorse an assignment and warranty of title upon the certificate of title for such 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 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 with an application of the purchaser for a new certificate of title showing the name of the legal owner, the registered owner, the date of the lien of the legal owner, which certificate of title when issued shall be returned by the motor vehicle registrar to the legal title owner, 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, accompanied by a transfer fee of one dollar, and shall make an application for and obtain a new certificate of title for such vehicle. A violation of the provisions of this section shall constitute a misdemeanor.

Approved March 18, 1969.



## CHAPTER 340

H. B. No. 393

( Boustead, Aafedt, Hickle, Hentges )

## DRIVER LICENSING

## AN ACT

To amend and reenact subsection 9 of section 39-06-03, sections 39-06-14, 39-06-16, 39-06-17, 39-06-30, subsections 3 and 7 of section 39-06-32, sections 39-06-33 and 39-06-43 of the North Dakota Century Code, relating to what persons shall not be licensed, classified driver's license, exhibiting license, minimum age for driver's license, meaning of conviction, defining an habitually reckless or negligent driver, the form and effect of notice of suspension, and the period of time for extending suspension or revocation of driving privileges, and to create and enact a new section 39-06-40.1 of the North Dakota Century Code, relating to a prohibition against reproducing a driver's license, and to provide a penalty.

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

**Section 1. Amendment.)** Subsection 9 of section 39-06-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. To any person who has been convicted four times of a misdemeanor, violation or offense on the highways, roads or streets involving the movements of a vehicle within the preceding two-year period. No conviction for speeding shall be considered when the offense was less than ten miles per hour over the limit.

**Section 2. Amendment.)** Section 39-06-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-06-14. Licenses Issued to Operators—General—Classified Driver's License.)**

1. The commissioner, shall, upon payment of a three dollar-fee, issue to every applicant qualifying therefor an operator's license as applied for in the form prescribed by the commissioner, which license shall bear thereon a distinguishing number assigned to the licensee, the full name, date of birth, residence address, and a brief des-

cription 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. 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.

2. Whenever the commissioner issues a license to a person under the age of eighteen years, such license shall be designated and clearly marked as a "provisional" license. Upon renewal as applicable to operator licenses, the commissioner may for reasonable cause as shown by its records, designate the renewal of the license as provisional. Otherwise a license in usual form shall be issued subject to other provisions of this chapter. Provisional licenses shall be subject to suspension by the commissioner without preliminary hearing upon a showing by the records or other sufficient evidence that the licensee has violated the provisions of this chapter or any other law of this state or municipal ordinance adopted by local authorities regulating the operation of motor vehicles on the highway.
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 vehicles or combination of vehicles except vehicles under class four.

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; and

(b) Vehicles under class four.

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 pounds; and

(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.

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 and/or passengers ride within an enclosed cab.

Provided, however, that before one can be examined and licensed to operate any vehicle falling under class 4, he must first be licensed to operate a motor vehicle under either class 1, 2, or 3. Upon passing an examination to operate a vehicle under class 4, the commissioner or his



duly authorized agent shall certify the class 1, 2, or 3 license of the successful examinee, whichever the case may be, by stamping or otherwise indicating on the license an authorization to operate vehicles falling under class 4.

4. The department may accept a certificate of driving experience in lieu of a driving test on class 1 or 2 applications, for those persons licensed to operate and who have had experience operating motor vehicles in such classes, when such certificate is issued by an employer of the applicant and the applicant has first met the other examination requirements for the license for which he is applying. Such certificate may be submitted as evidence of the applicant's experience or training in the operation of the types of equipment covered by the license for which he is applying.
5. Any holder of a classified license who drives a motor vehicle otherwise than as permitted by the class of license issued to him shall be deemed to be driving a motor vehicle without being duly licensed by this chapter. The holder of a classified license who desires to obtain a different class license in one of the classes provided by this chapter must exchange or renew such license. The commissioner may impose such rules and regulations as he may deem necessary with respect to such renewals or exchanges for the proper administration of this chapter. No class 1 or 2 license shall be issued to any person under eighteen years of age.
6. If any holder of a license issued pursuant to this chapter suffers permanent loss of use of a hand, arm, foot, leg, or eye, he shall, before operating any motor vehicle or motor cycle, make a report thereof to the commissioner who shall take such reasonable action as may be proper under the provisions of this chapter as to re-examination to determine if the licensee is capable of operating vehicles for which the individual is licensed.

**Section 3. Amendment.)** Section 39-06-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended

and reenacted to read as follows:

**39-06-16. License To Be Carried and Exhibited On Demand.)** Every licensee shall have his operator's license or permit in his immediate possession at all times when operating a motor vehicle and shall display the same, upon demand of any court, municipal court, a county justice, a patrolman, peace officer, or a field deputy or inspector of the highway department. However, no person charged with violating this section shall be convicted or assessed any court costs if he produces in court, to the chief of police or in the office of the arresting officer an operator's license or permit theretofore issued to him and valid and not under suspension, revocation or cancellation at the time of his arrest.

**Section 4. Amendment.)** Section 39-06-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-06-17. Restricted Licenses.)** 1. The commissioner upon issuing an operator's license shall have authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

2. The commissioner may either issue a special restricted license or may set forth such restrictions upon the usual license form. The commissioner shall likewise restrict licenses pursuant to the requirements of section 39-16.1-09.

3. A restricted operator's license may be issued to any child, otherwise qualified, upon the written recommendation of his parent or guardian. No such license shall be issued unless the child, accompanied by his parent or guardian, shall appear in person and satisfy the examining officer that:

- (a) The child is at least fourteen years of age;
- (b) The child is qualified to operate an automobile safely;

- (c) It is necessary for the child to drive his parent's or guardian's automobile without being accompanied by an adult; and
- (d) The child has completed at least six hours of behind-the-wheel instruction by an instructor acceptable to the commissioner; and, the parent or guardian, at all times, shall be responsible for any and all damages growing out of the negligent operation of a motor vehicle by any such child. The provisions of this section shall not authorize the child to drive a motorcycle, commercial truck, motor bus, or taxicab.

4. The commissioner may upon receiving satisfactory evidence of any violation of the restrictions of such license suspend or revoke the same but the licensee shall be entitled to a hearing as upon a suspension or revocation under this chapter.

5. It is a misdemeanor, punishable by a fine of not more than one hundred dollars and by imprisonment for not more than thirty days or by both such fine and imprisonment, for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to him.

**Section 5. Amendment.)** Section 39-06-30 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-06-30. Conviction—Meaning and Effect.)** For purposes of title 39 of the North Dakota Century Code the term "conviction" shall mean a final order or judgment of conviction by a trial court having jurisdiction. Also, for the purposes of this chapter a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction.

**Section 6. Amendment.)** Subsections 3 and 7 of section 39-06-32 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 3. Is an habitually reckless or negligent driver of a motor

vehicle; conviction of three misdemeanors, violation or offense on the highways, roads or streets against traffic regulations governing the movement of vehicles within a period of twelve months shall be deemed to be habitually reckless or negligent; provided said violations or offenses do not arise out of the same accident or occurrence; or a conviction for speeding when the offense was less than ten miles per hour over the limit.

7. Has been convicted four times of a misdemeanor, violation or offense on the highways, roads or streets, involving the movement of a vehicle within the preceding two-year period; provided said violations or offenses do not arise out of the same accident or occurrence or a conviction for speeding when the offense was less than ten miles per hour over the limit.

Section 7. Amendment.) Section 39-06-33 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-06-33. Hearing Subsequent To License Suspension.)** Upon suspending the license and/or driving privilege of any person as authorized in section 39-06-32, the commissioner shall immediately notify the licensee in writing and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed twenty days after receipt of such request in the county wherein the licensee resides unless the department and licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a re-examination of the licensee. Upon such hearing the commissioner shall either rescind his order of suspension, or, good cause appearing therefor, may continue, modify, or extend the suspension of such license or revoke such license. In the case of suspensions under the authority of subsection 6 of section 39-06-32 of the North Dakota Century Code, the operator shall first be given notice of intention to suspend and shall have ten days from the date of receipt of such notice to request a hearing upon the proposed order of suspension. Pending such hearing, which shall be conducted in the same manner as other hearings, provided for in this section, the suspension of the license of the operator demanding the hearing shall be held in abeyance.



**Section 8. Amendment.)** Section 39-06-43 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-06-43. Extension of License Suspension or Revocation.)** The commissioner upon receiving a record of the conviction of any person upon a charge of driving a vehicle while the license or driving privileges of such person was suspended shall extend the period of such suspension for an additional like period and if the original suspension was for an indefinite or unstated period of time, the additional suspension shall be for a period of six months on and after such person would otherwise have been entitled to the return of license or privileges. If the conviction was upon a charge of driving while a license or driving privileges was revoked the commissioner shall not issue a new license for an additional period of one year from and after the date such person would otherwise have been entitled to apply for a new license.

**Section 9.)** Section 39-06-40.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**39-06-40.1. Reproducing Operator's or Driver's License or Permit.)** 1. It shall be unlawful for any person to print, photograph, photostat, duplicate 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 printed, photograph, photostat, duplicate, reproduction or facsimile unless authorized by the provisions of the North Dakota law.

2. It shall also be unlawful for any person to alter in any manner any operator's or driver's license or permit or to display or have in his possession any altered operator's or driver's license or permit.

3. Every person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment for not less than ten days nor more than six months and there shall be imposed in addition thereto a fine of not less than one hundred dollars nor more than five hundred dollars. The minimum penalty provided in this section shall be mandatory notwithstanding any other provisions of law.



4. The commissioner upon receiving a record of the conviction or other satisfactory evidence of the violation of this section shall revoke forthwith the operator's or driver's license or driving privileges or such person for not less than one year.

Approved March 29, 1969.

---

## CHAPTER 341

S. B. No. 78  
(Longmire)

### RENEWAL OF DRIVERS' LICENSES

#### AN ACT

To amend and reenact section 39-06-19 of the North Dakota Century Code, providing an exception to the requirement for examination of persons applying for renewal of operators' licenses one year or more after expiration of such licenses.

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

**Section 1. Amendment.)** Section 39-06-19 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-06-19. Expiration of License—Renewal.)** Every operator's license issued under the provisions of this chapter shall expire and be renewed according to the following schedule: The expiration date of operator's license for every person whose year of birth occurred in a year ending in an odd numeral shall be twelve o'clock midnight on the last day of the birth month in the next succeeding year ending in an odd numeral. The expiration date of operator's license for every person whose year of birth occurred in a year ending in an even numeral shall be twelve o'clock midnight on the last day of the birth month in the next succeeding year ending in an even numeral. Application with fee for renewal of license shall be presented to the commissioner not prior to thirty days before the birth date anniversary of the applicant. The commissioner may require an examination of an applicant as upon an original applica-

tion. Every application for renewal of a license by an applicant under the age of twenty-one or over the age of seventy shall be accompanied by a certificate of examination from either the driver licensing or examining authorities or a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant. An application for a motor vehicle operator's license from an applicant applying for first license under the age of twenty-one may be accompanied by a certificate of examination from a physician or an optometrist, licensed in this or another state, containing a statement as to the corrected and uncorrected vision of the applicant, in lieu of the eye examination conducted by the driver licensing authorities. No certificate of examination shall be dated more than six months prior to the date of the driver license application. Every person submitting application and fee for renewal of license one year or more after expiration of license, except an applicant whose military, or merchant marine service, as defined in section 16-18-01, has terminated less than sixty days prior to such application, shall be treated as a new driver and subject to the examination as upon an original application. The fee for every operator's license shall be three dollars.

Approved March 29, 1969.

## CHAPTER 342

H. B. No. 318  
(Burke)

## PENALTY FOR DRIVING WHILE INTOXICATED

## AN ACT

To amend and reenact subsection 2 of section 39-08-01 of the North Dakota Century Code, relating to second or subsequent convictions for driving while under the influence of intoxicating liquor.

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

**Section 1. Amendment.)** Subsection 2 of section 39-08-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Upon a first conviction or a subsequent conviction not within an eighteen-month period, any person violating any provision of this section shall be punished by a fine of not less than one hundred dollars nor more than two hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. Upon a second or subsequent conviction within an eighteen-month period, such person shall be punished by imprisonment in the county jail for not less than three days nor more than ninety days, and in the discretion of the court, a fine of not less than one hundred fifty dollars nor more than five hundred dollars. In the event the complaint does not include the allegation that if convicted, such conviction would be the second such conviction of the person within an eighteen-month period as provided in this section, the court may take judicial notice of such fact if indicated by the records of the state highway department or make such finding based on other evidence. Under no circumstances shall the punishment prescribed in this section be subject to suspension or a deferred imposition of sentence.

Approved March 25, 1969.



## CHAPTER 343

H. B. No. 222

(Boustead, Boyum, Kuehn, Berg)

PERMITTING RIGHT TURN AT  
RED LIGHT AFTER STOP

## AN ACT

To amend and reenact subsection 3 of section 39-10-05 of the North Dakota Century Code, relating to traffic control signal legend to permit right turns on red under certain circumstances and to amend and reenact subsection 45 of section 24-01-01.1, subsection 64 of section 39-01-01, and section 24-01-15 of the North Dakota Century Code, relating to the definition and designation of through highways.

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

**Section 1. Amendment.)** Subsection 3 of section 39-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Red alone or "Stop":
  - a. Vehicular traffic facing a steady red signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in subsection 3b;
  - b. When a sign is in place permitting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make the turn indicated by such sign after stopping as required by subsection 3a. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;
  - c. Unless otherwise directed by a pedestrian-control signal as provided in section 39-10-06, pedestrians facing a steady red signal alone shall not enter the

roadway.

**Section 2. Amendment.)** Subsection 45 of section 24-01-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

45. "Through street or through highway" shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highways and in obedience to either a stop sign or yield sign, when such signs are erected by law.

**Section 3. Amendment.)** Subsection 64 of section 39-01-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

64. "Through highway" shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway and in obedience to either a stop sign or yield sign, when such signs are erected by law;

**Section 4. Amendment.)** Section 24-01-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-01-15. Commissioner to Designate Through Highways.)** The highway commissioner with reference to highways under his jurisdiction, may designate as through highways any state highway or part thereof and erect stop signs or yield signs at specified entrances thereto where vehicles are not otherwise required by law to stop or yield right-of-way.

Approved March 13, 1969.

S. B. No. 101  
(Longmire)

## INTERSECTION RIGHT-OF-WAY

### AN ACT

To amend and reenact section 39-10-22 of the North Dakota Century Code, relating to vehicles approaching or entering an intersection.

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

**Section 1. Amendment.)** Section 39-10-22 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-10-22. Vehicle Approaching or Entering Intersection.)**

1. When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right;
2. The right-of-way rule declared in this section is modified at through highways and otherwise as hereinafter stated in this chapter.

Approved March 8, 1969.



H. B. No. 498  
(Dahl, Hoffner, Kelsch, Kuehn, Linderman)

**MOVING HEAVY EQUIPMENT AT  
RAILROAD CROSSINGS**

**AN ACT**

To create and enact section 39-10-66 of the North Dakota Century Code, relating to the Uniform Motor Vehicle Code concerning the movement of heavy equipment at railroad grade crossings.

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

**Section 1.)** Section 39-10-66 of the North Dakota Century Code is hereby created and enacted to read as follows:

**39-10-66. Moving Heavy Equipment at Railroad Grade Crossings.)**

1. No person shall operate or move any crawler-type tractor, steam shovel, derrick, roller, or any equipment or structure having a normal operating speed of ten or less miles per hour or a vertical body or load clearance of less than one-half inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
2. Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than fifteen feet nor more than fifty feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.
3. No such crossing shall be made when warning is given by automatic signal or crossing gates or a flagman or otherwise of the immediate approach of a railroad train

or car. If a flagman is provided by the railroad, movement over the crossing shall be under his direction.

Approved March 15, 1969.

---

## CHAPTER 346

H. B. No. 218  
(Halcrow, Connolly)

### PASSENGER BUS AND OTHER VEHICLE WIDTH

#### AN ACT

To amend and reenact subsection 1 of section 39-12-04 of the North Dakota Century Code, relating to the width of vehicles and authorizing passenger buses of a width not exceeding one hundred two inches to be operated on highways designated by the commissioner.

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

**Section 1. Amendment.)** Subsection 1 of section 39-12-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \*1. A total outside width, including load thereon, of eight feet. Passenger buses exceeding eight feet, but not exceeding one hundred two inches in width may be operated only on and over those highways in the state designated by the highway commissioner. This limitation shall not apply to construction and building-moving contractors' equipment, or to equipment used by such contractors to move their own equipment and when so moved by its owner or owners, which moving equipment shall not exceed ten feet, nor to implements of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset; nor shall such limitation apply to farmers or ranchers or employees under their supervision when moving hay in the stack for his or their own use or in cooperation with other owners, providing that equipment used for this purpose shall be operated along the extreme right edge of the road or highway,



and shall be operated only between the hours of sunrise and sunset and in accordance with reasonable rules and regulations prescribed by the state highway commissioner; nor shall such limitation apply to a commercial haystack mover who shall have first obtained a seasonal haystack-moving permit from the state highway commissioner. Provided, however, that any commercial haystack mover possessing a valid permit may also haul bales under the authority of the permit issued authorizing the hauling of haystacks. The fee for such permit shall be fifteen dollars which shall be in lieu of registration requirements while such vehicle is used for haystack moving only. Applicant shall have filed proof of liability insurance coverage in an amount not less than fifty thousand dollars and shall provide a red flag both to the front and to the rear of such haystack at all times when located upon any public highway and shall operate only between the hours of sunrise and sunset and in accordance with such additional reasonable rules and regulations as may be prescribed by the state highway commissioner.

Approved March 26, 1969.

**\*Note:** Section 1 of chapter 347, 1969 S.L., also amends subsection 1 of section 39-12-04, 1969 S.L.

H. B. No. 469

(Link, Goodman, Connolly, W. Erickson, Opedahl)

## MARKING OF OVERWIDTH VEHICLES

## AN ACT

To amend and reenact subsection 1 of section 39-12-04 of the North Dakota Century Code, relating to marking of overwidth vehicles for visibility while they are operated on the highway.

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

**Section 1. Amendment.)** Subsection 1 of section 39-12-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \*1. A total outside width, including load thereon, of eight feet. This limitation shall not apply to construction and building-moving contractors' equipment, or to equipment used by such contractors to move their own equipment and when so moved by its owner or owners, which moving equipment shall not exceed ten feet, nor to implements of husbandry temporarily propelled or moved upon the highways of this state between sunrise and sunset; nor shall such limitation apply to farmers or ranchers or employees under their supervision when moving hay in the stack for his or their own use or in cooperation with other owners, providing that equipment used for this purpose shall be operated along the extreme right edge of the road or highway, and shall be operated only between the hours of sunrise and sunset and in accordance with reasonable rules and regulations prescribed by the state highway commissioner; nor shall such limitation apply to a commercial haystack mover who shall have first obtained a seasonal haystack moving permit from the state highway commissioner. Provided, however, that any commercial haystack mover possessing a valid permit may also haul bales under the authority of the permit issued authorizing the hauling of haystacks. The fee for such permit shall be fifteen dollars which shall be in lieu of registration requirements while such vehicle is used for haystack moving

only. Applicant shall have filed proof of liability insurance coverage in an amount not less than fifty thousand dollars and shall operate only between the hours of sunrise and sunset and in accordance with such additional reasonable rules and regulations as may be prescribed by the state highway commissioner. All vehicles, including their load, exempted from the width limitations provided by this subsection, when operating on a public highway, shall be preceded and followed by a flagman, or shall have mounted a sign or device on a pole or rod of such type and such height as approved by the state highway commissioner, indicating the presence of an overwidth, slow-moving vehicle.

Approved March 26, 1969.

\*Note: Section 1 of chapter 346, 1969 S.L., also amends subsection 1 of section 39-12-04, 1969 S.L.



## CHAPTER 348

S. B. No. 291  
(Coughlin, Nasset)

**VEHICLE WIDTH, HEIGHT, AND  
LENGTH LIMITATIONS**

**AN ACT**

To amend and reenact subsection 7 of section 39-12-04 of the 1967 Supplement to the North Dakota Century Code, relating to width, height, and length limitations on vehicles—exceptions.

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

**Section 1. Amendment.)** Subsection 7 of section 39-12-04 of the 1967 Supplement of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. A combination of vehicles consisting of truck-tractor, semitrailer and trailer, stinger steered motor truck-trailer or semitrailer designed to transport motor vehicles including the load thereon, exceeding sixty feet in length but not exceeding sixty-five feet in length may be operated only on and over those highways in the state designed by the highway commissioner.

Approved March 14, 1969.

H. B. No. 429  
(Backes, J. Peterson)

LIMITATIONS ON VEHICLE  
LOAD EXTENSION

AN ACT

To amend and reenact section 39-12-06 of the North Dakota Century Code, relating to limitations on extending of load beyond front and side of motor vehicle.

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

**Section 1. Amendment.)** Section 39-12-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-12-06. Limitations on Extending of Load Beyond Front or Side of Motor Vehicle.)** No motor vehicle carrying any load extending more than three feet beyond the front thereof and no passenger vehicle which carries any load extending beyond the lines of the left fenders of such vehicle nor extending more than twelve inches beyond the line of the fenders on the right side of such vehicle shall be operated on the highways. This limitation shall not apply to equipment used by a well driller contractor or structural material or equipment of telephone, power and telegraph companies provided such contractor or companies shall have paid a fifteen-dollar annual permit per vehicle to operate such equipment issued by the state highway department, which shall have authority to establish reasonable permit conditions and regulations in the interest of safety, public interest and adverse weather conditions and to comply with federal law. The state highway department shall have authority to revoke permits when such holder violates or abuses the privilege or conditions of permit.

Approved March 26, 1969.

## CHAPTER 350

H. B. No. 221

(Boustead, Boyum, Hentges, Weber, Berg)

MAINTENANCE OF PROOF OF  
FINANCIAL RESPONSIBILITY

## AN ACT

To amend and reenact section 39-16.1-03, subsection 1 of section 39-16.1-04, subsection 2 of section 39-16.1-07, and subdivision a of subsection 1 and subsection 3 of section 39-16.1-19 of the North Dakota Century Code, relating to the type of notice of an unsatisfied judgment under financial responsibility law, to clarify the law relating to the effect of failure to maintain proof of financial responsibility, to reduce the period that proof of financial responsibility is required to be maintained from five to three years and to require the payment of an additional fee for reissuing a license after proof of financial responsibility has been allowed to lapse and is subsequently reestablished.

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

**Section 1. Amendment.)** Section 39-16.1-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-16.1-03. Notice of Failure to Satisfy Judgment.)** When any person fails within thirty days to satisfy any judgment, it shall be the duty of the clerk of the court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the commissioner immediately after the expiration of said thirty days, a certified copy of such judgment or a certified copy of the docket entries in an action resulting in a judgment for damages or a certificate of facts relative to a judgment on a form provided by the commissioner. If the judgment debtor is a nonresident, the commissioner shall transmit a certified copy of the judgment to the official in charge of the issuance of drivers' licenses of the state of which the judgment debtor is a resident.

**Section 2. Amendment.)** Subsection 1 of section 39-16.1-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commissioner, upon receipt of a certified copy of a judgment or a certified copy of the docket entries in an action resulting in a judgment on damages or a certificate of facts relative to a judgment on a form provided by the commissioner, shall forthwith suspend the license or operating privilege, of any person against whom such judgment was rendered except as hereinafter otherwise provided in this section and in section 39-16.1-06.

**Section 3. Amendment.)** Subsection 2 of section 39-16.1-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. If a person by final order or judgment is convicted of or forfeits any bail or collateral deposited to secure an appearance for trial for any offense requiring the revocation of license, or for operating a motor vehicle upon the highway while his privilege to drive is under suspension, revocation, or cancellation, such license and/or driving privileges shall remain suspended, revoked or cancelled and shall not at any time thereafter be renewed nor shall any license be thereafter issued to such person unless and until he shall give and thereafter maintain proof of financial responsibility.

**Section 4. Amendment.)** Subdivision a. of subsection 1 and subsection 3 of section 39-16.1-19 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

a. At any time after three years from the date such proof was required when, during the three-year period preceding the request, the commissioner has not received record of a conviction or a forfeiture of bail which would require the revocation of the license and/or operating privilege of the person by or for whom such proof was furnished; or

3. Whenever any person whose proof has been canceled or returned under subdivision c of subsection 1 of this section applies for a license within a period of three years from the date proof was originally required, any such application shall be refused and no license shall be returned or reissued and the person's operator's license

and driving privileges shall remain under suspension or revocation, unless the applicant shall reestablish such proof for the remainder of such three-year period and pay to the commissioner in addition to any other fees, a fee of ten dollars.

Approved March 13, 1969.

---

## CHAPTER 351

S. B. No. 146

(Ringsak, Freed, Holand, Nething, Meschke)

### SUSPENSION OF COLLECTION OF FEE FOR UNSATISFIED JUDGMENT FUND

#### AN ACT

To amend and reenact section 39-17-02 of the North Dakota Century Code, relating to the establishment and administration of the unsatisfied judgment fund and providing for when collection of fees shall be suspended.

**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 provi-



sions 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. 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 29, 1969.

---

## CHAPTER 352

S.B. No. 313  
(Ringsak, Nething)

### COMPROMISE OF REPAYMENT BY MOTORIST TO UNSATISFIED JUDGMENT FUND

#### AN ACT

To amend and reenact section 39-17-10 of the North Dakota Century Code, relating to repayment by a motorist of payments made on his behalf by the unsatisfied judgment fund, and providing that, under the supervision of the court, the repayment amount may be compromised.

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

**Section 1. Amendment.)** Section 39-17-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-17-10. Amount To Be Repaid Before Privileges Restored—Interest—Installment Payments Permissible—Compromise of Amount Due.)** Where the driver's license or driving privileges of any person, or the registration of a motor vehicle

registered in his name, has been suspended or revoked pursuant to the laws of this state, and the state treasurer has paid from the fund any amount toward the satisfaction of a judgment and costs recovered against such person, the suspension or revocation shall not be removed, nor the driver's license or driving privileges or registration restored, nor any new license or driving privilege issued or granted to or registration be permitted to be made by such person until he has repaid in full to the state treasurer the amount so paid from such fund, together with interest thereon at the rate of two percent per annum from the date of such payment; and has furnished proof of financial responsibility as required by the laws of this state; provided that the court in which such judgment was rendered, may, upon ten days' notice to the attorney general, make an order permitting payment of the amount which such person is indebted to the fund, to be paid in installments, and in such case, such person's driver's license, or his driving privileges, or registration privileges, if the same have been suspended or revoked, or have expired, may be restored and shall remain in effect until and unless such person defaults, in making any installment payment specified in such order. In the event of any such default, the commissioner shall, upon notice of such default, suspend such person's driver's license, or driving privileges, or registration privileges until the amount of default has been paid in full and the additional sum of two hundred dollars has been paid to the fund to be applied to the judgment, providing that the judgment debtor may petition the court in which the judgment was rendered for a compromise of the judgment. The court in its discretion, upon notice to the attorney general, may order a compromise if the court is satisfied that such a compromise would be in the interests of justice and that the fund would benefit therefrom. Upon payment in full of such compromised amount the attorney general shall issue a satisfaction of judgment to the judgment debtor. In no case shall a compromise be ordered which is less than five hundred dollars or twenty percent of the judgment, whichever amount is greater.

Approved March 29, 1969.

## CHAPTER 353

H.B. No. 189  
(Hensrud, Emerson)

## BONDS OF MOBILE HOME DEALERS

## AN ACT

To amend and reenact section 39-18-02 of the North Dakota Century Code, relating to mobile home dealers' bonds.

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

**Section 1. Amendment.)** Section 39-18-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-18-02. Bond Required.)** Before the issuance of a mobile home dealer's license, as provided by law, the applicant for such license shall furnish a surety bond executed by the applicant as principal and executed by a surety company licensed and qualified to do business within the state of North Dakota, be in the amount of five thousand dollars, and be conditioned upon the faithful compliance by said applicant as a dealer, if such license be issued to it or him, that such dealer will comply with all of the laws of the state of North Dakota pertaining to such business, and regulating or being applicable to the business of said dealer as a dealer in mobile homes, and indemnifying any person dealing or transacting business with such dealer in connection with any mobile home from any loss or damage occasioned by the failure of such dealer to comply with the provisions of the laws of the state of North Dakota, including, but not limited to, the furnishing of a proper and valid certificate of title to the vendee of the mobile home within ninety days of the sale of such mobile home, and that such bond shall be filed with the registrar of motor vehicles prior to the issuance of the license herein provided for. Provided, however, that the aggregate liability of the surety to all such persons for all such losses or damages shall, in no event, exceed the amount of such bond. Any third party sustaining injury within the terms of the bond may proceed against the principal and surety without making the state a party to any such proceedings.

Approved March 17, 1969.



## CHAPTER 354

S. B. No. 193

(Becker, Nasset, Torgerson, Van Horn, Mutch, Decker)

TITLING, TAXATION, AND LICENSING  
OF MOBILE HOMES

## AN ACT

To amend and reenact sections 39-18-03 and 57-55-01 of the North Dakota Century Code, relating to the exemption of certain sleeping trailers from personal property and mobile homes taxes, and declaring an emergency.

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

**Section 1. Amendment.)** Section 39-18-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-18-03. Titling and Licensing of Mobile Homes, House Trailers and Travel Trailers—License Fee in Lieu of Personal Property Tax.)** Every person other than a dealer who acquires a travel trailer, house trailer or mobile home shall within ninety days thereafter apply to the motor vehicle registrar for an official certificate of title to such vehicle in the manner and subject to the conditions prescribed in chapter 39-05. Except when transported by a driveaway transporter duly registered and licensed under the laws of this state, no person shall haul a mobile home, house trailer or travel trailer upon the highways of the state of North Dakota unless the same shall first be registered with and titled by the motor vehicle department, a certificate of title has been issued, and it displays a number plate issued by and under such regulations as the registrar of motor vehicles may prescribe. The annual fee for such licensing shall be ten dollars for mobile homes and house trailers, and in accordance with the following schedule for travel trailers as defined by section 57-55-01:

1. Where the length is less than twelve feet, five dollars.
2. Where the length is twelve feet or more but less than fifteen feet, ten dollars.
3. Where the length is fifteen feet or more but less than

nineteen feet, twenty dollars.

4. Where the length is nineteen feet or more but less than twenty-four feet, thirty dollars.
5. Where the length is twenty-four feet or more but less than twenty-nine feet, forty dollars.

If such mobile home, house trailer or travel trailer enters the state carrying the current number plate of another state, no number plate shall be required by the state of North Dakota for a period of thirty days.

The annual license fee provided for in this section shall be in lieu of all personal property taxes upon such trailers but shall not preclude the taxation of certain mobile homes pursuant to chapter 57-55.

If such mobile home, house trailer or travel trailer remains stationary or parked within the state of North Dakota for a period of one year, no license shall be required for that year; provided that nothing in this chapter shall permit the use of a dealer's tag on such mobile home, house trailer or travel trailer after the same has been sold by the dealer to whom such tag was issued.

**Section 2. Amendment.)** Section 57-55-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-55-01. County Auditor to Tax Mobile Homes.)** On or before January fifteenth of each year all nonself-propelled mobile homes or trailer houses, but not travel trailers, shall be taxed by the county auditor of the county of such trailer owner's domicile. Upon payment of the tax to the county treasurer, the treasurer shall issue a trailer tax decal which shall be valid in any county of this state during the period for which it was issued. A "travel trailer" is a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently equipped for towing and when factory equipped for the road, having a body width not exceeding eight feet and being of any length provided its gross weight does not exceed four thousand five hundred pounds, or being of any weight provided its body length does not exceed twenty-nine feet.

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

Approved March 29, 1969.

---

## CHAPTER 355

S. B. No. 447  
(Forkner)

### POWERS AND DUTIES OF RECIPROCITY COMMISSION

#### AN ACT

To amend and reenact sections 39-19-01 and 39-19-03 of the North Dakota Century Code, relating to the authority of the reciprocity commission to execute agreements, arrangements, or declarations involving the powers and duties of the reciprocity commission, and declaring an emergency.

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

**Section 1. Amendment.)** Section 39-19-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-19-01. Reciprocity Commission—Membership—Substitute Membership—Powers and Duties.)** The reciprocity commission shall consist of the state highway commissioner, the motor vehicle registrar, the superintendent of the state highway patrol, the state tax commissioner, and a member of the public service commission. Each regular member of the reciprocity commission may appoint his own substitute to act for him in his absence. This commission shall have the power to execute agreements, arrangements, or declarations involving the reciprocal use of the highways of this state by vehicles excepted in part or in full from registration requirements or mile tax payments in lieu thereof, or involving reciprocity between this state and any other state on matters relating to drivers' licensing, financial responsibility, traffic law enforcement, vehicle sizes and weights and vehicle inspection. The commission shall

also have the power to enter into reciprocal agreements with the appropriate officials of any other state under which it may waive all or any part of the requirements imposed by the laws or statutes of this state upon those who use or consume in the state of North Dakota gasoline, other motor vehicle fuel or special fuel upon which the tax has been paid to such other state, provided that the officials of such other state grant equivalent privileges with respect to gasoline, other motor vehicle fuel or special fuel used in such other state but upon which the tax has been paid to the state of North Dakota.

**Section 2. Amendment.)** Section 39-19-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-19-03. Reciprocal Use of Highways.)** No person shall operate a vehicle upon the highways of this state unless the driver is licensed to operate a motor vehicle in this state or under a reciprocal agreement, arrangement or declaration, unless all appropriate fuel taxes have been paid or have been waived pursuant to a reciprocal agreement, arrangement or declaration, and such vehicle is registered under the laws of this state, has paid the mile tax in lieu of registration, or has complied with the requirements of a reciprocity agreement, arrangement or declaration executed by the reciprocity commission in accordance with powers and authority delegated to the commission by law.

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

Approved March 26, 1969.



## CHAPTER 356

H. B. No. 225

(Boustead, Boyum, Berg, Kuehn)

**CONSENT TO CHEMICAL TEST OF  
ALCOHOL CONTENT OF BLOOD**

## AN ACT

To amend and reenact sections 39-20-03, 39-20-04 and 39-20-05 of the North Dakota Century Code, relating to the consent to a chemical test to determine the alcoholic content of blood, the filing of affidavits when there has been a refusal to submit to such chemical test, and the time for conducting administrative hearings.

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

**Section 1. Amendment.)** Section 39-20-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-20-03. Consent of Person Incapable of Refusal Not Withdrawn.)** Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by section 39-20-01 and the test or tests may be given.

**Section 2. Amendment.)** Section 39-20-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-20-04. Revocation of Privilege to Drive Motor Vehicle Upon Refusal to Submit to Chemical Testing.)** If a person under arrest refuses to submit to chemical testing, none shall be given, but the state highway commissioner, upon the receipt of a sworn report of the law enforcement officer, forwarded by the arresting officer within five days after the refusal, showing that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor, and that the person had refused to submit to the test or tests, shall revoke his license or permit to drive and any nonresident operating privilege for a period of six months; or if the person is a resident without a license or a permit to operate a motor vehicle in this state the commis-



sioner shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

**Section 3. Amendment.)** Section 39-20-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-20-05. Administrative Hearing on Request.)** Upon the written request of a person whose privilege to drive has been revoked or denied the commissioner shall grant the person an opportunity to be heard within thirty days after the receipt of the request, but the request must be made within sixty days after notice of revocation or denial is given such person. The hearing shall be before the commissioner or his authorized agent in the county wherein the alleged events occurred for which the person was arrested, unless the commissioner or his authorized agent and the person agree that the hearing may be held in some other county. The hearing shall be transcribed and its scope shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a vehicle upon the public highways while under the influence of intoxicating liquor; whether the person was placed under arrest; and, whether he refused to submit to the test or tests. Whether the person was informed that his privilege to drive would be revoked or denied if he refused to submit to the test or tests shall not be an issue. The commissioner or his authorized agent shall order either that the revocation or denial be rescinded or sustained.

Approved March 29, 1969.

## CHAPTER 357

S. B. No. 396

(Forkner, Meschke, Mutch, Nasset, Unruh, Roen)

MEASUREMENT OF BLOOD  
ALCOHOL CONTENT

## AN ACT

To amend and reenact subsection 4 of section 39-20-07 of the North Dakota Century Code, relating to method of measuring percent by weight of alcohol in the blood.

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

**Section 1. Amendment.)** Subsection 4 of section 39-20-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred cubic centimeters of blood.

Approved March 25, 1969.

## CHAPTER 358

S. B. No. 445

(Forkner, Meschke, Unruh, Mutch, Roen, Nasset)

FIELD INSPECTION OF BREATH TESTING  
DEVICES

## AN ACT

To amend and reenact subsection 5 of section 39-20-07 of the North Dakota Century Code, relating to field inspection of breath testing devices under the supervision of the state toxicologist.

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

**Section 1. Amendment.)** Subsection 5 of section 39-20-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The results of such chemical analysis shall be received in evidence when it is shown that the test was fairly administered, provided that a test of a person's blood, urine, breath, or other bodily substance and the result thereof is further shown to have been performed according to methods and/or with devices approved by the state toxicologist and by an individual possessing a certificate of qualification to administer the test issued by the state toxicologist. The state toxicologist is authorized to approve satisfactory techniques, devices, and methods of chemical analysis, and to determine and certify the qualifications of individuals to conduct such analysis. The state toxicologist may appoint, train, certify, and supervise field inspectors of breath testing equipment and its operation, and the inspectors shall report the findings of any inspection to the state toxicologist for appropriate action.

Approved March 26, 1969.



## CHAPTER 359

S. B. No. 444

(Forkner, Meschke, Nasset, Unruh, Mutch, Roen)

**BLOOD SAMPLES TO BE TAKEN  
FROM PERSONS KILLED IN  
AUTO ACCIDENTS****AN ACT**

To provide that blood specimens be taken from persons fatally injured in automobile accidents and be examined by the state toxicologist for statistical purposes, prohibiting the results of such examinations from being used as evidence, and providing an appropriation.

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

**Section 1. State Toxicologist to Examine Blood Specimens of Fatalities in Accidental Deaths Involving a Motor Vehicle.)** In cases of death occurring on or after July 1, 1969, resulting from a motor vehicle accident or other unnatural death occurring in a motor vehicle, the county coroner shall require that a blood specimen of at least 20 cc. be withdrawn from the body of the decedent within 24 hours after his death by a coroner, coroner's physician, or other qualified person, prior to embalming. The blood specimens shall be collected and preserved by methods and techniques established by the state toxicologist. The blood so drawn shall be sent to the state toxicologist for analysis for alcohol, carbon monoxide, and other drug content. The state toxicologist shall keep a record of all such examinations to be used for statistical purposes. The results of the examinations referred to in this section shall not be admissible in evidence in any action of any kind in any court or before any tribunal, board, agency, or person, but shall be used only for statistical purposes. The cumulative results of the examinations, without identifying the individuals involved, shall be disseminated to interested state and local officials and made public by the state toxicologist. Any person drawing blood and any person making any examination of blood under the terms of this Act shall be immune from all liability, civil or criminal, that might otherwise be incurred or imposed. The individual drawing the blood sample shall be paid a fee of five dollars by the state toxicologist for each acceptable blood specimen submitted for analysis under the requirements of this Act.

Section 2. Appropriation.) The sum of \$5,000.00 out of the general fund in the state treasury, or so much thereof as may be necessary, is appropriated to the state toxicologist for administering the provisions of section 1 of this Act.

Approved March 26, 1969.

Approved March 14, 1969

## CHAPTER 360

S. B. No. 202  
(Forkner, Mutch, Pyle, Doherty)

SLOW-MOVING VEHICLE IDENTIFICATION  
EMBLEM

AN ACT

To provide for the use of a slow-moving vehicle identification emblem, and providing a penalty for noncompliance.

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

**Section 1. Slow-Moving Vehicles Required to Display Identification Emblem.)** All implements of husbandry, as defined in section 39-01-01 of the North Dakota Century Code, and machinery, including all road construction machinery, which is designed for operation at a speed of twenty-five miles an hour or less, shall display a triangular slow-moving vehicle emblem whenever it is traveling along the roadway on any county, state, federal highway, or city street in the state of North Dakota. Such emblem shall be mounted so as to be visible from a distance of not less than five hundred feet to the rear. The highway commissioner shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem. 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.

**Section 2. Penalty.)** Any person who fails or refuses to comply with the provisions of this Act shall be guilty of a misdemeanor punishable by a fine of not more than twenty-five dollars for each offense.

Approved March 14, 1969.



## CHAPTER 361

H. B. No. 190  
(Hensrud, Emerson)

## MOTOR VEHICLE DEALERS' BONDS

## AN ACT

To amend and reenact section 39-22-05 of the North Dakota Century Code, relating to motor vehicle dealers' bonds.

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

**Section 1. Amendment.)** Section 39-22-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-22-05. Bond Required.)** Before the issuance of a motor vehicle dealer's 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 ten 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 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 registrar of motor vehicles 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.

Approved March 18, 1969.

## CHAPTER 362

H. B. No. 163  
(Giffey, Boustead)

## REGULATION OF SNOWMOBILES

## AN ACT

To provide for the regulation of the use of snowmobiles; providing a penalty; providing an appropriation; and declaring an emergency.

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

**Section 1. Definitions.)** For the purpose of this Act:

1. "Person" includes an individual, partnership, corporation, association, the state and its departments, agencies, and political subdivisions, and any body of persons, whether incorporated or not.
2. "Snowmobile" means a self-propelled vehicle designed for travel on snow, ice, or a natural terrain and steered by wheels, skis, or runners.
3. "Owner" means a person, other than a lien holder, having the property in or title to a snowmobile entitled to the use or possession thereof.
4. "Operate" means to ride in or on and control the operation of a snowmobile.
5. "Operator" means every person who operates or is in actual physical control of a snowmobile.
6. "Register" means the act of assigning a registration number to a snowmobile.
7. "Registrar" means the registrar of motor vehicles as provided in chapter 39-02.
8. "Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel.



9. "Dealer" means every person, partnership, or corporation engaged in the business of buying, selling, or exchanging snowmobiles, or who advertises, or holds himself out to the public as engaged in the buying, selling, or exchanging of snowmobiles, or who engages in the buying of snowmobiles for resale.

**Section 2. Snowmobile Registration—General Requirement.)**

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 snowmobile has been registered in accordance with the provisions of this Act.

**Section 3. Registration—Application—Issuance—Fees—Renewal.)** Application for registration shall be made to the registrar in such form as the registrar shall prescribe and furnish, and shall state the name and address of every owner of the snowmobile and be signed by at least one owner. A copy of such application shall serve as evidence of registration for a period of not more than thirty days from the date of application. Upon receipt of the application and the appropriate fee as hereinafter provided, such snowmobile shall be registered and a registration number and a certificate of registration assigned. Such registration number shall be:

1. At least two inches in height and of a reflectorized material; and
2. Securely affixed on each side of the forward half of the snowmobile in such position as to provide clear legibility for identification. Such certificate of registration shall include information regarding the manufacturer, model, year, and serial number, if such information is available; the address of the owner; and the address of the former owner or the dealer, as the case may be.

The fee for registration of each snowmobile shall be two dollars for a registration period of two years beginning July 1 of each biennium. The fee for initial registration of each snowmobile registered on and after July 1 of the second year of the biennium shall be one dollar. The fee for a duplicate or transfer registration shall be one dollar.

Every owner of a snowmobile shall renew his registration

in such manner as the registrar shall prescribe, upon payment of the same registration fees provided in this section. On or before March 1 of each year the registrar shall forward to the county auditor of each county in this state a list containing the number and owners thereof of registered snowmobiles in each such county.

Upon application for registration as prescribed in this section, any snowmobile dealer as defined in section 1 of this Act shall be issued registration numbers distinctively marked as dealer's registration numbers upon payment of the appropriate fee as prescribed in this section. Such dealer's registration numbers shall be used only on snowmobiles owned by the dealership.

**Section 4. Exemption from Fees and Registration.)**

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 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.

**Section 5. Disposition of Registration Fees.)** Fees from registration of snowmobiles shall be deposited with the state treasurer and credited to the motor vehicle registrar fund.

**Section 6. Transfer or Termination of Snowmobile Ownership or Change of Address of Owner.)** Within fifteen days after the transfer of ownership, or any part thereof, other than a security, interest, or the destruction or abandonment of any snowmobile, or a change of address of the owner as listed with the application for registration, written notice thereof shall be given by the owner to the registrar in such form as shall be prescribed by the registrar.

**Section 7. Licensing by Political Subdivisions.)** No political subdivision of this state shall require licensing or registration of snowmobiles subject to the provisions of this Act.

**Section 8. Rules and Regulations.)** Pursuant to this Code and this Act, rules and regulations for the regulation and use of snowmobiles shall be adopted as follows:

1. The registrar shall promulgate rules and regulations for the registration of snowmobiles and display of registration numbers.
2. The highway commissioner shall promulgate rules and regulations for regulating the use of snowmobiles on streets and highways under his jurisdiction.
3. The director of state parks shall promulgate rules and regulations for regulating use of snowmobiles in state parks and other state-owned land described in section 55-08-03.
4. The governing bodies of political subdivisions shall promulgate rules and regulations for regulating use of snowmobiles in recreation and other appropriate areas under their exclusive jurisdiction. The governing bodies of incorporated cities may, by ordinance, regulate the time of the day during which snowmobiles may be operated within the geographical limits of such city.

**Section 9. Rules for Operation of Snowmobiles.)**

1. No person shall operate a snowmobile upon the roadway, shoulder or inside bank or slope of any road, street, or highway in this state except as provided pursuant to this Act. No snowmobile shall be operated at any time within the right-of-way of any interstate highway within this state except for emergency purposes.
2. A snowmobile may make a direct crossing of a street or highway provided:
  - a. The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; and

- b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway; and
  - c. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
  - d. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.
3. No snowmobile shall be operated upon a public street or highway unless it is equipped with at least one head lamp, one tail lamp, and brakes, all in working order, which conform to standards prescribed by rule of the highway commissioner pursuant to the authority vested in him by this Code and this Act.
4. The emergency conditions under which a snowmobile may be operated other than as provided by this Act shall be such as to render the use of an automobile impractical under such conditions at such period of time and location.
5. It shall be unlawful for any person to drive or operate any snowmobile in the following ways which are declared to be unsafe and a public nuisance:
- a. At a rate of speed greater than reasonable or proper under all the surrounding circumstances.
  - b. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage to such person or property.
  - c. While under the influence of intoxicating liquor or narcotics or habit forming drugs.
  - d. Without a lighted head lamp and tail lamp when required for safety.
  - e. In any tree nursery or planting in a manner which damages or destroys growing stock.
  - f. Without a manufacturer-installed or equivalent muffler.



fler in good working order and connected to the snowmobile exhaust system.

6. It shall be unlawful for any person under the age of fourteen to operate a snowmobile upon the roadway, shoulder, or inslope of any road, street, or highway in this state.
7. When snowmobiles are operated within the right-of-way of any road, street, or highway of this state pursuant to this Act, during times or conditions that warrant the use of lights, such snowmobiles shall travel in the same direction as the direction of motor vehicles traveling on the side of the roadway immediately adjacent to the side of the right-of-way traveled by the snowmobile.
8. It shall be unlawful for any person to operate a snowmobile within a highway right-of-way as defined in subsection 37 of section 24-01-01.1 between April 1 and November 1 of any year.

**Section 10. Enforcement.)** Highway patrolmen of this state, county sheriffs, and city police officers, and their respective duly authorized representatives are hereby authorized to enforce the provisions of this Act.

**Section 11. Penalties.)** Any person who shall violate any provision of this Act or any regulation promulgated hereunder shall be guilty of a misdemeanor and be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than ninety days, or both such fine and imprisonment.

**Section 12. Appropriation.)** There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of \$5,000.00, or so much thereof as may be necessary, to the motor vehicle registrar for the purpose of administration of the registration of snowmobiles for the biennium beginning July 1, 1969, and ending June 30, 1971.

**Section 13. 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 except that registration of snowmobiles shall not be required until on and after October 15, 1969.

Approved March 29, 1969.

## CHAPTER 363

H. B. No. 48

(Bernabucci, Boyum, DeKrey, Giffey, Hensrud)

(Moquist, Schaffer, Weber)

(From Legislative Research Committee Study)

REGULATION OF COMMERCIAL  
DRIVING TRAINING

## AN ACT

Relating to the supervision of commercial driver training schools, and providing a penalty.

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

**Section 1. Definitions.)**

1. "Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, and charging a consideration or tuition for such services.
2. "Instructor" means any person, whether acting for himself as operator of a commercial driver training school or for such a school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of, persons learning to operate or drive motor vehicles.

**Section 2. Duties of Superintendent—Regulations.)**

1. The superintendent of the state highway patrol shall adopt and prescribe such regulations concerning the administration and enforcement of this Act as are necessary to protect the public. The superintendent shall inspect the school facilities and equipment of applicants and licensees and examine applicants for instructors' licenses.
2. The superintendent shall administer and enforce this Act and shall formulate and promulgate the regulations for its administration and enforcement.

**Section 3. Schools—License Required—Contents of Application for License.)** No commercial driver training school shall be established nor shall any existing school continue to operate on or after July 1, 1969, unless such school shall apply for and obtain from the superintendent a license in the manner and form prescribed by him.

The application for license shall include a statement of the location of the school, the equipment, courses of instruction, instructors, previous records of the school and instructors, financial statements, schedule of fees and charges, character and reputation of the operators, insurance and such other matters as the superintendent may prescribe for the protection of the public.

**Section 4. Instructors—License Required—Contents of Application for License.)** No person shall act as an instructor on or after July 1, 1969, unless such person applies for and obtains a license in the manner and form prescribed by this Act.

The regulations shall state the requirements for an instructor's license, including requirements concerning moral character, physical condition, knowledge of the courses of instruction, motor vehicle laws and safety principles, previous personal and employment records, and such other matters as the superintendent may prescribe for the protection of the public.

**Section 5. Expiration and Renewal of Licenses—Fees.)** All licenses shall expire on the last day of the calendar year and may be renewed upon application to the superintendent as prescribed by his regulations. Each application for an original or renewal school license shall be accompanied by a fee of five dollars, and each application for an original or renewal instructor's license shall be accompanied by a fee of two dollars. Such fees shall be deposited in the state treasury in the state highway fund. No license fees shall be refunded in the event any license is rejected, suspended, or revoked.

**Section 6. Refusal, Suspension, or Revocation of Licenses.)** The superintendent may refuse to issue, or may suspend or revoke a license in any case where he finds the applicant or licensee has violated any of the provisions of this Act or the regulations adopted by him. A suspended or revoked license shall be returned to the superintendent by the licensee.



**Section 7. Exclusions—Free Instruction—Colleges, Universities, and High Schools.)** This Act shall not apply to any person giving driver training lessons without charge, to employers maintaining driver training schools without charge for their employees only, nor to schools or classes conducted by colleges, universities, and high schools for regularly enrolled full or part-time students as a part of a normal program for such institutions.

**Section 8. Violations and Penalties.)** Any person who shall violate section 3 or 4 of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

Approved March 13, 1969.



## CHAPTER 364

S. B. No. 148  
(Nothing, Freed)

CONSTRUCTION OF LAW ENFORCEMENT  
TRAINING CENTER

## AN ACT

Making an appropriation for the construction of a law enforcement training center and providing for an additional fifty-cent fee for each new motor vehicle operator's license or renewal of such license during a two-year period.

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

**Section 1. Appropriation.)** There is hereby appropriated out of any unappropriated funds in the state highway fund in the state treasury, the sum of \$165,000.00, or so much thereof as may be necessary, to the highway patrol for the purpose of constructing, furnishing, operating and maintaining a law enforcement training center on property owned by the state of North Dakota and under the control of the adjutant general at Bismarck. Such appropriation shall not be available until an equal amount in matching funds is made available for this purpose by the federal government.

**Section 2. Additional Motor Vehicle Operator's License Fee Disposition.)** In addition to any other motor vehicle operator's license fees the highway commissioner, upon order of the governor, shall assess an additional fifty-cent fee for each new motor vehicle operator's license issued during the two-year period following the date of such order or for each renewal of an existing license during such two-year period. Such fee shall not be collected more than once from any applicant for a motor vehicle operator's license. The governor shall issue the order assessing such a fee when the federal matching funds referred to in section 1 hereof have been certified by the proper authority to be available. The amount collected hereunder shall be deposited in the state highway fund in the state treasury.

Approved March 29, 1969.

# MUNICIPAL GOVERNMENT

---

## CHAPTER 365

H. B. No. 145  
(Strinden, Froelich, Emerson)

### AUDITING CLAIMS AGAINST MUNICIPALITIES

#### AN ACT

To amend and reenact section 40-01-12 of the North Dakota Century Code, relating to audit of claims and accounts against municipalities.

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

**Section 1. Amendment.)** Section 40-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-01-12. Claims and Accounts Against Municipalities Audited.)** No account or claim against a municipality to be paid from any fund, including a municipal utilities fund, shall be allowed by the governing body thereof until a full itemized statement in writing has been filed with the governing body or unless otherwise authorized by the governing body pursuant to contract or other action. The governing body, in its discretion, may require the filing of any additional information which it may deem necessary to the proper understanding and audit of any claim or account and it may require the filing of a sworn statement in such form as it may prescribe. Every account or claim which is allowed by the governing body shall be shown in the minutes of the proceedings of the governing body except that wages and salaries of persons employed by the city may be consolidated and allowed in one order as provided by section 40-17-06 and reference made in the proceedings of the governing body to the payroll record certified to the city treasurer.

Approved March 8, 1969.

## CHAPTER 366

S. B. No. 63  
(Unruh)

**AUTHORIZING COUNCIL CITIES TO CHANGE  
TO MODERN COUNCIL FORM**

AN ACT

Relating to a change from the council system of government to the modern council form of government, providing the petition required therefor, the determination of the sufficiency of the petition by the city auditor, the procedure to be followed when the petition is filed, and for a special election and ballot thereon.

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

**Section 1. Change from Council System of Government—**  
**Petition Required.)** Any city incorporated as a city under the council form of government may change its organization thereunder and adopt the modern council form of government. The proceeding to change shall be initiated by a petition asking for such change signed by not less than one-third of the qualified electors of the city. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting at the preceding general election of the city. The signatures to such petition need not be contained in a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the address of each petitioner, and the length of his residence in the city. Any petitioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

**Section 2. City Auditor to Pass on Sufficiency of Petition.)** Within thirty days after a petition to change from the council system of government is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An



insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

**Section 3. Procedure When Petition to Change from Council System of Government is Filed—Special Election—Ballot.)**

When a petition to change from the council system of government, together with the city auditor's certificate of sufficiency, is filed with the governing body of a municipality, the governing body shall call a special election at which only the question of changing from the council system of government will be submitted. The date of such election shall not be less than thirty days nor more than ninety days after the date of the auditor's certificate has been filed. The election shall be conducted, returns thereof made, and the result thereof declared in all respects as are other city elections. Notice of such election shall be given by the publication of the proposition to be voted upon, the places where the election will be held, and the date of the election, in each newspaper published in the city, not more than twenty days and not less than five days before the date of such election. The ballots to be used at the election provided for in this section shall be in substantially one of the following forms:

Shall the city of \_\_\_\_\_ change from its organization under the council system of government and become a city under the modern council form of government with a five-man council?

Yes   
 No

Shall the city of \_\_\_\_\_ change from its organization under the council system of government and become a city under the modern council form of government with a seven-man council?

Yes   
 No

Shall the city of \_\_\_\_\_ change from its organization under the council system of government and become a city under the modern council form of government with an eleven-man council?

Yes

No

Approved March 5, 1969.

## CHAPTER 367

S. B. No. 210  
(Ruemmele, Freed)

### CONTRACTING BY MUNICIPALITIES

#### AN ACT

To create and enact a new subsection to section 40-05-01 of the North Dakota Century Code, relating to the grant of power to all municipalities to contract and be contracted with.

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

**Section 1. Amendment.)** Section 40-05-01 of the North Dakota Century Code is hereby amended and reenacted by creating a new subsection to read as follows:

To contract and be contracted with.

Approved March 5, 1969.

## CHAPTER 368

S. B. No. 370  
(Litten, Goldberg)

**MUNICIPAL PUBLIC TRANSPORTATION  
SYSTEM**

**AN ACT**

To create and enact subsection 28 of section 40-05-02 of the North Dakota Century Code, relating to provision of a municipal public transportation system, and its operation.

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

**Section 1. Amendment.)** Subsection 28 of section 40-05-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

**28. Public Transportation.)** To provide by ordinance for the purchase, acquisition, or establishment, and operation of a public transportation system. In the alternative to provide for payments under a contract, approved by the governing body of the city, with a private contractor, for the provision and operation of a public transportation system within the city.

Approved March 13, 1969.

## CHAPTER 369

H. B. No. 397  
(J. Peterson)

LIMITATION ON CITY FINES  
AND PENALTIES

## AN ACT

To amend and reenact section 40-05-06 of the North Dakota Century Code, relating to city fines and penalties limited.

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

**Section 1. Amendment.)** Section 40-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-05-06. City Fines and Penalties Limited.)** The fine or penalty for the violation of any ordinance, resolution, or regulation of a city shall not exceed five hundred dollars, and the imprisonment shall not exceed thirty days for one offense.

Approved March 25, 1969.



## CHAPTER 370

H. B. No. 481  
(Giffey, Matheny)

## SALE OF UNCLAIMED MOTOR VEHICLES

## AN ACT

To amend and reenact section 40-05-15 of the North Dakota Century Code, relating to unclaimed motor vehicles.

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

**Section 1. Amendment.)** Section 40-05-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-05-15. Unclaimed Motor Vehicles—When Sale Permitted—Bill of Sale Evidence of Title.)** Whenever any motor vehicle coming into the possession of any law enforcement agency of any county or municipal corporation of this state shall remain unclaimed and the towing, storage or other charges thereon are unpaid for a period of one month after coming into the possession of such law enforcement agency, and the owner cannot be found upon diligent inquiry or, being found and notified of the possession of such motor vehicle, shall refuse or neglect to receive the same and pay the legal charges thereon, such law enforcement agency shall sell such motor vehicle at public auction after giving the registered owner fifteen days' notice of such sale by ordinary mail addressed to the registered owner at his post-office address, if known, of the time and place of sale and by advertising such notice of sale in one issue of a newspaper published in the county where such sale is to be made or in the official newspaper of said county at least fifteen days prior to such sale. Out of the proceeds of said sale the towing, storage, and other charges and costs of sale shall be paid, and the balance of proceeds if any, shall be paid to the registered owner of such motor vehicle, or if such registered owner cannot be found the balance shall be paid to the general fund of the county or municipal corporation, as the case may be. If the address of the registered owner is unknown, the advertising



of the notice of such sale shall be sufficient notice to the registered owner.

If the sale price of said motor vehicle shall amount to one hundred dollars or more, the law enforcement agency shall give the purchaser a bill of sale for said motor vehicle and said bill of sale shall be evidence of valid ownership for the issuance of a certificate of title by the registrar of motor vehicles.

Approved March 25, 1969.

---

## CHAPTER 371

H. B. No. 41

(Aamoth, Bullis, Eagles, Freeman, Kelsch)

(Sanstead, Strinden)

(From Legislative Research Committee Study)

### HOME RULE IN CITIES

#### AN ACT

To provide for the establishment of home rule in cities under section 130, Constitution of the state of North Dakota.

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

**Section 1. Enabling Clause.)** Any city with a population of 100 or more persons as determined by the last federal census and desiring to avail itself of the provisions of this Act may proceed to frame, adopt, amend, or repeal home rule charters as herein provided in this Act.

**Section 2. Methods of Proposing Home Rule Charter.)** The governing body of any city may on its own motion cause a home rule charter to be framed and submitted for adoption to the electors of the city in the manner provided in this Act, or such proposal may be made in a petition filed with the governing body and signed by not less than fifteen percent of the qualified electors of the city voting in the last city election.

**Section 3. Charter Commission—Membership—Preparation and Submission of Charter—Compensation and Expenses—Publi-**

ca­tion.) Where proceedings have been initiated for a home rule charter the governing body of the city shall appoint a charter commission composed of five members to frame such charter. The chairman of the charter commission shall be designated by the governing body and shall be a charter commission member. Compensation and expenses of commission members shall be as determined by the governing body. The governing body may furnish the charter commission with office space, clerical help, legal and other assistance and supplies, and may appropriate and pay for same out of its general funds. The commission shall prepare and submit the charter within one year after appointment. The proposed charter shall then be published once in a newspaper in the city where the charter is to be considered, or, if there is no newspaper published in the city then in the official county newspaper of the county in which the city is located.

**Section 4. Submission of Charter to Electors.)** Not earlier than sixty days nor later than six months after such publication the proposed charter shall be submitted to a vote of the qualified electors of the city at a regular or special city election, or at any primary or general election that is to be held within such period of time, or at a special city election held concurrently with any primary or general election.

**Section 5. Ratification by Majority Vote—Supersession of Existing Charter and State Laws in Conflict Therewith—Filing of Copies of New Charter.)** If a majority of the qualified voters voting on the charter at the election shall vote in favor of the home rule charter it shall be deemed to be ratified and shall become the organic law of such city, and extend to all its local and city matters. Such charter and the ordinances made pursuant thereto in such matters shall supersede within the territorial limits and other jurisdiction of the city any law of the state in conflict therewith, and shall be liberally construed for such purposes. One copy of the charter so ratified and approved shall be filed with the secretary of state, one with the clerk of district court for the county in which the city is located, and one with the auditor of the city to remain as a part of its permanent records. Thereupon the courts shall take judicial notice of the new charter.

**Section 6. Powers.)** From and after the filing with the secretary of state of a charter framed and approved in reasonable conformity with the provisions of this Act, such city, and the citizens thereof, shall, if included in the charter and imple-

mented through ordinances, have the following powers set out in this Act:

1. To acquire, hold, operate, and dispose of property within or without the corporate limits, and exercise the right of eminent domain for such purposes.
2. To control its finances and fiscal affairs; to appropriate money for its purposes, and make payment of its debts and expenses; to levy and collect taxes, excises, fees, charges and special assessments for benefits conferred, for its public and proprietary functions, activities, operations, undertakings and improvements; to contract debts, borrow money, issue bonds, warrants and other evidences of indebtedness; to establish charges for any city or other services, and to establish debt and mill levy limitations, provided that all real and personal property in order to be subject to the assessment provisions of this subsection shall be assessed in a uniform manner as prescribed by the state board of equalization and the state supervisor of assessments.
3. To fix the fees, number, terms, conditions, duration, and manner of issuing and revoking licenses in the exercise of its governmental police powers.
4. To provide for city officers, agencies, and employees, their selection, terms, powers, duties, qualifications, and compensation.
5. To provide for city courts, their jurisdiction and powers over ordinance violations, duties, administration, and the selection, qualifications, and compensation of their officers; however, the right of appeal from judgment of such courts shall not be in any way affected.
6. To provide for all matters pertaining to city elections, except as to qualifications of electors.
7. To provide for the adoption, amendment, and repeal of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare, and penalties for a violation thereof.



8. To lay out or vacate streets, alleys, and public grounds, and to provide for the use, operation, and regulation thereof.
9. To define offenses against private persons and property and the public health, safety, morals, and welfare, and provide penalties for violations thereof.
10. To engage in any utility, business, or enterprise permitted by the Constitution or not prohibited by statute or to grant and regulate franchises therefor to a private person, firm, or corporation.
11. To provide for zoning, planning, and subdivision of public or private property within the city limits; to provide for such zoning, planning, and subdivision of public or private property outside the city limits as may be permitted by state law.
12. To levy and collect franchise and license taxes for revenue purposes.
13. To exercise in the conduct of its affairs all powers usually exercised by a corporation.
14. To fix the boundary limits of said city and the annexation and deannexation of territory adjacent to said city except that such power shall be subject to, and shall conform with the state law made and provided.
15. To contract with and receive grants from any other governmental entity or agency, with respect to any local, state or federal program, project or works.

It is the intention of this Act to grant and confirm to the people of all cities coming within its provisions the full right of self-government in both local and city matters within the powers enumerated herein. The statutes of the state of North Dakota, so far as applicable, shall continue to apply to home rule cities, except insofar as superseded by the charters of such cities or by ordinance passed pursuant to such charters.

**Section 7. Amendment or Repeal.)** The home rule charter adopted by any city may be amended or repealed by proposals submitted to and ratified by the qualified electors of the city in

the same general manner provided in section 2 and section 4 for the adoption of such charter. Amendments may be proposed by the governing body of the city or by petition of the number of electors provided in section 2 and submitted to the voters at the same election. The voters may at their option accept or reject any or all of such amendments by a majority vote of electors voting at the election. A proposal to repeal a home rule charter that has been adopted shall likewise be submitted to the electors of the city as set forth in this section.

**Section 8. Commission—Terms of Office—Vacancies.)** The terms of office of the members of the charter commission shall be four years. Any vacancy on said commission shall be filled by the governing body of the city.

**Section 9. Restriction on Proposals to Amend or Repeal.)** Any proposal to amend or repeal home rule charters shall not be submitted to the electorate more often than every two years.

**Section 10. Manner of Calling and Holding Elections.)** The elections provided for in this Act shall be called and held in the same manner as is provided for the calling and holding of a city elections except that all qualified voters of the city shall be eligible to vote at such elections and the form of ballot shall be prescribed by the charter commission so that the voter may signify whether he is for or against the proposed home rule charter or the amendment or repeal, as the case may be.

**Section 11. Effect of Amendment or Repeal on Salary or Term of Office.)** Repeal of a home rule charter shall cause the city affected by such repeal to revert to the form of government of such city immediately preceding adoption of the home rule charter and where positions to which officials were elected under the home rule charter are substantially the same as positions under the form of government to which the city reverts upon repeal, such elected officials shall continue to exercise the authority of such position for the salary prescribed by the home rule charter until expiration of their terms of office as prescribed by the home rule charter. No amendment of a home rule charter shall shorten the term for which any official was elected or reduce the salary of his office for that term.

**Section 12. Former Powers Preserved.)** All powers heretofore granted any city by general law are hereby preserved to each home rule city, respectively, and the powers so conferred



upon said cities by general law, are hereby granted to home rule cities.

**Section 13. Vested Property—Rights of Action—Actions Saved.)**

The adoption of any charter hereunder or any amendment thereof shall never be construed to destroy any property, action, rights of action, claims, and demands of any nature or kind whatever vested in the city under and by virtue of any charter theretofore existing or otherwise accruing to the city, but all such rights of action, claims, or demands shall vest in and inure to the city and to any persons asserting any such claims against the city as fully and completely as though the said charter or amendment had not been adopted hereunder. The adoption of any charter or amendment hereunder shall never be construed to affect the right of the city to collect by special assessment any special assessment theretofore levied under any law or charter for the purpose of public improvements, nor affect any right of any contract or obligation existing between the city and any person, firm, or corporation for the making of any such improvements and for the purpose of collecting any such special assessments and carrying out of any such contract.

Approved March 8, 1969.

## CHAPTER 372

H. B. No. 494  
(Strinden, Boustead)

**MAYOR AND TEN ALDERMEN  
FORM OF CITY GOVERNMENT**

AN ACT

To create and enact subsection 6 of section 40-08-03 of the North Dakota Century Code, providing a ten aldermen and mayor organization under the council form of government; amending and reenacting 40-08-04, and heading only of 40-08-06 of the North Dakota Century Code.

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

**Section 1.)** Subsection 6 of section 40-08-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

6. Cities of ten thousand or more inhabitants which have been incorporated and operating under the council form of government may change to a ten aldermen and mayor organization upon approval by a majority vote at a special election called pursuant to the procedure hereinafter provided.

**Section 2. Change to Ten Aldermen and Mayor—Petition Required.)** Any city of more than ten thousand inhabitants operating under the council form of government may change its organization thereunder and operate with ten aldermen and mayor. The proceeding to change shall be initiated by a petition asking for such change signed by not less than one-third of the electors of the city. For the purpose of this section the term "qualified electors of the city" shall mean the total number of electors voting at the preceding general election. The signatures to such petition need not be appended to a single paper, but one of the signers upon each paper shall make oath before an officer competent to administer oaths that each signature appearing upon such paper is the genuine signature of the person whose name it purports to be. Each petition, in addition to the names of the signers, shall contain the name, address, and age of each petitioner, and the length of his residence in the city. Any peti-

tioner shall be permitted to withdraw his name from a petition within five days after the petition is filed.

**Section 3. City Auditor to Pass on Sufficiency of Petition Requesting Change to Ten Aldermen and Mayor.)** Within thirty days after a petition to change to ten aldermen and mayor is filed, the city auditor shall examine the petition and ascertain from the voters' register whether or not the petition is signed by the required number of qualified signers. He shall attach to the petition his certificate showing the result of his examination, and if he finds the petition to be insufficient his certificate shall show the reason for such determination. An insufficient petition may be amended within ten days after the auditor's certificate is made. Within thirty days after an amended petition is filed, the auditor shall make an examination thereof, and if his certificate shows such amended petition to be insufficient, the petition shall be returned to the person filing the same without prejudice to the filing of a new petition. If the auditor shall find the petition or the amended petition to be sufficient, he shall place the same with his certificate before the governing body of the municipality.

**Section 4. Procedure When Petition to Change to Ten Aldermen and Mayor is Filed—Special Election—Ballot.)** When a petition to change to ten aldermen and mayor, together with the city auditor's certificate of sufficiency, is filed with the governing body of a municipality, the governing body shall call a special election at which only the question of changing to ten aldermen and mayor will be submitted. The date of such election shall not be less than thirty days nor more than ninety days after the date of the auditor's certificate has been filed. The election shall be conducted, returns thereof made, and the result thereof declared in all respects as are other city elections. Notice of such election shall be given by the publication of the proposition to be voted upon, the places where the election will be held, and the date of the election, in each newspaper published in the city, not more than twenty days and not less than five days before the date of such election. The ballot to be used at the election provided for in this section shall be in substantially the following form:

Shall the city of \_\_\_\_\_ change its organization and operate with ten aldermen and mayor?

Yes ( )

No ( )



**Section 5. Terms of Office Under Ten Aldermen—Staggered Terms Provided For—Nominating Petition Requirements.)** When a city operating under the council form of government changes to the ten aldermen and mayor organization, the alternation of the terms of the aldermen thereof shall be perfected as follows: The five aldermen receiving the greater number of votes shall serve until the third Tuesday in April following the second succeeding biennial election while the remaining five aldermen shall serve until the third Tuesday in April following the biennial election succeeding their election, and thereafter each alderman shall be elected to four-year terms and until their successors are elected and qualified. In cities electing ten aldermen, the candidates by means of their nominating petitions, must announce their intentions to seek a ward seat or an at-large seat. Upon approval of a change of organization to ten aldermen and mayor, all incumbent aldermen shall serve until the next biennial election at which time the aldermen seats shall be filled, however, the mayor shall complete his unexpired term for which elected.

**Section 6. Amendment.)** Section 40-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-08-04. Election of Aldermen.)** In cities containing six hundred inhabitants or less, the aldermen shall be elected at large. In all other cities operating under the council form of government, except in a city operating with ten aldermen and mayor, the aldermen shall be elected by wards, and two aldermen shall be elected from each ward. In cities operating under ten aldermen and mayor, one alderman shall be elected from each of the seven wards and three aldermen and mayor shall be elected at large.

**Section 7. Amendment.)** The heading only of section 40-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-08-06. Term of Office of Aldermen—Staggered Terms Provided for in Cities Where Other Than Ten Aldermen Elected.**

Approved March 25, 1969.

## CHAPTER 373

H.B. No. 169

(Aas)

**TERM OF OFFICE OF ELECTED OFFICIALS UNDER  
COUNCIL FORM OF GOVERNMENT****AN ACT**

To amend and reenact section 40-14-02 of the North Dakota Century Code extending the term of elected officials in a city operating under the council form of government to four (4) years.

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

**Section 1. Amendment.)** Section 40-14-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-14-02. Terms of Elective Officers.)** The terms of office of the mayor and aldermen shall be as provided in chapter 40-08. All other elective officers in a city operating under the council form of government shall hold their respective offices for four years and until their successors are elected and qualified.

Approved March 29, 1969.



## CHAPTER 374

S. B. No. 230

(Lowe, Unruh, Butler, Sands)

NOTICE TO CONSTRUCT, REBUILD, OR  
REPAIR SIDEWALKS

## AN ACT

To amend and reenact section 40-29-03 and to repeal section 40-29-12 of the North Dakota Century Code, relating to notice requirements for construction and repair of sidewalks.

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

**Section 1. Amendment.)** Section 40-29-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-29-03. Notice to Construct, Rebuild, or Repair Sidewalks.)** Except as otherwise provided in this chapter, if the governing body deems it necessary to construct, rebuild, or repair any sidewalk in the municipality, it shall notify each owner of record at the last address shown in the office of the register of deeds or the county treasurer and occupant of any lot or parcel of land adjoining the sidewalk to construct, rebuild, or repair the same at his own expense and subject to the approval of the street commissioner or city engineer, within the time designated in the notice. The notice shall be directed in the manner hereinbefore provided to the owner of record and occupant and shall set forth what work is to be done, the character of the same as specified in the ordinance, and the time within which he is required to do the work. The work shall be done to the satisfaction of the street commissioner or city engineer. The notice may be general as to the owner of record and occupant but shall be specific as to the description of the lot or parcel of ground adjacent to where the sidewalk is to be built or repaired. The street commissioner or city engineer shall serve such notice by certified mail or delivering a copy thereof to the occupant and owner of record of each lot or parcel of occupied land described in the notice, or as to the occupant by leaving a copy thereof at the dwelling house upon such lot or parcel of land with some person over the age of fourteen years

residing therein. If any lot or parcel of land is not occupied and service by mail is deemed impractical, the commissioner or city engineer may serve the notice by posting a copy thereof in a conspicuous place therein or immediately in front thereof. If such sidewalk is not repaired within the time fixed in such notice, the street commissioner or city engineer, as soon as practicable, shall repair the same and certify the cost thereof, with his return of service of the notice, to the city auditor, and the cost of such repairs shall be paid out of the sidewalk special fund.

**Section 2. Repeal.)** Section 40-29-12 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.

## CHAPTER 375

H. B. No. 371

(Diehl, Tweten, Kingsbury, Berg, Bunker)

TRANSFER OF SURPLUS IN A  
MUNICIPAL UTILITY FUND

AN ACT

To amend and reenact subsection 2 of section 40-33-12 of the North Dakota Century Code, relating to surplus in municipal utilities fund.

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

**Section 1. Amendment.)** Subsection 2 of section 40-33-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The governing body may transfer from the surplus in the fund to the general fund of the municipality or to any other fund of the municipality a total sum of not more than twenty percent of the gross receipts of the municipal utilities for the fiscal year of the municipality during which the transfer or transfers are made. In addition the governing body, upon adoption of a resolution declaring it necessary and upon approval of a majority of the votes cast at a regular city election, may transfer to the general fund of the municipality or to any other fund of the municipality from the surplus in the municipal utilities fund at the end of any fiscal year. The resolution and ballot shall state the specific amount or percentage to be transferred as hereinbefore provided.

Approved March 29, 1969.

## CHAPTER 376

S. B. No. 174  
(Stroup, Redlin)

REGULATION AND SALE OF POLITICAL  
SUBDIVISION BONDS

## AN ACT

Relating to the sale of municipal obligations and authorizing their sale for not less than ninety-eight percent of par value, and relating to provisions regulating municipal revenue bonds with respect to maximum interest rates and amending sections 2-06-10, 21-03-28, 40-27-09, 40-34-03, 40-35-08, 40-35-09, and 40-36-13, North Dakota Century Code, as amended.

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

**Section 1. Amendment.)** Section 2-06-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**2-06-10. Bonds and Other Obligations.)** An authority shall have the power to borrow money for any of its corporate purposes and issue its bonds therefor, including refunding bonds, in such form and upon such terms as it may determine, payable out of any revenues of the authority, including grants or contributions from the federal government or other sources, which bonds may be sold at public or private sale at not less than ninety-eight percent of par plus the interest accrued on the bonds to the date of the delivery thereof and shall bear interest at a rate or rates not exceeding seven per centum per annum. Any bonds issued pursuant to this chapter by an authority, or by a governing body exercising the powers thereof, shall be payable, as to principal and interest, solely from revenues of an airport or air navigation facility or facilities, and shall so state on their face, but if any such issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue shall be an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within such limitation or restriction. Neither the commissioners of an authority nor the governing body of a municipality nor any person executing such bonds shall be



liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.

In case any of the commissioners or officers of an authority or municipality whose signatures appear on any bonds or coupons shall cease to be such commissioners or officers after authorization but before the delivery of the bonds, the signature shall, nevertheless be valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this chapter shall be fully negotiable.

Any bond reciting in substance that it has been issued by the authority or municipality pursuant to the provisions of this chapter and for a purpose or purposes authorized to be accomplished by this chapter shall be conclusively deemed, in any suit, action, or proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to such provisions and for such purpose or purposes.

Bonds issued by an authority or municipality pursuant to the provisions of this chapter are declared to be issued for an essential public and governmental purpose and, together with interest thereon, and income therefrom, shall be exempt from all taxes.

For the security of any such bonds the authority or municipality may by resolution make and enter into any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, prior to the payment of current costs of operation and maintenance of the facilities. Whenever bonds are issued under this chapter and made payable from revenues of an airport involving municipalities with over ten thousand population, the governing body of the municipality shall be required, in the event that at any time all revenues, including taxes, appropriated and theretofore collected for such bonds are insufficient to pay principal or interest then due, to levy a general tax upon all of the taxable property in the municipality for the payment of such deficiency and at any time a deficiency is likely to occur within one year for

the payment of principal and interest due on such bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of such deficiency, and such taxes shall not be subject to any limitation of rate or amount applicable to other municipal taxes, provided that the initial resolution authorizing bonds for airport financing shall be published in the official paper, and any owner of taxable property within the city may within sixty days after such publication file with the city auditor a protest against the adoption of the resolution. If the governing body finds such protests to have been signed by the owners of taxable property having an assessed valuation equal to twenty percent or more of the assessed valuation of all taxable property within the city, as theretofore last finally equalized, all further proceedings under such initial resolution shall be barred.

**Section 2. Amendment.)** Section 21-03-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**21-03-28. Bids—Accompanied by Draft—Sale to Best Bidder—Rejection of All Bids.)** All bids shall be accompanied by a certified check, cashier's check, or bank draft, in the amount of not less than two percent of the bid. After all bids have been received, they shall be delivered forthwith to the governing body of the municipality, which shall award the sale of such bonds to the bidder who agrees to purchase them upon the terms most favorable to the municipality, unless the governing body determines to reject all bids. The governing body shall have the right to reject any and all bids. No sale shall be for less than ninety-eight percent of the par value of such bonds plus the interest accrued on the bonds to the date of the delivery thereof.

**Section 3. Amendment.)** Section 40-27-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-27-09. Sale or Exchange of Refunding Warrants—Issuance—Agreement by Governing Body to Exchange.)** Refunding warrants or bonds may be sold for cash in such manner as the governing body may direct, and the proceeds used to pay the warrants described in the initial resolution, or may be exchanged for such warrants, but no exchange shall be made at less than par plus accrued interest, and no sale shall be made at less than ninety-eight percent of par plus accrued interest



on the refunding warrants or bonds. Refunding warrants may be issued from time to time as the original warrants mature or are called for payment and redemption or may be sold to pay, or, by agreement with the holders thereof, may be exchanged for, warrants which are not due. The governing body may enter into an agreement with the holders of outstanding warrants relating to an exchange of such warrants for refunding warrants and may provide, in its discretion, that the agreement shall be effective only when the holders of not less than seventy-five percent of the warrants shall have entered into the agreement.

**Section 4. Amendment.)** Section 40-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-34-03. Mortgages and Mortgage Bonds—Issuance Over Debt Limit—Not General Obligations—Vote Required to Issue—Conditions.)** Municipalities may issue mortgage bonds beyond the general limits of the bonded indebtedness prescribed by law for the purpose of defraying the cost, or a part thereof, of a sewage disposal plant and system or of a garbage disposal plant in accordance with the provisions of section 40-34-02. Such bonds shall not impose any general liability upon the issuing municipality but shall be paid only out of the revenues received from the service charges as provided in this chapter or from the sale of the property under foreclosure of the mortgage or deed of trust. Such bonds shall be sold for not less than ninety-eight percent of par and shall bear interest at a rate of not more than seven percent per annum. No such bonds shall be issued, however, except upon the affirmative vote of three-fifths or more of the members of the governing body of the issuing municipality, and the form, recitals, maturities, rate of interest, and whether the bonds shall be payable annually or semiannually, shall be determined by the same vote. A municipality is authorized to execute and deliver any mortgage or deed of trust contemplated under the provisions of this chapter.

**Section 5. Amendment.)** Subsection 1 of section 40-35-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The rate or rates of interest, payable, semiannually, but not exceeding seven percent per annum, which such bonds shall bear;

**Section 6. Amendment.)** Section 40-35-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-35-09. Sale of Revenue Bonds—When Private Sale Authorized—Public Sale and Notice Thereof.)** Revenue bonds shall be sold at not less than ninety-eight percent of par. Such bonds may be sold at private sale to the United States of America or any agency, instrumentality, or corporation thereof, or to the state of North Dakota or any agency or instrumentality thereof. Unless the bonds are sold to the United States, to an agency, instrumentality, or corporation thereof, to the state of North Dakota, or to an agency or instrumentality thereof, such bonds shall be sold at public sale after notice of such sale has been published once at least five days prior to such sale in a newspaper circulating in the municipality, and in a financial newspaper published in Chicago, Illinois, in New York, New York, in Minneapolis, Minnesota, or in San Francisco, California.

**Section 7. Amendment.)** Section 40-36-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-36-13. Exchange or Sale of Refunding Bonds—Regulations Governing.)** Refunding bonds may be sold or exchanged in installments at different times, or an entire issue or series may be sold or exchanged at one time. Any issue or series of refunding bonds may be exchanged in part or sold in part in installments at different times or at one time, and such bonds may be sold or exchanged at any time on, before, or after the maturity of any of the outstanding notes, bonds, certificates, or other obligations to be refinanced thereby. If the governing body shall determine to:

1. Exchange any refunding bonds, such bonds may be exchanged privately for, and in payment and discharge of, any of the outstanding notes, bonds or other obligations of the municipality issued to finance or to aid in financing the acquisition, construction, improvement, or refinancing of an enterprise. The refunding bonds may be exchanged for a like or a greater principal amount of such notes, bonds, or other obligations of the municipality. The principal amount of the refunding bonds, however, may exceed the principal amount of outstanding notes, bonds, or other obligations for which they are

exchanged only to the extent necessary or advisable, in the discretion of the governing body, to fund interest in arrears or about to become due. The holder or holders of such outstanding notes, bonds, or other obligations need not pay accrued interest on the refunding bonds to be delivered in exchange therefor if, and to the same extent that, interest is due or accrued and unpaid on such outstanding notes, bonds, or other obligations to be surrendered;

2. Sell any refunding bonds, such bonds shall be sold at not less than ninety-eight percent of par at public or private sale in such manner and upon such terms as the governing body shall deem for the best interests of the municipality.

Approved March 20, 1969.

---

## CHAPTER 377

H. B. No. 247

(Hentges)

### BOARD OF DIRECTORS OF PUBLIC LIBRARIES

#### AN ACT

To amend and reenact section 40-38-03 of the North Dakota Century Code, relating to the appointment, organization, and term of office of members of the board of directors of public libraries.

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

**Section 1. Amendment.)** Section 40-38-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-38-03. Board of Directors—Appointment—Term of Office—No Compensation—Filling Vacancies—Organization.)** The school board of a city establishing a public library and reading room, or of the school district within which such city is included, or the board of county commissioners for a county library, shall appoint a board of five directors representing both sexes who



must be residents of the county or city, as the case may be, to govern such library and reading room. One member of the school board shall be a member of the board of directors of a municipal library, and must be a resident of the municipality which establishes and maintains such municipal library; and one member of the board of county commissioners shall be a member of the county board of directors. The terms of office of the members of the first board of directors shall be as follows: one member shall hold office for one year; two members shall hold office for two years; and two members shall hold office for three years. The members, at their first meeting, shall determine the length of their respective terms by lot. Thereafter, the number of directors required to fill expired terms shall be appointed each year, and each such director shall hold office for a term of three years from the first day of July in the year of his appointment and until his successor has been appointed. No member of such board shall serve for more than two consecutive terms, after which an interval of one year must elapse before the same member may be reappointed. All vacancies on the board of directors shall be reported by such board to the school board or board of county commissioners, as the case may be, and shall be filled thereby. Appointments made to fill unexpired terms shall be for the residue of the term only. No compensation shall be paid or allowed to a director. Immediately after the appointment of its members, the board of directors shall meet and organize by electing a president and a secretary from among its number.

Approved March 13, 1969.

## CHAPTER 378

H. B. No. 362  
(Hilleboe, Sanstead)

## CITY POLICEMEN'S PENSION PLAN

## AN ACT

To amend and reenact section 40-45-09 of the 1967 Supplement to the North Dakota Century Code and section 40-45-11 of the North Dakota Century Code, relating to police pensions in cities.

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

**Section 1. Amendment.)** Section 40-45-09 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-45-09. Who May Be Retired on Pension—Amount Paid to Retiring Member—Retiring Member Not Paid.)** Any member of the police department, including officers and police matrons, who shall have served twenty-two years or more in the department and shall have reached the age of sixty years, or who, while a member of such department shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he may be paid out of the pension fund of the department a monthly pension equal to sixty percent of the average monthly salary received during the highest paid consecutive thirty-six month period of his employment in the department. If any member shall have served twenty-two years in the department but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years, except as provided in section 40-45-11 of the North Dakota Century Code.

**Section 2. Amendment.)** Section 40-45-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-45-11. Eligibility for Retirement Because of Disability.)** No member of the police department who shall become unable mentally or physically to perform his duties, nor his dependents, shall be entitled to receive benefits under this chapter because of such disability unless such member shall have been

on active duty with the department for a period of at least ten years prior to such disability unless such mental or physical impairment was received in the line of duty and permanently disabled such member. Provided, however, that any member of the department who shall have served twenty-two years, retired, and subsequently suffered a permanent disability prior to his attaining age sixty, may, in the discretion of the pension board and providing that the same is actuarially sound, be eligible for disability retirement. The question of disability shall be determined by the board of trustees upon the concurring report of at least two out of three physicians designated by the board of trustees to make a complete physical examination of the member.

Approved March 25, 1969.

## CHAPTER 379

### H. B. No. 372

(Anderson, Emerson, J. Peterson, Aamoth)

(Bullis, Haugland, R. Peterson, Aas )

(Sanstead, Strinden, Metzger)

## CITY EMPLOYEES' PENSION PLANS

### AN ACT

To amend and reenact sections 40-46-09 and 40-46-13 of the North Dakota Century Code, relating to city employees' eligibility for retirement on city pension plan and including full-time employees of city recreation commission, and providing for immediate benefits for dependents upon death of employee.

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

**Section 1. Amendment.)** Section 40-46-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-46-09. Who May Be Retired on Pension—Amount Paid to Retiring Employee.)** Any appointed full-time employee, who shall be a member of a city employees' pension fund, including but not limited to librarians and other employees of a public library, and full-time employees of a city recreation commis-



sion, of a city having an employees' pension fund who shall have served two hundred forty months or more, whether or not consecutive, as an employee and shall have reached the age of sixty years, or who, while employed by such city, shall suffer permanent mental or physical disability so that he is unable to discharge his duties, shall be entitled to be retired. Upon retirement, he shall be paid out of the pension fund of such city a monthly pension of not to exceed sixty percent of one-twelfth of his highest five-year average annual earnings as provided for in the plan adopted by the governing body of the city. If any member shall have served two hundred forty months in such city employment but shall not have reached the age of sixty years, he shall be entitled to retirement, but no pension shall be paid while he lives until he reaches the age of sixty years.

**Section 2. Amendment.)** Section 40-46-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-46-13. Payments to Widow, Surviving Husband, Children and Surviving Parents Upon Death of Active or Retired Member.)** Upon the death of any active or retired employee of a city maintaining an employees' pension fund under this chapter, leaving a widow or dependent husband or minor child, or dependent father or mother surviving him or her, there shall be paid out of the fund as follows:

1. To the surviving widow or husband as long as he or she remains unmarried and of good moral character, a sum equal to two-thirds of the pension to which the employee would have been entitled not less, however, than forty dollars per month;
2. If there is no surviving widow or husband, or if such widow or husband shall die or remarry, then to the dependent father and mother, if both survive, or to either dependent parent if one survives, the sum of forty dollars per month;
3. To the father or mother of each surviving child, if such parent survives, for the benefit of such surviving child, until he or she shall arrive at the age of eighteen years, a sum not to exceed twenty-five dollars per month, and in case no parent of any such surviving child survives, then to the guardian of each surviving child a sum not to

exceed twenty-five dollars per month until he or she shall arrive at the age of eighteen years. The aggregate of all such payments shall not exceed the amount provided for in the plan and in no event more than sixty percent of the highest five-year average earnings of such employee during the most recent two hundred forty months of his employment, if he was employed that long, and if not, during the total period of his employment, or the maximum amount fixed by the governing body by ordinance.

Approved March 25, 1969.

---

## CHAPTER 380

S. B. No. 213  
(Decker)

### MUNICIPAL PLANNING COMMISSIONS

#### AN ACT

To amend and reenact sections 40-48-03, 40-48-04, and 40-48-10 of the North Dakota Century Code, relating to municipal planning commissions and the adoption of municipal master plans.

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

**Section 1. Amendment.)** Section 40-48-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-48-03. Planning Commission—Creation—Members—Ex Officio Members.)** The governing body of any municipality may create, by ordinance, a planning commission to consist of not more than ten members to be appointed by the executive officer of the municipality with the approval of its governing body. The executive officer, the engineer, and the attorney of the municipality shall be ex officio members of the commission.

**Section 2. Amendment.)** Section 40-48-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:



**40-48-04. Term of Members of Commission—Vacancies.)**

The present members of the commission shall hold office for the balance of their tenure. Of the members of the commission newly appointed, pursuant to this Act, the first member appointed, if one be appointed, shall hold office for the term of one year, if a second member is appointed he shall hold office for the term of two years, if a third member is appointed he shall hold office for the term of three years, if a fourth member is appointed he shall hold office for the term of four years, and if a fifth member is appointed he shall hold office for the term of five years from and after his appointment. Thereafter, the members shall be appointed for terms of five years. The terms of the ex officio members of the commission shall correspond to their respective official tenures. If a vacancy occurs otherwise than by expiration of a term, it shall be filled by appointment for the unexpired portion of the term.

**Section 3. Amendment.)** Section 40-48-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-48-10. Hearing on Plan Before Adoption by Commission—Resolution to Adopt—Action Recorded on Plan and Maps—Governing Body to Receive Copy of Plan.)** Before adopting the master plan or any part of it or any substantial amendment thereof, the planning commission shall hold at least one public hearing thereon. Notice of the time of such hearing shall be given by one publication in the official municipal newspaper. The adoption of the plan, or of a part thereof or amendment thereto, shall be by a resolution of the commission carried by the affirmative votes of not less than two-thirds of the members thereof. The resolution shall refer expressly to the maps and descriptive matter intended by the commission to form the whole or part of the plan or amendment. The action taken by the commission shall be recorded on the map, plan, and descriptive matter by the identifying signature of the secretary of the commission. An attested copy of the master plan shall be certified to the governing body of the municipality.

Approved March 13, 1969.

## CHAPTER 381

H. B. No. 496  
(Kelsch, J. Peterson, Sanstead)

## MUNICIPAL ANNEXATION

## AN ACT

Providing for annexation of unincorporated areas by municipal corporation; validating certain annexation ordinances; repealing chapter 40-51 and chapter 40-51.1 of the North Dakota Century Code; and declaring an emergency.

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

**Section 1. Short Title.)** This Act may be cited as "The Municipal Annexation Act of 1969".

**Section 2. Declaration of Purpose.)** It is hereby declared that the policies and procedures contained in this Act are necessary and desirable for the orderly growth of urban communities in the state of North Dakota. It is the purpose of this Act:

1. To encourage natural and well-ordered development of municipalities of the state;
2. To extend municipal government to areas which form a part of the whole community;
3. To simplify government structure in urban areas;
4. To recognize the interrelationship and interdependence between a municipal corporation and areas contiguous or adjacent thereto;

and to these ends this Act shall be liberally construed. For the purposes of this Act contiguity will not be affected by the existence of a platted street or alley, a public or private right-of-way, or a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway between the annexing municipality and the land to be annexed.

**Section 3. Annexation by Petition of Owners and Electors.)** Upon a written petition signed by not less than three-fourths of

the qualified electors or by the owners of not less than three-fourths in assessed value of the property in any territory contiguous or adjacent to any incorporated municipality and not embraced within the limits thereof, the governing body of the municipality, by ordinance, may annex such territory to the municipality.

**Section 4. Exclusion by Petition of Owners and Electors.)** Upon a petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in any territory within the limits of an incorporated municipality and contiguous or adjacent to such limits, the governing body of the municipality, by ordinance, may in its discretion, disconnect and exclude such territory from the municipality. The provisions of this section, however, shall apply only to lands which have not been platted under the provisions of either chapter 40-50 or section 57-02-39, and where no municipal improvements have been made or constructed therein or adjacent thereto.

**Section 5. Notice—Petition of Owners and Electors.)** The governing body shall not take final action on a petition presented by owners and electors until the petitioners have given notice of presentation of their petition by one publication in the official newspaper of the municipality, and if none, in the official newspaper of the county.

**Section 6. Petition of Owners and Electors—Annexation or Exclusion.)** If the governing body determines to annex said area it shall do so by ordinance, a copy of which with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds. If the governing body determines to exclude the area petitioned for, it may do so by ordinance adopted and recorded as in case of annexation.

**Section 7. Annexation by Resolution of Municipal Corporation.)** The governing body of any municipality may adopt a resolution to annex contiguous or adjacent territory as follows:

1. The governing body of the municipality shall adopt a resolution describing the property to be annexed; and
2. Shall cause said resolution together with a notice of the

time and place it will meet to hear and determine the sufficiency of any written protests against such proposed annexation to be published in the official newspaper once each week for two consecutive weeks. The owners of any real property within the territory proposed to be annexed within thirty days of the first publication of such resolution may file written protests with the city auditor protesting against the proposed annexation. The governing body of the municipality, at its next meeting after the expiration of the time for filing such protests, shall hear and determine the sufficiency thereof; and

3. In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution shall be included within and shall become a part of the city, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds, and shall become effective at the time and manner set forth in section 16 of this Act.

If the owners of one-fourth or more of the territory proposed to be annexed protest, the city may seek annexation by petition to the annexation review commission as hereinafter provided.

**Section 8. Annexation by Petition of Municipal Corporation.)** The governing body of any municipal corporation may petition the attorney general for annexation of any territory contiguous or adjacent to it. The petition shall set forth an accurate map of the area sought to be annexed, its description, and the reasons for its annexation.

**Section 9. Annexation Review Commission To Be Constituted—Hearing Set.)** Upon receipt of such petition the attorney general shall issue an order to constitute an annexation review commission to hear such petition and he shall designate a time and place at which the commission shall meet to consider the petition. The time of such hearing shall be not less than thirty days after receipt of such petition.

**Section 10. Annexation Review Commission—Composition.)** The annexation review commission shall be composed of

the attorney general, one county member and one city member. The board of county commissioners shall appoint one member of the board of supervisors, selected by said board of supervisors, from the township in which the territory sought to be annexed is situated as the county member on such annexation review commission and in the event such territory is not situated in an organized township then the board of county commissioners shall appoint one of its members who resides outside the corporate boundaries of the annexing municipality as the county member on such commission and the governing body of the municipality instituting the annexation proceedings shall appoint one of its members as the city member on such commission. The attorney general shall be chairman of such commission, and he may designate one of his assistant attorneys general to serve and act in his stead on such commission.

**Section 11. Notice Required.)** At the time he sets the time and place of hearing, the chairman of such commission shall direct the annexing municipality to cause a notice of such hearing and a copy of its petition to be published at least once a week for two successive weeks in the official newspaper of such municipal corporation, and to serve a copy of such notice and petition upon the chairman of the governing body of the county and township, if organized, wherein the territory to be annexed lies. Such hearing shall be held not less than thirty days after the first publication of such notice. Proof of publication and service of the notice and petition as required herein shall be filed with the chairman of such commission prior to the time of such hearing.

**Section 12. Annexation Review Commission—Hearing.)** At the time of the hearing the commission shall hear all evidence with respect to such annexation and it shall consider all studies, surveys, maps, data, reports and other material prepared by any state or local governmental subdivision, planning or zoning commission in the performance of their functions. Any resident of or person owning property or having any interest in the area proposed to be annexed and any elector of the annexing municipality or his representatives may appear at such hearing and present evidence upon any matter to be determined by the commission. All proceedings at the hearing and any continuances thereof shall be recorded but the same need not be transcribed unless proceedings for judicial review are initiated as provided in section 15.

**Section 13. Decision.)** Upon the completion of the hearing, the commission shall determine if the annexation should be granted after considering and finding that from the evidence one or more of the following factors are present with respect to the proposed annexation which will constitute a more harmonious and compatible metropolitan community:

1. The present and future uses or development of the area sought to be annexed;
2. Whether a community of interest exists between the area sought to be annexed and the annexing municipality;
3. The educational, recreational, civic, social, religious, industrial, commercial, or municipal facilities and services made available by or in the annexing municipality to any resident, business, industry or employee of such business or industry located in the area sought to be annexed;
4. Whether any governmental services or facilities of the annexing municipality are or can be made available to the area sought to be annexed;
5. The economic, physical and social relationship of the inhabitants, businesses, or industries of the area sought to be annexed to the annexing municipal corporation, and to the school districts and other political subdivisions affected thereby.

If a majority of the commission are satisfied that the annexation should be granted, it shall determine the terms and conditions upon which annexation is to be had and shall enter an order granting the petition. In all cases, the commission shall set forth in writing its findings of fact, its conclusions based thereon and its decision, and shall mail a copy thereof to all parties to the annexation proceedings.

The order granting the petition shall set forth in detail all such terms and conditions upon which the petition is granted and the effective date thereof. Such order together with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded in the



office of the register of deeds of the county wherein the annexed territory is situated.

**Section 14. Powers of the Commission—Decision—Terms.)**

The commission in making its decision, shall balance the equities presented by the evidence and shall enter an order setting forth what it deems to be fair and reasonable terms and conditions and shall direct the annexation in conformity therewith. It shall have power:

1. To approve or disapprove, with or without amendment, wholly, partially, or conditionally the petition for annexation;
2. To determine the metes and bounds of the territory to be annexed and may include the same area or a smaller area than that described in the petition;
3. To require payment by the municipal corporation of a sum determined by the commission payable to compensate for the value of public improvements acquired by the annexation proceedings and to require the assumption by the municipal corporation of a pro rata share of any existing bonded indebtedness of any township from which territory is annexed.

**Section 15. Review of Determination of Commission by Certiorari.)** Within thirty days after receipt of the commission's order, any interested party dissatisfied with the decision made by the annexation review commission may make an application to the district court for a writ of certiorari. The review upon such writ shall extend only to the determination of whether such commission has pursued its authority regularly and has not exceeded its jurisdiction or abused its discretion under the provisions of this Act.

**Section 16. Effective Date of Annexation.)** Territory annexed to a municipality under the provisions of this Act shall be annexed as of the date of the order of the commission, except for tax purposes, and a copy of the resolution with an accurate map of the annexed area, certified by the executive officer of the municipality, shall be filed and recorded with the county register of deeds. Annexation shall be effective for the purpose of general taxation on and after the first day of January next ensuing, provided, however,

the municipal corporation shall continue to classify as agricultural lands for tax purpose all lands in the annexed area which were classified as agricultural lands immediately prior to such annexation proceedings until such lands are subdivided, or put to another use.

**Section 17. Cost of Annexation.)** The costs of annexation proceedings shall be paid by the municipal corporation instituting the proceeding and shall be the same as those allowed in any civil action.

**Section 18. Validating Certain Ordinances and Resolutions.)** Any ordinance or resolution annexing any territory adopted by a municipal corporation pursuant to chapter 338 of the Session Laws of 1967 subsequent to the first day of July 1967 and prior to the sixth day of March 1969, is hereby validated, ratified, approved and confirmed as of the effective date of such ordinance or resolution, provided, that after public hearing thereon, the governing body finds that as of the time the annexation proceedings were commenced by such municipal corporation:

1. Such annexation was undertaken upon the written petition signed by not less than three-fourths of the qualified electors and by the owners of not less than three-fourths in assessed value of the property in the territory annexed under such ordinance; or
2. That the governing body of such municipal corporation commenced such annexation proceedings by adopting a resolution describing the property proposed to be annexed and caused such resolution to be published once a week for two successive weeks in the official newspaper of the city and that there was an absence of protests filed by more than one-fourth of the property owners as of the date of the adoption of said resolution by number within the territory that was annexed pursuant to such resolution.

The provisions of this section shall be applicable to any municipality provided the governing body thereof shall adopt a resolution stating its intent to validate any such annexations and shall cause a copy of said resolution together with a notice of the time and place it will meet to hear and determine facts with respect to subsections 1 and 2 of this section, to be pub-



lished once each week for two successive weeks in the official newspaper of such municipality. The date of such hearing shall be not less than thirty days after the first publication of such resolution of intent. Upon finding that the facts set forth in either subsections 1 or 2 of this section were present at the time such annexation proceedings were commenced, the governing body shall pass a resolution validating the same and shall cause a copy thereof certified by the executive officer of the municipality to be filed in the office of the register of deeds of the county wherein the annexed territory is situated.

**Section 19. Relation of This Act to Other Laws.)** The powers conferred and the limitations imposed by this Act shall be in addition and supplemental to, and not in substitution for, powers conferred by any other law.

**Section 20. Savings Clause.)** If any section, subsection, subdivision, sentence, or clause of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Act.

**Section 21. Repeal.)** Chapters 40-51 and 40-51.1 of the North Dakota Century Code are hereby repealed.

**Section 22. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 29, 1969.

CHAPTER 382

S. B. No. 175  
(Unruh)

DISSOLUTION OF CITIES

AN ACT

To provide a method for use in the dissolution of cities.

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

**Section 1. Dissolution—Petition—Notice of Election.)**

1. If qualified electors of a city equal in number to one-fourth of the number of voters voting at the last regular city election petition the board of county commissioners of the county wherein the city is situated to dissolve the city, the board of county commissioners shall order a special election to be held within the city on the question of dissolving the city.
2. Notice of the election shall be published once each week for four consecutive weeks and shall state that the question of dissolving the city will be submitted to the qualified electors of the city on the designated day.

**Section 2. Dissolution—Ballots.)** The form of the ballot shall be:

“For the dissolution of \_\_\_\_\_  
(insert name of city)  .”

Against the dissolution of \_\_\_\_\_  
(insert name of city)  .”

**Section 3. Dissolution—Conduct of Election.)** The election shall be conducted in the same manner as a regular city election except that all election officials shall be appointed by the board of county commissioners. The election returns shall be made to the board of county commissioners and canvassed in the same manner as are general election returns.

**Section 4. Dissolution—Vote Required—Effect on Debts and Contracts.)** If a majority of the votes cast are in favor of dissolution the county commissioners shall, by motion and proclamation, set a date upon which dissolution will become effective and the city shall be dissolved, provided provision has been made for payment of its current indebtedness, contracts, and obligations, and for levying the requisite tax to do so. The current indebtedness, contracts, and obligations do not include funded or bonded indebtedness nor any contract whose termination date is more than one year beyond the date the election was held.

**Section 5. Disposition of Records After Dissolution—Pending Business.)** All public records and the corporate seal of the dissolved city shall be deposited with the county auditor.

**Section 6. Notice of Dissolution—Publication.)** Whenever a city is dissolved, the county auditor shall publish a notice once a week for four consecutive weeks that the city is dissolved. A certified copy of the notice shall be sent to the secretary of state.

**Section 7. Dissolution—Care of Property—Manager—Disposition of Funds.)** If a city is dissolved, the board of county commissioners shall assume control of all property belonging to the dissolved city and shall employ a qualified person to manage and operate the property and to collect all charges due from the operation of such property. He shall execute a bond to the county in an amount determined by the board of county commissioners, conditioned that he will faithfully perform his duties and will promptly pay all money he receives to the county treasurer monthly on the first day of each month. The bond shall be executed by him and a surety company authorized to do business in the state. The premium on the bond shall be paid by the board of county commissioners from city funds if any; if none, from county funds.

**Section 8. Income from Property of a Dissolved Municipality.)** Money received from the operation of property of a dissolved city shall be used in the following priority:

1. To pay employees engaged in the operation, maintenance, and protection of the property.



2. To pay the interest on the bonded indebtedness of the municipality.
3. To purchase or redeem bonded indebtedness of the municipality.
4. After all bonded indebtedness has been paid, to the general fund of the county.

**Section 9. Dissolution—Insufficient Income to Pay Obligations—Levy of Tax—Duty Vested in Board of County Commissioners.)** If insufficient money is received from the operation of the property of the dissolved city to pay the obligations in the order designated, the board of county commissioners shall levy a tax on all taxable property within the boundary of the city at the time of its dissolution. This tax shall be sufficient to pay the obligations incurred in the operation of the property of the city and to comply with the terms and conditions of the evidences of the bonded indebtedness. The board of county commissioners shall, without charge, perform the duties of the governing body of the dissolved city to satisfy the terms of the bonds, obligations, or contracts of the dissolved city.

**Section 10. Dissolution by District Court—Application.)** Any city not subject to dissolution under existing laws may be dissolved by the district court upon presentation of an application by the state's attorney of the county. The application shall contain:

1. The name of the city
2. The date of incorporation
3. Boundaries
4. Original plat and additions thereto
5. Names of the officers
6. Assets
7. Debts
8. A general statement of the reasons for dissolution

**Section 11. Filing Application—Order.)** If the court is satisfied the petition contains the required information, it shall order the petition be filed, and the clerk of the district court shall give notice thereof by publication once each week for four consecutive weeks.

**Section 12. Objections.)** Any time during the period of publication and within a period of thirty days after the last publication, any person may file objections to the application.

**Section 13. Hearing on Application—Order of Dissolution.)** After the period of publication, but not less than thirty days thereafter, the court, upon five days' notice to any person who has filed objections to the application, or without further notice, if no objections have been filed, shall hear and determine the application. If the court finds the city should be dissolved, it shall dissolve the same upon such terms or conditions as justice may require; vacate the boundaries; order the sale of assets and the payment of debts; and order any surplus paid into the general fund of the county treasury.

**Section 14. Judgment Roll—Right of Appeal.)** The petition, notice and proof of service thereof, objections, orders of the court, and the judgment shall constitute the judgment roll, and an appeal may be taken from the judgment in the same manner as in a civil action.

Approved March 13, 1969.

## CHAPTER 383

S. B. No. 265  
(Freed, Roen, Lips)

## DEFINITION OF "PROJECT" AND "MUNICIPALITY"

## AN ACT

To amend and reenact section 40-57-02 of the North Dakota Century Code, relating to the definition of "project" under the Municipal Industrial Development Act.

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

**Section 1. Amendment.)** Section 40-57-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-57-02. "Projects" and "Municipalities" Defined.)** As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" shall include counties as well as municipalities of the types listed in section 40-01-01, subsection 1, and the term "project" shall mean 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 revenue producing enterprises, 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.
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.
3. 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.

Approved March 13, 1969.

## CHAPTER 384

H. B. No. 40

(Backes, Bernabucci, Bunker, Burke, Dahl)

(Froelich, Halcrow, Hoghaug, Kingsbury)

(McDonald, Strinden)

(From Legislative Research Committee Study)

TAX EXEMPTION FOR MUNICIPAL INDUSTRIAL  
DEVELOPMENT PROJECTS

## AN ACT

To amend and reenact section 40-57-17 of the North Dakota Century Code, relating to exemption from taxation of projects under the Municipal Industrial Development Act.

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

**Section 1. Amendment.)** Section 40-57-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-57-17. Exemptions from Taxation.)** The leasehold granted by a municipality under this chapter is hereby classified as personal property. Upon application by the project lessee to the governing body of the municipality, and approval, the leasehold and all other personal property used by the lessee in connection with the project and located on the premises of the leasehold shall be exempt from personal property taxation for a period of five years from the granting of the leasehold and execution of any instrument evidencing that grant. Further, that any corporate lessee under such a leasehold referred to shall, after making application therefor to the state tax commissioner, be exempt from the payment of corporate income taxes on any corporate income attributable to the business carried on by the lessee on such leasehold premises for a period of five years from the year in which the corporation lessee commenced business operations on the leased premises, provided, however, that this section shall not have the effect of exempting such corporation lessee from filing an annual income tax return. The application for exemption from personal property taxation shall be made



within thirty days from the date of the granting of the leasehold referred to in this section. The application for exemption from taxation on corporate income shall be made within sixty days from the time the corporate lessee commences business operations on the leased premises. The project lessee may waive, in writing or by the act of making a payment, all or any portion of the tax exemptions granted by this section.

Approved March 12, 1969.

---

## CHAPTER 385

### S. B. No. 39

(Butler, Decker, Hernett, G. Larson, Lowe, Wilhite)  
(From Legislative Research Committee Study)

## TAX EXEMPTIONS FOR NEW INDUSTRIES

### AN ACT

To give political subdivisions the authority to grant ad valorem taxation exemptions to new industries, providing for the approval of the state board of equalization, and granting authority to the state board of equalization to also exempt these industries from state income taxation.

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

**Section 1. Declaration and Finding of Public Purpose.)** The legislative assembly of the state of North Dakota hereby declares and finds that it is and has been its purpose in preparing and adopting the provisions of this chapter to sanction, authorize, and encourage activities in the public interest and for the welfare of the state of North Dakota, its subdivisions and people by assisting in the establishment of additional industrial plants and promotion of economic activities within the state, and thereby increasing production of wealth, and adding to the volume of employment, particularly during those seasons when employment in farming and ranching is slack, thus alleviating unemployment among the people of the state.

It is the intent of the legislative assembly that political subdivisions and the state board of equalization in their determina-



tion of whether the tax exemptions authorized by this chapter shall be granted, shall give due weight to their impact and effect upon existing industry and business to the end that an unfair advantage shall not be given to new enterprises which is to the substantial detriment of existing enterprises.

**Section 2. "Projects" and "Municipalities" Defined.)** As used in this chapter, unless a different meaning clearly appears from the context, the term "municipality" shall include counties as well as municipalities of the types listed in section 40-01-01, subsection 1 and the term "project" shall mean any real property, buildings and improvements on real property or the buildings thereon, and any equipment permanently located on such real property or in such buildings, which are used or useful in connection with revenue producing enterprises, 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.
2. Storing, warehousing, distributing, or selling any products of agriculture, mining, or manufacture.
3. Any other industry or business not prohibited by the Constitution or laws of the state of North Dakota.

**Section 3. Municipalities' Authority to Grant Tax Exemption—Limitations.)** Municipalities are hereby authorized and empowered, in their discretion, as limited hereafter, to grant, after negotiation with a potential project operator, partial or complete exemption from ad valorem taxation on all tangible property used in or necessary to the operation of a project for a period of five years from the date of commencement of project operations, which date shall be determined by the tax commissioner. Negotiations with potential project operators for tax exemption shall be carried on by the city council or commission if the project is proposed to be located within the boundaries of a city, and by the board of county commissioners if such project is proposed to be located outside the corporate limits of any city. A partial exemption shall be stated as a percentage of the total ad valorem taxes assessed against the property. The municipality shall, before granting any such exemption, make application to the state board of equalization for approval, and the board shall, if it finds that such exemption will not result in unfair tax re-

duction competition between political subdivisions of this state, determine whether the granting of the exemption is in the best interest of the people of North Dakota, and if it so determines shall give its approval. The board shall, after making its determination, certify the findings back to the municipality and to the tax commissioner.

**Section 4. Exemption from Income Tax—Limitations.)** The net income of any project granted an exemption from ad valorem taxation may be exempt from state income tax for a like period, provided application for the exemption is made by the municipality on behalf of the project to the state board of equalization, and the board, after full investigation, determines the granting of the exemption is in the best interest of the people of North Dakota and approves the exemption. The board shall, after making its determination, certify the findings back to the applicant and to the tax commissioner. Nothing contained herein shall have the effect of exempting the project from filing an annual income tax return.

Approved March 21, 1969.

S. B. No. 416  
(Redlin)

**COUNTY AND CITY AGREEMENTS FOR  
PLANNING SURVEYS AND VOCATIONAL  
EDUCATION SERVICES**

**AN ACT**

Relating to agreements for economic, industrial, and planning surveys and vocational and on-the-job training services between cities and counties and other persons, associations, or corporations; and providing for a tax levy.

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

**Section 1. Cities and Counties May Enter Into Agreements for Surveys for Industrial Development and Vocational and On-The-Job Training.)** The governing body of any city or county of this state is authorized in accordance with the provisions of this Act to enter into contracts with any person, firm, association, or corporation for the purpose of obtaining site surveys and site development plans, structural and mechanical plans and surveys, market surveys, and similar plans and surveys relating to industrial development and plant location, design, construction, equipment, and operation. Similar contracts may be entered into by such political subdivisions in accordance with the provisions of this Act for the providing of vocational and on-the-job training for residents of this state in industries located within this state. Such agreements shall be entered into only with a financially and educationally reliable person, firm, association, or corporation that has been approved for such agreement by a local development corporation located in such city or county and organized to encourage industrial and commercial development and growth.

**Section 2. Content of Surveys.)** The surveys permitted by this Act shall consist of a detailed plan which may include, among such items required by the city or county, the following:

1. An evaluation of proposed sites, the various methods of utilization, and the suitability of the sites for industrial development for specific types of industry.

2. An evaluation of consumer demand for the various types of products that could be processed, assembled, fabricated, or manufactured by an industry or the different types of industry that could utilize the site, and the benefits to the city to be realized from each in terms of economic growth.
3. The available labor supply, skilled and unskilled, and what effect various types of industries would have on the supply.
4. Any other matters relating to planning, designing, and costs pertaining to plant buildings and plant equipment for specific plant location sites.

**Section 3. Declaration of Legislative Intent.)** It is hereby declared to be the intent of the legislative assembly to promote the growth and development of small industry, and to assist in the creation and expansion of local skills and talents in North Dakota.

**Section 4. City or County May Make Tax Levy.)** Any city or county in this state, after resolution by its governing body that the question be submitted to its electors shall upon the approval thereof at a regular or special election by 60% of the qualified electors of such city or county voting in said regular or special election may levy a tax of not to exceed one mill upon its net taxable assessed valuation for the purpose of providing funds for vocational and on-the-job training services and surveys and otherwise carry out the provision under this Act. The levy provided for in this section shall be over and above any tax levy limitations provided by law. No levy for a specific year shall be made if the balance in the fund remaining from levies in prior years is in excess of ten thousand dollars.

Approved March 29, 1969.

## CHAPTER 387

H. B. No. 121  
(Aamoth)

## MUNICIPAL PARKING AUTHORITIES

## AN ACT

To provide for the financing of parking projects and facilities by municipal parking authorities; to amend and reenact sections 40-61-01, 40-61-02, 40-61-03, 40-61-09, 40-61-10, and 40-61-12, and subsection 1 of section 40-61-14 of the North Dakota Century Code, relating to definitions, powers, and financing procedures of municipal parking authorities; and to repeal section 40-61-18 of the North Dakota Century Code, relating to termination of municipal parking authorities; and declaring an emergency.

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

**Section 1. Financing Projects and Facilities.)** An authority may provide funds for its purposes by using the following methods or any combination thereof:

1. Issuing bonds of an authority as authorized by section 40-61-08 of this chapter.
2. Issuing notes of an authority as authorized by section 40-61-09 of this chapter.
3. In cooperation with cities whereby cities may agree to assist in financing projects and facilities through the issuance of municipal bonds or other obligations, budgeting of current funds, the levy of taxes or special assessments or by any combination of these means pursuant to or in accordance with the provisions of North Dakota Century Code, chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-41, and 40-57 and all other applicable laws now in force or hereafter enacted.

**Section 2. Amendment.)** Section 40-61-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-61-01. Definitions.)** In this chapter, unless the context or subject matter otherwise requires:

1. "Authority" shall mean any corporation created under the authority of this chapter.
2. "City" shall mean any city with a municipal parking authority.
3. "Bonds" shall mean the bonds authorized in this chapter.
4. "Board" shall mean the members of the authority.
5. "Real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights-of-way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years.
6. "Project" shall mean any area or place operated or to be operated by an authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above, or under the ground which are used and usable in connection with such parking or storing of such vehicles in the area of the city.
7. "Projects" shall mean more than one project.
8. "Property owner" shall mean either a real estate owner, the beneficial owner of a leasehold on a building constructed on railroad property, or the owner of a retail or wholesale personal property inventory subject to an annual tax in excess of one thousand dollars.

**Section 3. Amendment.)** Section 40-61-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-61-02. Municipal Parking Authorities.)** Any city may create a board to be known as a "municipal parking authority". Such board shall be a body corporate, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as herein provided. It shall consist of a chairman and four other members, who shall be appointed by the governing body of the city. Three members of the board shall be property owners within the benefited areas and two members of the board shall be guarantors of the bonds of the authority if any have been issued and guaranteed by property owners. If the authority has not issued bonds or if property owners have not guaranteed said bonds as hereinafter provided, then two member may be appointed at large. Of the members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, one for a period of four years, and one for a period of five years. At the expiration of such terms, the terms of office of their successors shall be five years. Each member shall continue to serve until the appointment and qualification of his successor. Vacancies in such board occurring otherwise than by the expiration of term shall be filled for the unexpired term. The members of the board shall choose from their number a vice chairman. The governing body of the city may remove any member of the board for inefficiency, neglect of duty, or misconduct in office, giving him a copy of the charges against him and an opportunity of being heard in person, or by counsel, in his defense upon not less than ten days' notice. The members of the board shall be entitled to no compensation for their services but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties. The powers of the authority shall be vested in and exercised by a majority of the members of the board then in office. Such board may delegate to one or more of its members or to its officers, agents, and employees such powers and duties as it may deem proper. Such board and the corporate existence of the authority shall continue until all its liabilities have been met and its bonds have been paid in full or such liabilities or bonds have otherwise been discharged and until the existence of the authority is terminated by official action of the governing body of the city. Upon its ceasing to exist, all its rights and properties shall pass to the city.

**Section 4. Amendment.)** Section 40-61-03 of the North Dakota Century Code is hereby amended and reenacted to read



as follows:

**40-61-03. Purpose and Powers of an Authority.)** The purpose of an authority shall be to construct, operate, and maintain one or more projects in the city and to promote and acquire municipal parking facilities in accordance with the provisions of this chapter and to promote municipal development by making space above, below, or adjacent to parking facilities available for commercial development and use in order to further purposes outlined in this chapter and in chapter 40-60 of the North Dakota Century Code. To carry out said purpose, an authority shall have power:

1. To sue and be sued.
2. To have a seal and alter the same at pleasure.
3. To acquire, hold, and dispose of personal property for its corporate purposes, including the power to purchase prospective or tentative awards in connection with the condemnation of real property.
4. To acquire in the name of the city by purchase or condemnation, and use necessary real property. All real property acquired by the authority by condemnation shall be acquired in the manner provided in the condemnation law or in the manner provided by law for the condemnation of land by a city.
5. To make bylaws for the management and regulation of its affairs, and, subject to agreements with bondholders, for the regulation of the project.
6. To appoint officers, agents, and employees, to prescribe their qualifications, and to fix their compensation; provided, however, the officers, agents and employees shall not be subject to the civil service law.
7. To appoint an attorney, who may be the city attorney, and to fix his compensation.
8. To make contracts and leases, and to execute all instruments necessary or convenient.

9. To construct such buildings, structures, and facilities as may be necessary.
10. To reconstruct, improve, maintain, and operate the projects.
11. To accept grants, loans, or contributions from the United States, the state of North Dakota, or any agency or instrumentality of either of them, or the city, or an individual, by bequest or otherwise, and to expend the proceeds for any purposes of the authority.
12. To fix and collect rentals, fees, and other charges for the use of the projects or any of them, subject to and in accordance with such agreements with bondholders as may be made as hereinafter provided.
13. To construct, operate, or maintain in the projects all facilities necessary or convenient in connection therewith; and to contract for the construction, operation, or maintenance of any parts thereof or for services to be performed; to rent parts thereof, and grant concessions, all on such terms and conditions as it may determine; provided, however, that neither the authority, the city, or any agency of an authority or city, or any other person, firm, or corporation shall, within or on any property comprising a part of any project authorized by this chapter, sell, dispense, or otherwise handle any product used in or for the servicing of any motor vehicle using any project or facility authorized by this chapter; provided further, that the location of sites of the projects shall be subject to the prior approval of the governing body of the city.
14. To encourage commercial development and use of space above, below, or adjacent to parking facilities by exercising the powers granted municipalities under subsection 5 of section 40-60-02 of the North Dakota Century Code; provided, however, that subdivision c of subsection 5 of section 40-60-02 shall not be applicable to leases entered into by the authority.

**Section 5. Amendment.)** Section 40-61-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-61-09. Notes of an Authority.)** An authority shall have power from time to time to issue notes and from time to time to issue renewal notes, herein referred to as notes, maturing not later than five years from their respective original dates for any purpose or purposes for which bonds may be issued, whenever an authority shall determine the payment thereof can be made in full from any moneys or revenues which an authority expects to receive from any source. Such notes may, among other things, be issued to provide funds to pay preliminary costs of surveys, plans, or other matters relating to any proposed or existing project. An authority may pledge such moneys or revenues, subject to any other pledge thereof, for the payment of the notes and may in addition secure the notes in the same manner and with the same effect as herein provided for bonds and may also secure the notes by the guarantee of two or more property owners. The notes shall be issued in the same manner as bonds. An authority shall have power to make contracts for the future sale from time to time of the notes, by which the purchasers shall be committed to purchase the notes from time to time on terms and conditions stated in such contracts, and an authority shall have power to pay such consideration as it shall deem proper for such commitments. In case of default on its notes, or violation of any of the obligations of an authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders.

**Section 6. Amendment.)** Section 40-61-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-61-10. Debt Guarantee.)** Prior to the issuance of any bonds authorized by this chapter the authority shall require that the payment of not less than ten percent of the principal and interest of the bonds issued for any project be guaranteed through the use of one or more of the following methods:

1. A contract of personal guarantee entered into between the authority, the bondholders and at least three benefited property owners.
2. The guarantee of said payments by the municipality through the issuance of municipal bonds or other obligations, budgeting of current funds, the levy of taxes or

special assessments or by any combination of these pursuant to and in accordance with the provisions of North Dakota Century Code chapters 21-03, 40-22 to 40-27, 40-35, 40-40, 40-41, and 40-57 and of all other applicable laws now in force or hereinafter enacted.

**Section 7. Amendment.)** Section 40-61-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-61-12. State and City not Liable on Bonds—Exceptions as to Cities.)** The bonds and other obligations of an authority shall not be a debt of the state of North Dakota and the state shall not be liable thereon. The bonds and other obligations of an authority shall not be a debt of a city and a city shall not be liable thereon unless a city agrees to assist in financing projects and facilities through the issuance of municipal bonds or other obligations which are considered to be a part of the debt of the city as provided in section 1 of this Act.

**Section 8. Amendment.)** Subsection 1 of section 40-61-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. It is hereby determined that the creation of an authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the city which has authorized it and its environs, and is a public purpose, and an authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this chapter and shall be required to pay no ad valorem taxes upon any of the property acquired by it or under its jurisdiction or control or supervision or upon its activities.

**Section 9. Repeal.)** Section 40-61-18 of the North Dakota Century Code is hereby repealed.

**Section 10. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1969.

# UNIFORM COMMERCIAL CODE

---

## CHAPTER 388

H. B. No. 337  
(Bunker, R. Peterson)

### WARRANTIES NOT APPLICABLE TO SALE OF HUMAN BLOOD, TISSUE, AND ORGANS

#### AN ACT

To amend and reenact subsection 3 of section 41-02-33 of the North Dakota Century Code, to provide that certain warranties shall not apply to the sale of human blood and certain other tissues and organs.

**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 North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notwithstanding subsection 2
  - a. 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 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 implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade; and

- d. 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.

Approved March 13, 1969.

## CHAPTER 389

H. B. No. 138  
(Freeman, Hoghaug)

PERSONAL PROPERTY SECURITY INTERESTS  
UNDER UNIFORM COMMERCIAL CODE

## AN ACT

To amend and reenact section 35-01-05.1 of the 1967 Supplement, relating to security interests in motor vehicles, and sections 41-09-05 (9-105), 41-09-10 (9-110), 41-09-23 (9-302), 41-09-34 (9-313), 41-09-40 (9-401), 41-09-41 (9-402) 41-09-42 (9-403), and 41-09-44 (9-405), of the North Dakota Century Code, relating to security interests in certain personal property under the Uniform Commercial Code.

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

**Section 1. Amendment.)** Section 35-01-05.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**35-01-05.1. When Security Interest in Motor Vehicle Valid.)** No security interest in a motor vehicle which is not inventory held for sale shall be valid as against subsequent purchasers and encumbrances of the property in good faith and for value unless the security interest is clearly indicated upon the certificate of title to the motor vehicle or unless such certificate of title is in the possession of the secured party.

**Section 2. Amendment.)** Section 41-09-05 (9-105) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-05. (9-105) Definitions and Index of Definitions.)**

1. In this chapter unless the context otherwise requires:
  - a. "Account debtor" means the person who is obligated on an account, chattel paper, contract right or general intangible;
  - b. "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security



interest in or a lease of specific goods; a charter or other contract involving the use or hire of a vessel is not a chattel paper. When a transaction is evidence both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

- c. "Collateral" means the property subject to a security interest, and includes accounts, contract rights and chattel paper which have been sold;
- d. "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts, contract rights or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the chapter dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;
- e. "Document" means document of title as defined in the general definitions of chapter 41-01 (section 41-01-11);
- f. "Encumbrance" includes real estate mortgages and other liens on real estate;
- g. "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (section 41-09-34), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, contract rights and other things in action. "Goods" also include the unborn young of animals and growing crops;
- h. "Instrument" means a negotiable instrument (defined in section 41-03-04), or a security (defined in section 41-08-02) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type

which is in ordinary course of business transferred by delivery with any necessary endorsement or assignment;

- i. "Mortgage" means a real estate mortgage or a similar consensual interest such as a trust deed on real estate, however denominated;
  - j. "Security agreement" means an agreement which creates or provides for a security interest;
  - k. "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts, contract rights or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party;
1. "Transmitting utility" means any person primarily engaged in the railroad or street railway business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

2. Other definitions applying to this chapter and the sections in which they appear are:

"Account".	Section 41-09-06.
"Consumer goods".	Section 41-09-09(1).
"Contract rights".	Section 41-09-06.
"Equipment".	Section 41-09-09(2).
"Farm products".	Section 41-09-09(3).
"Fixtures".	Section 41-09-34.
"Fixture filing".	Section 41-09-34.

- |                                      |                      |
|--------------------------------------|----------------------|
| “General intangibles”.               | Section 49-09-06.    |
| “Inventory”.                         | Section 41-09-09(4). |
| “Lien creditor”.                     | Section 41-09-22(3). |
| “Proceeds”.                          | Section 41-09-27(1). |
| “Purchase money security interest.”. | Section 41-09-07.    |
| “Real estate interest”.              | Section 41-09-34.    |
3. The following definitions in other chapters apply to this chapter:
- |                         |                   |
|-------------------------|-------------------|
| “Check”.                | Section 41-03-04. |
| “Contract for sale”.    | Section 41-02-06. |
| “Holder in due course”. | Section 41-03-32. |
| “Note”.                 | Section 41-03-04. |
| “Sale”.                 | Section 41-02-06. |
4. In addition chapter 41-01 contains general definitions and principles of construction and interpretation applicable throughout this chapter.

**Section 3. Amendment.)** Section 41-09-10 (9-110) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-10. (9-110) Sufficiency of Description.)** Except as provided in section 41-09-41 on formal requirements of a financing statement, any description of personal property or real estate whether or not it is specific is sufficient for the purposes of this chapter if it reasonably identifies what is described.

**Section 4. Amendment.)** Section 41-09-23 (9-302) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-23. (9-302) When Filing is Required to Perfect Security Interest—Security Interests To Which Filing Provisions of This Chapter Do Not Apply.)**

1. A financing statement must be filed to perfect all security interests except the following:
  - a. A security interest in collateral in possession of the secured party under section 41-09-26;
  - b. A security interest temporarily perfected in instruments or documents without delivery under section 41-09-25 or in proceeds for a ten-day period under section 41-09-27;
  - c. A purchase money security interest in farm equipment having a purchase price not in excess of two thousand five hundred dollars; but filing is required for a motor vehicle required to be licensed and fixture filing is required for priority over a conflicting real estate interest in a fixture as provided in section 41-09-34;
  - d. A purchase money security interest in consumer goods; but filing is required for a motor vehicle required to be licensed and fixture filing is required for priority over a conflicting real estate interest in a fixture as provided in section 41-09-34;
  - e. An assignment of accounts or contract rights which does not alone or in conjunction with other assignments to the same assignee transfer a significant part of the outstanding accounts or contract rights of the assignor;
  - f. A security interest of a collecting bank (section 41-04-18) or arising under the chapter on sales (see section 41-09-13) or covered in subsection 3 of this section.
2. If a secured party assigns a perfected security interest, no filing under this chapter is required in order to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

3. The filing provisions of this chapter do not apply to a security interest in property subject to a statute
  - a. Of the United States which provides for a national registration or filing of all security interests in such property; or
  - b. Of this state which provides for central filing of security interests in such property, or in a motor vehicle which is not inventory held for sale for which a certificate of title is required under the statutes of this state if a notation of such a security interest can be indicated by a public official on a certificate or a duplicate thereof.
4. A security interest in property covered by a statute described in subsection 3 can be perfected only by registration or filing under that statute or by indication of the security interest on a certificate of title or a duplicate thereof by a public official.

**Section 5. Amendment.)** Section 41-09-34 (9-313) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-34. (9-313) Priority of Security Interests in Fixtures.)**

1. a. This section governs the priority between a security interest in goods, including fixtures, and a real estate interest in the goods. The declaration in this section that certain goods are not fixtures is only for the purpose of the priority rules stated in this section, and does not determine whether an interest in the goods passes under a conveyance or mortgage of the real estate or whether the goods are part of real estate under the law of this state other than this title.
- b. For the purpose of this section and the provisions in part 4 of this chapter referring to fixture filing, the following definitions apply:



- (1) Goods are "fixtures" when they are so related to particular real estate that under the law of this state other than this title an interest in the goods would pass as part of the real estate under a conveyance or mortgage thereof without specific mention of the goods, except as stated in this paragraph. Where ordinary building materials are incorporated in an improvement upon land, which improvement is itself not a fixture, the materials are real estate and not a fixture. An improvement upon land is not a fixture unless it is readily removable from the land. Readily removable factory and office machines and readily removable replacements of domestic appliances are not fixtures. Where the debtor is a tenant, goods which he has a right to remove are not fixtures but are personal property. Standing timber and growing crops and oil, gas and minerals before severance are not fixtures.
- (2) The term "ordinary building materials" includes lumber, millwork, brick, tile, siding, roofing, cement, glass, wiring, piping and structural members, other than readily removable items of special value such as ornamental metal work, ornamental mantels and carved panelling.
- (3) A "real estate interest" in goods including a fixture is an interest held solely by virtue of an interest in real estate and is not a security interest under this chapter.
- (4) A mortgage of real estate is a "construction mortgage" if it secures an obligation incurred for the construction or improvement of real estate or to the extent that it is a refinancing of a construction mortgage, and the record so indicates.
- (5) A "fixture filing" is the filing of a financing statement in the office where a mortgage on

the related real estate would be filed or recorded, which conforms to the requirements of subsection 6 of section 41-09-41.

2. Nothing in this title prevents the creation of a real estate interest in a fixture pursuant to the law of this state other than this title. A writing which as a real estate mortgage creates a real estate interest in a fixture may also provide for a security interest in the fixture, but the validity, perfection and priority of the security interest are governed by the provisions of this chapter.
3. There can be no security interest in ordinary building materials after they become so related to real estate as to be a part thereof, unless the structure of which they form a part is a fixture.
4. Any security interest in goods which are not fixtures under this section (other than goods wrongfully removed from real estate) has priority over any real estate interest in the goods.
5. A real estate interest in a fixture of any encumbrancer or owner of the real estate who is not the debtor has priority over a conflicting security interest except as follows:
  - a. The security interest has priority over a lien upon the fixture by legal or equitable proceedings obtained after the security interest was perfected by fixture filing or otherwise.
  - b. The security interest has priority over the real estate interest (other than a construction mortgage to finance a construction or improvement including the fixture which is of record before the goods become a fixture) if the security interest is a purchase money security interest, the debtor has an interest of record in the real estate, and the security interest is perfected by a fixture filing before the goods become a fixture or within ten days thereafter.
  - c. The security interest has priority over an encumbrance if the debtor has an interest of record in the



real estate and the security interest is perfected by a fixture filing before the encumbrance is recorded.

6. When a secured party has a security interest in a fixture and the security interest has priority over all real estate interests in the fixture, he may, on default, subject to the provisions of part 5, remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

**Section 6. Amendment.)** Section 41-09-40 (9-401) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-40. (9-401) Place of Filing—Erroneous Filing—Removal of Collateral.)**

1. The proper place to file in order to perfect a security interest is as follows:
  - a. When the collateral is equipment used in farming operations, or farm products, or accounts, contract rights or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the register of deeds in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the register of deeds in the county where the goods are kept, and in addition when the collateral is crops, as provided in subdivision b of this subsection;
  - b. When the collateral is crops growing or to be grown, or when the financing statement is filed as a fixture filing (section 41-09-34) and the collateral is goods

which are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

- c. In all other cases, in the office of the secretary of state.
2. A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this chapter and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.
3. Filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.
4. If collateral is brought into this state from another jurisdiction, the rules stated in section 41-09-03 determine whether filing is necessary in this state.
5. Notwithstanding the preceding subsections, and subject to subsection 3 of section 41-09-23, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is in the office of the secretary of state. This filing constitutes a fixture filing (section 41-09-34) as to the collateral described therein which is or is to become fixtures.

**Section 7. Amendment.)** Section 41-09-41 (9-402) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-41. (9-402) Formal Requisites of Financing Statement—Amendments.)**

1. A financing statement is sufficient if it is signed by the debtor and the secured party, gives an address of the secured party from which information concerning the

security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned or when the financing statement is filed as a fixture filing (section 41-09-34) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection 6. A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor.

2. A financing statement which otherwise complies with subsection 1 is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in
  - a. Collateral already subject to a security interest in another jurisdiction when it is brought into this state. Such a financing statement must state that the collateral was brought into this state under such circumstances.
  - b. Proceeds under section 41-09-27 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral.
  - c. Collateral as to which a security interest once perfected by filing has lapsed, or is about to lapse, if it is still effective between the parties.
  
3. A form substantially as follows is sufficient to comply with subsection 1:

Name of debtor (or assignor) \_\_\_\_\_

Address \_\_\_\_\_

Name of secured party (or assignee) \_\_\_\_\_

Address \_\_\_\_\_

- a. This financing statement covers the following types (or items) of property:

(Describe) \_\_\_\_\_

- b. (If collateral is crops)

The above-described crops are growing or are to be grown on:

(Describe real estate) \_\_\_\_\_

- c. (If collateral is goods which are or are to become fixtures the financing statement is to be filed as a fixture filing)

The above-described goods are affixed or to be affixed to:

(Describe real estate) \_\_\_\_\_

- d. (If proceeds or products of collateral are claimed)

Proceeds—Products of the collateral are also covered.

(use	)	_____
	)	
whichever	)	Signature of Debtor (or Assignor)
	)	
is	)	_____
	)	
applicable)	)	Signature of Secured Party (or Assignor)

- 4. The term "financing statement" as used in this chapter means the original financing statement and any amendments, but if any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.
- 5. A financing statement substantially complying with the requirements of this section is effective even though it

contains minor errors which are not seriously misleading.

6. A financing statement covering crops growing or to be grown or a financing statement filed as a fixture filing (section 41-09-34) must show that it covers crops or fixtures and where the debtor is not a transmitting utility the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state.
7. If (a) goods are or are to become fixtures related to the real estate described in a mortgage of the real estate, (b) the goods are described in the mortgage by item or type and the mortgage provides for a security interest in the goods, (c) the mortgage complies with the requirements for a financing statement in this section, and (d) the mortgage is duly recorded, the mortgage is effective from the date of recording as a financing statement filed as a fixture filing. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

**Section 8. Amendment.)** Section 41-09-42 (9-403) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-42. (9-403) What Constitutes Filing—Duration of Filing—Effect of Lapsed Filing—Duties of Filing Officer.)**

1. Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this chapter.
2. Except as provided in subsection 6, a filed financing statement which states a maturity date of the obligation secured of five years or less is effective until such maturity date and thereafter for a period of sixty days. Any other filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such sixty-day period after a stated maturity



date or on the expiration of such five-year period, as the case may be unless a continuation statement is filed prior to the lapse. Upon such lapse the security interest becomes unperfected. A filed financing statement which states that the obligation secured is payable on demand is effective for five years from the date of filing.

3. A continuation statement may be filed by the secured party (a) within six months before and sixty days after a stated maturity date of five years or less, and (b) otherwise within six months prior to the expiration of the five-year period specified in subsection 2. Any such continuation statement must be signed by the secured party, identify the original statement by file number and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective, whereupon it lapses in the same manner as provided in subsection 2 unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.
4. Except as provided in subsection 7, a filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.
5. The uniform fee for filing, indexing and furnishing filing data for an original or a continuation statement shall be two dollars. When a nonstandard form is presented for filing, an additional charge of one dollar shall be made.
6. If the debtor is a transmitting utility (subsection 5 of

section 41-09-40) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subsection 7 of section 41-09-41 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

7. Upon payment of the fee required for recording the same, the filing officer shall also record a financing statement filed as a fixture filing, as if it were a mortgage of the real estate described.

**Section 9. Amendment)** Section 41-09-44 (9-405) of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**41-09-44. (9-405) Assignment of Security Interest—Duties of Filing Officer—Fees.)**

1. A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in subsection 4 of section 41-09-42. The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment shall be two dollars. When a nonstandard form is presented for filing, an additional charge of one dollar shall be made.
2. A secured party may assign of record all or part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral



assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing, indexing and furnishing filing data about such a separate statement of assignment shall be two dollars. When a nonstandard form is presented for filing, an additional charge of one dollar shall be made. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection 7 of section 41-09-41) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this title.

3. After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Approved March 14, 1969

# OCCUPATIONS AND PROFESSIONS

---

## CHAPTER 390

H. B. No. 181

(Bunker, Seibel, Sandness, Aamoth)

### ABSTRACTERS' FEES AND LIABILITY POLICIES

#### AN ACT

To provide for a limitation of actions against abstracters; to amend and reenact section 43-01-18 of the North Dakota Century Code, relating to the fees of abstracters; and to amend and reenact section 43-01-11 of the North Dakota Century Code, relating to bonds or liability policies of abstracters.

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

**Section 1. Amendment.)** Section 43-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-01-18. Fees Chargeable by Abstracter.)** An abstracter may charge the following fees, and no more for making and certifying to an abstract:

1. For the first entry on an abstract or continuation thereof, two dollars;
2. For every entry other than the first entry, one dollar and fifty cents;
3. For a complete certification covering the records of the several county offices, for the period immediately preceding the certification date of one year or less, ten dollars; for complete certification covering the records of the several county offices for a period immediately preceding the certification date of over one year, twelve dollars and fifty cents; for a certification covering lands in excess of one quarter section in the same Abstract of Title an additional fee of five dollars, for each quarter section or portion thereof in excess of one, may be



charged; for a certification covering premises in more than one block in any subdivision in the same Abstract of Title, an additional fee of five dollars, for such premises in each additional block in excess of one, may be charged;

4. For each name searched for judgments, real estate taxes, bankruptcy proceedings, federal tax liens, state tax liens, mechanic's liens and mechanic's lien notices, seventy-five cents;
5. For all miscellaneous instruments, one dollar and twenty-five cents for the first one hundred words, and fifty cents for each additional hundred words or fraction thereof;
6. Such fees as may be fixed by special statute.

**Section 2. Amendment.)** Section 43-01-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-01-11. Bonds or Liability Policy—Deductible Policy Permitted.)** Before a certificate of authority shall be issued, the applicant therefor shall file a surety bond running to the state of North Dakota, or abstractor's liability policy to be approved by the abstracters' board of examiners as to form, sufficiency, and surety thereof and written by a company authorized to write such insurance in this state, in a penal sum or limit of liability equal to ten thousand dollars for each ten thousand inhabitants, or major fraction thereof, residing in the county in which the applicant's office is maintained, as shown by the last official federal or state census preceding the filing of the bond or abstractor's liability policy. Such bond, or abstractor's liability policy, however, shall not be less than ten thousand dollars. The bond or liability policy shall be conditioned for the payment by the abstractor of any liability imposed upon him by law for damages arising from any claim against him that may be sustained by or that shall accrue to any person by reason or on account of any negligent act, error or omission in any abstract or certificate of title, or continuation thereof, made and issued by the abstractor. Said board shall file all surety bonds in the office of the county auditor of the county in which the applicant has his place of business. All abstracters' liability policies shall be endorsed to provide that cancellation cannot be effected by

either the abstracter or the insurance company without ten days' written notice to the abstracters' board of examiners, who shall file said endorsed policy or a certificate thereof in the office of the county auditor of the county in which the applicant has his place of business. It shall be permissible under this section to file an abstracter's liability policy in the deductible form, provided that the deductible provision shall not exceed five hundred dollars.

**Section 3. Limitation of Action Against Abstracter.)** An action founded upon an error or omission in an abstract may be commenced against an abstracter at any time within twenty years after the date of the certificate of the abstract.

Approved March 14, 1969.



## CHAPTER 391

H. B. No. 112

(J. Peterson, Backes, Haugland, Anderson)

(Aas, Emerson)

## LICENSING OF CONTRACTORS

## AN ACT

To amend and reenact sections 43-07-02, 43-07-04, 43-07-07, 43-07-10, 43-07-13, and section 43-07-11 of the North Dakota Century Code, relating to the licensing of contractors and enforcement of the chapter.

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

**Section 1. Amendment.)** Section 43-07-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-07-02. License Required—Enjoining Operation Without License.)** No person shall engage in the business nor act in the capacity of a contractor within this state when the original contract or subcontract cost, value, or price exceeds the sum of five hundred dollars without first having a license as provided in this chapter. The secretary of state may request the attorney general to bring an action to enjoin any person from engaging in the business or acting in the capacity of a contractor within this state when the original contract or subcontract cost, value, or price exceeds the sum of five hundred dollars, unless the person is properly licensed.

**Section 2. Amendment.)** Section 43-07-04 of the 1967 Supplement to 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 43-07-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-07-07. License Fees.)** At the time of making application for a license as described and required in this chapter, the applicant shall pay to the registrar the following fees:

1. For a class A license, the sum of two hundred fifty dollars;
2. For a class B license, the sum of one hundred fifty dollars;
3. For a class C license, the sum of one hundred dollars; and
4. For a class D license, the sum of twenty-five dollars.

All moneys collected by the registrar under this chapter shall be deposited by him with the state treasurer, who shall credit them to the general fund of the state.

**Section 4. Amendment.)** Section 43-07-10 of the 1967 Supplement to 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 applica-



tion therefor, which application shall be accompanied by a list in duplicate showing each contract or subcontract obtained by the licensee during the preceding 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 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.

**Section 5. Amendment.)** Section 43-07-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-07-13. Records and Certified Copies Thereof.)** The registrar shall maintain in his office, open to public inspection during office hours, a complete indexed record of all applications and all licenses issued and all certificates of renewal and of cancellations or suspensions. He shall furnish a certified copy of any license issued, of any renewal certificate, or of the cancellation or suspension thereof, upon receipt of the sum of two dollars. Such certified copy shall be received in all courts and elsewhere as prima facie evidence of the facts stated therein.

**Section 6. Amendment.)** Section 43-07-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:



**43-07-11. Contractor's Bond—Requirements.)** Every contractor as hereinbefore defined shall be required to execute and file with the application for license required by this chapter a good and valid bond issued by a surety company authorized to do business in this state or, in the case of class D contractors only, a personal bond with two sureties who are acceptable to the registrar and who are residents of the state of North Dakota. Every such bond for a class A contractor shall be written in the amount of two thousand dollars; bonds for class B, C, and D contractors shall be in the amount of one thousand dollars, each running to the state of North Dakota and conditioned upon the payment of all taxes, including the premiums under the workmen's compensation law and contributions due under the unemployment compensation law of the state of North Dakota, all use taxes required to be paid by the contractor to the state of North Dakota and all income taxes withheld or required to be withheld from employees pursuant to chapter 57-38, which may accrue to the state of North Dakota or the political subdivisions thereof on account of the execution and performance of the construction contract or subcontract; provided that any bond required by this section shall be in addition to any bond required by the provisions of section 48-01-05 and shall also be in addition to the obligation imposed by the provisions of section 57-40-17 upon a surety company to the state of North Dakota. Every contractor, as hereinbefore defined, upon making application for renewal of his license shall not be required to furnish a contractor's bond; however, the secretary of state as registrar shall not issue a certificate of renewal to any contractor upon notification by any department or agency of the state or political subdivision thereof, any secrecy provisions contained in the North Dakota tax laws notwithstanding, that the contractor has not paid a tax or other obligation presently due to the state of North Dakota or its political subdivisions. Upon notification that the contractor has been delinquent in the payment of any tax or other obligation to the state of North Dakota or the political subdivisions thereof, the secretary of state shall require the bond specified herein prior to the renewal of the license.

Approved March 14, 1969.

## CHAPTER 392

S. B. No. 169  
(Decker, Thoreson, Lowe)

**CONTRACTOR TO HAVE TAX CLEARANCE BEFORE  
CONTRACTING WITH STATE**

AN ACT

To amend and reenact subsection 1 of section 43-07-11.1 of the North Dakota Century Code, relating to income, sales and use tax clearance to be obtained for individuals, corporations and others performing contracts for the state of North Dakota or any political subdivision or governmental subdivision thereof.

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

**Section 1. Amendment.)** Subsection 1 of section 43-07-11.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. No contractor, resident or nonresident shall be eligible to enter into a public contract with any department of the state of North Dakota, nor any political or governmental subdivision of the state until satisfactory showing is made that said contractor has paid all delinquent income, sales or use taxes, if any, owed to the state pursuant to the provisions of the income, sales or use tax laws, and which have been assessed either by the filing of an income or sales and use tax return by the contractor, or by an assessment of additional income, sales or use taxes against the contractor by the commissioner that has become finally and irrevocably fixed, before the date that the contract was executed by the parties thereto. "Contractor" and "public contract" shall have the same definition for purposes of this section as in chapter 43-07 relating to issuance of licenses to contractors.

Approved March 10, 1969.



## CHAPTER 393

S. B. No. 71

(Lips)

## BOARD OF HAIRDRESSERS AND COSMETOLOGISTS

## AN ACT

To amend and reenact sections 43-11-06 and 43-11-16 of the North Dakota Century Code, relating to the compensation of the members of the board of hairdressers and cosmetologists, and the qualifications for registration of a school for hairdressers and cosmetologists.

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

**Section 1. Amendment.)** Section 43-11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-11-06. Compensation of Members of Board—How Paid.)**

Each member of the board shall receive twenty-five dollars for each day employed in the actual discharge of duties and necessary expenses so incurred. The secretary of the board shall receive an annual salary of not more than five thousand two hundred dollars to be fixed by the board, and necessary expenses actually incurred in the performance of official duties. The compensation and expenses of all members of the board shall be paid from the fund in the state treasury to the use of the board on requisition signed by the president and the secretary of the board and the warrant of the state auditor.

**Section 2. Amendment.)** Section 43-11-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-11-16. Registered Schools—Qualifications for Registration.)** A certificate of registration shall be granted to a school for hairdressers and cosmetologists upon an application to the board and the payment of the annual registration fee, if the school:

1. Is operated and maintained in premises entirely distinct and permanently separated from any hairdressing, beauty, or cosmetologist shop;

2. No school of cosmetology shall be granted a certificate of registration unless it shall require one thousand five hundred hours of training and instruction in cosmetology, and unless it shall attach to its staff as a lecturer and consultant a person licensed by this state to practice an unlimited or limited branch of medicine and employ at least two full-time licensed instructors for the first twenty-five students enrolled and one additional instructor for each additional twenty-five students enrolled or fraction thereof after such school's enrollment has reached fifty students; shall possess apparatus and equipment sufficient for the proper and full teaching of all subjects of its curriculum; shall keep a daily record of the attendance of each student which shall not be in excess of eight hours per day; maintain regular class and instruction hours to include practical demonstrations and theoretical studies supplemented by audio-visual aids, and studies in sanitation, sterilization and other safety measures and the use of antiseptics, cosmetics, and electrical appliances consistent with the practical and theoretical requirements as applicable to cosmetology or any practice thereof as provided in this chapter. No school may conduct a clinical department for fees after registration by the board, until such school has been operating for a period of at least twenty percent of the total hours of instruction required by this chapter. No student shall be permitted to practice on any person not an instructor or registered student of such school until such student has completed at least twenty percent of the total hours of instruction required by this chapter. No school shall compensate any of its basic students in any way. No school shall make appointments for clinical services, except during the last three hundred hours of the student's training, or advertise the fees charged for clinical service. Each school, at the time of application for its license and upon the renewal of such license, shall furnish to the board, and maintain in force at all times the license is in effect, a bond in the penal sum of ten thousand dollars. Such bond shall run in favor of the board, as agent of the state, and shall be furnished by a surety company authorized to do business in this state. It shall be conditioned upon such bonded school's providing its registered students with the full course



of instruction required under the provisions of this chapter and shall provide for a refund of a proportionate amount of each student's tuition fee upon default. Any such school that shall enroll student instructors shall set up an adequate course of training as such, with the approval of the board and shall not have at any one time more than one such student instructor for each licensed instructor actively engaged in such school.

Approved February 22, 1969.

---

## CHAPTER 394

H. B. No. 73  
(Boustead, Kelsch)

### EXAMINATION OF PROFESSIONAL NURSES

#### AN ACT

To amend and reenact section 43-12-13 of the 1967 Supplement to the North Dakota Century Code, relating to examination of professional nursing applicants.

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

**Section 1. Amendment.)** Section 43-12-13 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-12-13. Examination Required—Application—Fee for Examination—Qualifications for Examination.)** Any person who desires to practice professional nursing in this state shall pass the examination given by the board before a certificate of licensure shall be issued. Such person shall make an application for licensure to the executive secretary of the board at least three weeks prior to the date set for the examination and shall pay to the treasurer of the board at the time of making such application the sum of twenty dollars. Enclosed with such application, proof shall be submitted that the applicant has the following qualifications:

1. Is a citizen of the United States provided, however, that if the applicant is not at the time a citizen of the United States, he or she shall be permitted to write the examination and upon passing may be granted a temporary license valid for not to exceed six years. Such license may be converted by the board into a permanent license only upon his or her acquiring full United States citizenship before the expiration of such period and only if, during the entire period from the issuance of such license until the acquisition of citizenship, he or she has practiced the profession of nursing, and has resided continuously within this state;
2. Is of good moral character;
3. Has received the preliminary education required in section 43-12-09 for admission to a school of nursing; and
4. Has successfully completed the required accredited professional nursing education programs.

Approved March 8, 1969.



## CHAPTER 395

## H. B. No. 201

(DeKrey, Sanstead, Glaspey, Hickle, Simonson)

## LICENSING OSTEOPATHIC PHYSICIANS

## AN ACT

To create and enact section 43-17-39 of the North Dakota Century Code, providing that doctors of osteopathy may elect to come under the jurisdiction of the state board of medical examiners; and to amend and reenact sections 43-17-01, 43-17-02, 43-17-03, 43-17-04, subsections 1 and 2 of section 43-17-18, and section 43-17-31 of the North Dakota Century Code, providing that osteopathic physicians may engage in the practice of medicine, that one osteopathic physician shall be appointed to an expanded state board of medical examiners, and that the state board of medical examiners may refuse to grant a license to practice medicine to an osteopathic physician who fails to designate his osteopathic school of practice, and to repeal chapter 43-14 of the North Dakota Century Code, relating to the practice of osteopathy.

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

**Section 1. Amendment.)** Section 43-17-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-17-01. Definitions.)**

1. "Physician" shall include physician and surgeon (M.D.) and osteopathic physician and surgeon (D.O.);
2. "Practice of medicine" shall include the practice of medicine, surgery, and obstetrics. The following persons shall be regarded as practicing medicine:
  - a. One who holds himself out to the public as being engaged within this state in the diagnosis or treatment of diseases or injuries of human beings;
  - b. One who suggests, recommends, or prescribes any form of treatment for the intended relief or cure of any physical or mental ailment of any person, with the intention of receiving, directly or indirectly, any fee, gift, or compensation;



- c. One who maintains an office for the examination or treatment of persons afflicted with disease or injury of the body or mind;
  - d. One who attaches the title M.D., surgeon, doctor, D.O., osteopathic physician and surgeon, or any other similar word or words or abbreviation to his name, indicating that he is engaged in the treatment or diagnosis of the diseases or injuries of human beings shall be held to be engaged in the practice of medicine;
3. "Board" shall mean the state board of medical examiners.

**Section 2. Amendment.)** Section 43-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-17-02. Persons Exempt from The Provisions of Chapter.)** The provisions of this chapter shall not apply to the following:

1. Students who have had training in approved schools of medicine or osteopathy and who are continuing and confining their training and performing the duties of an intern or a resident in any hospital or institution maintained and operated by a state or territory of the United States, or in any hospital within a state or territory operating under the supervision of a staff of physicians, the members of which are licensed to practice medicine and which hospital is approved for internships and residences by the appropriate accrediting agency;
2. Any physician residing on the border of a neighboring state and duly licensed under the laws thereof, who does not open an office or appoint a place to meet patients or to receive calls within this state;
3. The domestic administration of family remedies;
4. Dentists practicing their profession when properly licensed;

5. Optometrists practicing their profession when properly licensed;
6. The practice of christian science or other religious tenets or religious rules or ceremonies as a form of religious worship, devotion, or healing, if the person administering, making use of, assisting in, or prescribing, such religious worship, devotion, or healing does not prescribe or administer drugs or medicines and does not perform surgical or physical operations, and if he does not hold himself out to be a physician or surgeon;
7. Commissioned medical officers of the armed forces of the United States, the United States public health service, and medical officers of the veterans' administration of the United States, in the discharge of their official duties, and licensed physicians from other states or territories if called in consultation with a person licensed to practice medicine in this state;
8. Doctors of chiropractic duly licensed to practice in this state pursuant to the statutes regulating such profession;
9. Chiropodists practicing their profession when properly licensed.

**Section 3. Amendment.)** Section 43-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-17-03. State Board of Medical Examiners—How Appointed—Qualifications.)** The governor shall appoint a state board of medical examiners consisting of ten members, nine of whom shall be M.D.'s and one of whom shall be a D.O., each of whom shall have the following qualifications:

1. Be a practicing physician of integrity and ability;
2. Be a resident of and duly licensed to practice medicine and surgery in this state, provided, however, that the D.O. on the board must be licensed to practice medicine pursuant to this chapter;
3. Be a graduate of a medical or osteopathic school of high educational requirements and standing;



4. Have been engaged in the active practice of his profession within this state for a period of at least five years.

A person appointed to the board shall qualify by taking the oath required of civil officers.

**Section 4. Amendment.)** Section 43-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-17-04. Term of Office.)** The term of office of each member of the board shall be three years and until his successor is appointed and qualified. The terms shall be so arranged that no more than four terms shall expire on the thirty-first of July of each year. The governor shall fill all vacancies by appointment but in case of a vacancy before the expiration of a term, the appointment shall be for the residue of the term only. No member of the board shall serve thereon for more than two successive terms.

**Section 5. Amendment.)** Subsections 1 and 2 of section 43-17-18 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. That he has attended some reputable medical or osteopathic college or colleges approved by the board for four college years of at least eight months each;
2. That he is a graduate of some reputable medical or osteopathic college approved by the board;

**Section 6. Amendment.)** Section 43-17-31 of the North Dakota Century Code is hereby amended and reenacted by creating a new subsection thereto:

Failure of a doctor of osteopathy to designate his school of practice in the professional use of his name by such terms as "osteopathic physician and surgeon", "doctor of osteopathy", "D.O.", or similar terms.

**Section 7.)** Section 43-17-39 of the North Dakota Century Code is hereby created and enacted to read as follows:

**43-17-39. Qualified Doctors of Osteopathy May Be Licensed.)**

On the effective date of this Act, doctors of osteopathy who were licensed under chapter 43-14, and who were practicing in the state one year immediately preceding July 1, 1969, shall come under the jurisdiction of the state board of medical examiners and shall be issued a license to practice medicine. Applications from those holding a currently valid physician's license from another state shall be considered in the manner set forth in section 43-17-21.

Applicants not issued a license to practice in accordance with the above shall be issued a license to practice medicine upon passing the next regular examination of the state board of medical examiners.

**Section 8. Repeal.)** Chapter 43-14 of the North Dakota Century Code is hereby repealed.

Approved March 18, 1969.

---

## CHAPTER 396

H. B. No. 249  
(Connolly)

### DEFINITION OF OIL, GAS, OR MINERAL BROKER

#### AN ACT

To amend and reenact subsection 1 of section 43-22-01 of the North Dakota Century Code, relating to the definition of an oil, gas, or mineral broker.

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

**Section 1. Amendment.)** Subsection 1 of section 43-22-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Oil, gas, or mineral broker shall mean any person, co-partnership, association, or corporation engaged in the business of buying leases, mineral rights, royalties, or other interests in oil or gas properties or in properties containing or presumed to contain uranium or other fissionable materials or metalliferous element,



or non-metalliferous element, whether for himself or as agent of others. A single act performed, or isolated transactions in the buying of, or offering to buy, leases, mineral rights, royalties, or other interests in oil or gas properties or in properties containing or presumed to contain uranium or other fissionable material, or metalliferous element, or non-metalliferous element, shall not constitute the person, copartnership, association, or corporation, performing the act or transactions, an oil, gas, or mineral broker within the meaning of this chapter. A transaction shall be deemed isolated if the person, copartnership, association or corporation has not bought interests as described above in more than two other transactions within this state within the twelve-month period immediately prior to the date of such transaction.

**Section 2. Amendment.)** Section 43-22-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**43-22-05. Bond Covers Agent.)** The bond or deposit furnished by an oil, gas, or mineral broker shall cover the acts of his duly authorized employees or agents. Any such employee or agent need not furnish a separate bond but the burden of proof shall rest upon any person not himself bonded to establish that he was duly authorized by a bonded broker. An oil, gas, or mineral broker registered under this chapter shall certify to the commissioner the names, business addresses and residence addresses of any regular employees or agents employed in the business of buying oil and gas leases, mineral rights, royalties, or other interests in properties at the time of registration or renewal thereof and shall certify the names, business and residence addresses of any such employees or agents within ninety days of their employment by such oil, gas, or mineral broker.

Approved March 25, 1969.

## CHAPTER 397

S. B. No. 307  
(Wilhite, Lips)

## REGULATION OF HEARING AID DEALERS

## AN ACT

To create a board of hearing aid dealers and fitters to provide for licensure of persons who are dealers and fitters of hearing aids; to provide for the regulation of dispensing and fitting of hearing aids to the public; and to provide for penalties and punishment for violation of this Act.

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

**Section 1. Definitions.)** As used in this Act, unless the context requires otherwise:

1. "Department" shall mean office of attorney general charged with administering the Act in the state.
2. "License" shall mean a license issued by the state under this Act to hearing aid dealers and fitters.
3. "Trainee permit" shall mean a temporary permit issued while the applicant is in training to become a licensed hearing aid dealer and fitter.
4. "Board" shall mean the board for licensing hearing aid dealers and fitters.
5. "Hearing aid" shall mean any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories including earmold, but excluding batteries and cords.
6. "Practice of fitting and dealing in hearing aids" shall mean the measurement of human hearing by means of an audiometer or by any means solely for the purpose of making selections, adaptations or sale of hearing aids. The term also includes the making of impressions for earmolds. A dealer, at the request of a physician or a member of related professions,



may make audiograms for the professional's use in consultation with the hard-of-hearing.

7 "Sell" or "Sale" includes a transfer of title or of the right to use by lease, bailment, or any other contract. This excludes wholesale to distributors or dealers.

### **Section 2. License Required to Sell or Fit Hearing Aids.)**

1. No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way advertise or represent himself as a person who practices the fitting and sale of hearing aids after July 1, 1969, unless he holds an unsuspended, unrevoked license issued by the department as provided in this Act. The license required by this Act shall be conspicuously posted in his office or place of business. Duplicate licenses shall be issued by the department to valid license holders operating more than one office without additional payment. A license under this Act shall confer upon the holder the right to select, fit, and sell hearing aids.

2. Nothing in this Act shall prohibit a corporation, partnership, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license, provided that it employs only properly licensed natural persons in the direct sale and fitting of such products. Such corporations, partnerships, trusts, associations, or other like organizations shall file annually with the board a list of all licensed hearing aid dealers and fitters directly or indirectly employed by it. Such organizations shall also file with the board a statement on a form approved by the board that they submit themselves to the rules and regulations of the department and the provisions of this Act which the department shall deem applicable to them.

### **Section 3. Receipt Required To Be Furnished to a Person Supplied With Hearing Aid.)**

1. Any person who practices the fitting and sale of hearing aids shall deliver to each person supplied with a hearing aid a receipt which shall contain the licensee's signature and show his business address and the number of his certificate, together with specifications as to the make and model of the hearing aid furnished, full terms of the sale clearly stated. If an aid which



is not new is sold, the receipt and the container thereof must be clearly marked as "used" or "reconditioned" whichever is applicable, with the terms of guarantee, if any.

2. Such receipt must bear in no smaller type than the largest used in the body copy portion the following: Any examination(s) or representation(s) made by a licensed hearing aid dealer and fitter in connection with the fitting and selling of this hearing aid(s) is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state and therefore, must not be regarded as medical opinion or advice.

#### **Section 4. Persons and Practices Not Affected.)**

1. This Act is not intended to prevent any person from engaging in the practice of measuring human hearing for the purpose of selection of hearing aids provided this person or organization employing such person does not sell hearing aids or accessories thereto.

2. This Act does not apply to a person who is a licensed physician and surgeon or osteopath.

**Section 5. License by Experience.)** An applicant for a license without examination as a "Hearing Aid Dealer and Fitter" shall:

1. Have been principally engaged as a hearing aid dealer and fitter for a total period of at least two years, within a period of five years immediately prior to the effective date of this Act.

2. Be a person of good moral character.

3. Be 21 years of age or older.

4. Be free of contagious or infectious disease.

Method of granting a license by experience shall be terminated six (6) months after July 1, 1969.

#### **Section 6. Issuance of License.)**

1. The department shall register each applicant without

discrimination or examination who satisfactorily passes the experience requirement as provided in section "License by Experience" or passes an examination as provided in section "License by Examination" and upon the applicant's payment of fifty dollars, shall issue to the applicant a license signed by the department. The license shall be effective until January 30 of the year following the year in which it is issued.

2. Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this Act for the practice to fit and sell hearing aids, and that such state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to this Act are qualified to dispense and fit hearing aids, the department may issue certificates of endorsement to applicants who hold current, unsuspended and unrevoked certificates or licenses to fit and sell hearing aids in such other state or jurisdiction. No such applicants for a certificate of endorsement pursuant to this subsection shall be required to submit to or undergo a qualifying examination, but must pay the fees required by this Act. The holder of a certificate of endorsement shall be registered in the same manner as holders of a license. The fee for an initial certificate of endorsement shall be the same as the fee for an initial license. Fees, grounds for renewal and procedures for the suspension and revocation of certificates of endorsement shall be the same as for renewal, suspension and revocation of a license.

#### **Section 7. License by Examination.)**

1. Applicants who do not meet the experience qualification on the effective date of this Act may obtain a license by successfully passing a qualifying examination, provided the applicant:

- a. Be at least 21 years of age.
- b. Be of good moral character.
- c. Has an education equivalent to a four-year course in an accredited high school.
- d. Is free of contagious or infectious disease.



2. The applicant for license by examination shall appear at a time, place and before such persons as the department may designate, to be examined by means of written and practical tests in order to demonstrate that he is qualified to practice the fitting and sale of hearing aids. The examination administered as directed by the board constituting standards for licensing shall not be conducted in such manner that college training be required in order to pass the examination. Nothing in this examination shall imply that the applicant shall possess the degree of medical competence normally expected by physicians.

3. The department shall give examinations as required to permit the applicants to be examined within thirty days following the submission of the official application form.

#### **Section 8. Temporary Trainee Permit.)**

1. After July 1, 1969, an applicant who fulfills the requirements regarding age, character, education and health as set forth in section 7 (1), may obtain a trainee permit upon application to the department.

(a) Previous experience, or a waiting period shall not be required to obtain this trainee permit.

2. Upon receiving an application as provided under this section and accompanied by a fee of twenty-five dollars, the department shall issue a trainee permit which shall entitle the applicant to engage in the fitting and sale of hearing aids for a period of one year. A person holding a valid hearing aid dealer's and fitter's license shall be responsible for the supervision and training of such applicant and maintain adequate personal contact.

3. If a person who holds a temporary trainee permit under this section has not successfully passed the licensing examination during this one-year period from the date of issuance, the temporary trainee permit may be renewed or reissued once upon payment of a twenty-five dollar fee.

**Section 9. Scope of Examination.)** The qualifying examination provided in section "License by Examination" shall consist of:

1. Tests of knowledge in the following areas as they pertain to the fitting and sale of hearing aids:
  - a. Basic physics of sound.
  - b. The anatomy and physiology of the ear.
  - c. The function of hearing aids.
2. Practical tests of proficiency in the following techniques as they pertain to the fitting of hearing aids:
  - a. Pure tone audiometry, including air conduction testing and bone conduction testing.
  - b. Live voice of recorded voice speech audiometry, including speech reception threshold testing and speech discrimination testing.
  - c. Masking when indicated.
  - d. Recording and evaluation of audiograms and speech audiometry to determine proper selection and adaptation of a hearing aid.
  - e. Taking earmold impressions.

**Section 10. Notice to Department of Place of Business—Notice to Holders of License—How Given by Department.)**

1. A person who holds a license shall notify the department in writing of a regular address of the place or places where he engages or intends to engage in the fitting or the sale of hearing aids.
2. The department shall keep a record of the place of business of persons who hold licenses.
3. Any notice required to be given by the department to a person who holds a license shall be mailed to him by certified mail at the address of the last place of business of which he has notified the department.

**Section 11. Annual Renewal of License—Fees—Effect of Failure to Renew.)** Each person who engages in the fitting and



sale of hearing aids shall annually, on or before January thirtieth, pay to the department a fee of fifty dollars, for a renewal of his license and shall keep such certificate conspicuously posted in his office or place of business at all times. Where more than one office is operated by the licensee, duplicate certificates shall be issued by the department for posting in each location. A thirty-day grace period shall be allowed after January thirtieth, during which time licenses may be renewed on payment of a fee of seventy-five dollars to the department. After expiration of the grace period, the department may renew such certificates upon the payment of one hundred dollars to the department. No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, provided such renewal application is made within two years from the date of such suspension.

### **Section 12. Grounds for Suspension of License.)**

1. Any person wishing to make a complaint against a licensee under this Act shall reduce the same to writing and file this complaint to the department within one year from the date of the action upon which the complaint is based. If the department determines the charges made in the complaint are sufficient to warrant a hearing to determine whether the license issued under this Act shall be suspended or revoked, it shall make an order fixing a time and place for a hearing and requiring the licensee complained against to appear and defend against the complaint. The order shall have annexed thereto a copy of the complaint and the order and copy of the complaint shall be served upon the licensee at least twenty days before the date set for hearing, either personally or by registered mail sent to licensee's last known address. Continuances or adjournments of a hearing date shall be made if for good cause. At the hearing the licensee complained against may be represented by counsel. The licensee complained against and the department shall have the right to take depositions in advance of hearing and after service of the complaint and either may compel the attendance of witnesses by subpoenas issued by the department. Either party taking depositions shall give at least five days' written notice to the other party of the time and place of such depositions, and the other party shall have the right to attend with counsel if desired and cross-examine. Any person registered under this Act may have his license revoked or suspended for a fixed period by the department for

any of the following causes. Appeals from suspension or revocation may be made under the Administrative Procedures Act.

2. The conviction of a felony, or a misdemeanor, involving moral turpitude. The record of conviction, or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

3. Procuring of license by fraud or deceit practiced upon the department.

4. Unethical conduct. Unethical conduct means:

a. The obtaining of any fee or the making of any sale by fraud or misrepresentation.

b. Knowingly employing directly or indirectly any suspended or unregistered person to perform any work covered by this Act.

c. Using or causing or promoting the use of any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is misleading, deceptive or untruthful.

d. Advertising a particular model or type of hearing aid for sale when purchasers or prospective purchasers responding to the advertisement cannot purchase the advertised model or type where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model or type than that advertised.

e. Representing that the service or advice of a person licensed to practice medicine will be used or made available in the selection, fitting, adjustment, maintenance or repair of hearing aids when that is not true, or using the word "doctor," "clinic" or similar words, abbreviations or symbols which tend to connote the medical profession when such is not accurate.

f. Habitual intemperance.

g. Gross immorality.



- h. Permitting another to use his license.
  - i. Advertising a manufacturer's product or using a manufacturer's name or trademark which implies a relationship with the manufacturer which does not exist.
  - j. To directly or indirectly give or offer to give, or permit or cause to be given money or anything of value to any person who advises another in a professional capacity as an inducement to influence them or have them influence others to purchase or contract to purchase products sold or offered for sale by a hearing aid dealer or fitter, or to influence persons to refrain from dealing in the products of competitors.
5. Conducting business while suffering from a contagious or infectious disease.
  6. Engaging in the fitting and sale of hearing aids under a false name or alias with fraudulent intent.
  7. For any violation of the provisions of this Act.

**Section 13. Prohibited Acts and Practices.)** No person shall:

1. Sell, barter or offer to sell or barter a license.
2. Purchase or procure by barter a license with intent to use it as evidence of the holder's qualification to practice the fitting and sale of hearing aids.
3. Alter a license with fraudulent intent.
4. Use or attempt to use as a valid license a license which has been purchased, fraudulently obtained, counterfeited or materially altered.
5. Willfully make a false statement in an application for license or application for renewal of a license.

**Section 14. Powers and Duties of Department.)** The powers and duties of the department are as follows;

1. To authorize all disbursements necessary to carry out the provisions of this Act.



2. To supervise issuance of licenses "By Experience" and administer qualifying examinations to test the knowledge and proficiency of applicants licensed by examination.
3. To register persons who apply to the department and who are qualified to engage in the fitting and sale of hearing aids.
4. To purchase and maintain or rent audiometric equipment and other facilities necessary to carry out the examination of applicants as provided in section 7.
5. To issue and renew licenses.
6. To suspend or revoke licenses in the manner provided.
7. To designate the time and place for examining applicants.
8. To appoint representatives to conduct or supervise the examination.
9. To make and publish rules and regulations not inconsistent with the laws of this state which are necessary to carry out the provisions of this Act.
10. To appoint or employ subordinate employees.

#### **Section 15. Board of Hearing Aid Dealers and Fitters.)**

1. There shall be established a board of hearing aid dealers and fitters which shall guide, advise, and make recommendations to the department handling the license under this Act.
2. Members of the board shall be residents of the state. The board shall consist of three "hearing aid dealers and fitters," two otolaryngologists and one audiologist. Each hearing aid dealer and fitter on the board shall have had no less than five years of experience and shall hold a valid license as a hearing aid dealer and fitter, as provided under this Act. Exception shall be the hearing aid dealers and fitters of the first board appointed who shall have had no less than five years of experience and shall have fulfilled all qualifications for "License by Experience" as provided under this Act.

3. All members of such board shall be appointed by the governor. The term of office of each member shall be for four years, excepting that the members of the first board appointed under this Act, two shall be appointed for two years; two shall be appointed for three years; and two shall be appointed for four years. Before a member's term expires, the Governor shall appoint a successor to assume his duties at the expiration of his predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term. The members of the board shall annually designate one member to serve as chairman and another to serve as secretary-treasurer. No member of the board may be reappointed to the board until at least one year after the expiration of his second term of office.

4. Each member of the board shall serve without compensation but he shall receive such mileage and travel expenses while engaged in the performance of the duties of his office as is provided for general state employees.

#### **Section 16. Duties of the Board.)**

1. The board shall have the responsibility and duty of advising the department in all matters relating to this Act, shall prepare the examinations required by this Act for the department and shall assist the department in carrying out the provisions of this Act.

2. The department shall be guided by the recommendations of the board in all matters relating to this Act.

**Section 17. Meetings of Board.)** The board shall meet not less than once each year at a place, day and hour determined by the board. The board shall also meet at such other times and places as may be requested by the department.

**Section 18. Violations and Penalties.)** Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars or by both such imprisonment and fine. Each violation shall be deemed a separate offense. In addition to the criminal penalties provided, 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 19. Severability Clause.)** If any section, sentence, clause, phrase, or word of this Act is for any reason held or declared to be unconstitutional, inoperative or void, such holding or invalidity shall not affect the remaining portions of this Act, and the remainder of this Act, after the exclusion of such part or parts shall be deemed and held to be valid as if such parts had not been included herein.

Approved April 2, 1969.

---

## CHAPTER 398

S. B. No. 290  
(Litten, Lowe, Sorlie)

### BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

#### AN ACT

To provide for the creation of the North Dakota board of examiners for nursing home administrators; fixing its membership, prescribing its powers, duties and functions; to provide requirements for licensure of nursing home administrators; to provide for license fees; to create the state board of nursing home administrators' fund; to repeal conflicting laws; and for other purposes.

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

**Section 1. Definitions.)** For the purposes of this Act, and as used herein:

1. The term "board" means the North Dakota state board of examiners for nursing home administrators hereinafter created;
2. The term "nursing home administrator" means a person who administers, manages, supervises, or is in general full-time administrative charge of a North Dakota nursing home whether such individual has an ownership interest in such home and whether his functions and duties are shared with one or more individuals; and

3. The term "nursing home" means any institution or facility defined as such for licensing purpose under North Dakota state law or pursuant to the rules and regulations for nursing homes by the state health department, whether proprietary or non-profit, including but not limited to, nursing homes owned or administered by the state government or an agency or political subdivisions thereof.

**Section 2. Composition of the Board.)** There is hereby created the state board of examiners for nursing home administrators which shall consist of nine members.

1. Three members of the board shall be the state health officer, state welfare director, and the commissioner of higher education;
2. One member of the board shall be a representative of the North Dakota medical association. The individual shall be appointed by the governor from a list of three names submitted to him by the state medical association and the individual so appointed shall serve a three-year term. At the conclusion of the initial appointee's three-year term the same procedure shall be followed to appoint a successor; and
3. Five members of the board shall be initially appointed by the governor from a list submitted by the North Dakota hospital association. These five members shall be engaged on a full-time basis as administrators of nursing homes. Two members shall be appointed for terms of three years, two members shall be appointed for terms of two years, and one member shall be appointed for a term of one year. Thereafter, the terms of all appointive members under this subsection shall be three years. The appointees shall be selected by the governor from a list of three nominees submitted for each appointee by the North Dakota hospital association.

Any vacancy occurring in the position of an appointive member shall be filled by the governor for the unexpired



term from a list of three names submitted to the governor by the North Dakota hospital association. Appointive members may be removed by the governor for cause after due notice and hearing. Initial appointments of members representing nursing home administrators shall be limited to persons who are serving as administrators of licensed nursing homes within the state on the effective date of this Act, as verified by the state health officer. After initial appointments have been made, no person shall be eligible for appointment as a member unless he is the holder of a license as a nursing home administrator.

**Section 3. Qualifications for Licensure.)** The board shall have authority to issue licenses to qualified persons as nursing home administrators, and shall establish qualification criteria for such nursing home administrators. No license shall be issued to a person as a nursing home administrator unless:

1. He or she is at least twenty-one years of age, a citizen of the United States, of good moral character, and of sound physical and mental health;
2. He or she has satisfactorily completed a course of instruction and training prescribed by the board, which course shall be so designed as to content and so administered as to present sufficient knowledge of the needs properly to be served by nursing homes, laws governing the operation of nursing homes and the protection of the interests of patients therein, and the elements of good nursing home administration, or have presented evidence satisfactory to the board of sufficient education, training or experience in the foregoing fields to administer, supervise and manage a nursing home; and
3. He or she has passed an examination administered by the board and designed to test for competence in the subject matter referred to in subsection 2 hereof.

All persons applying for a license must meet the conditions and requirements as may be prescribed by the board. However, a person meeting the standards of good moral character, sound physical and mental health, and otherwise suitable, and who was a nursing home administrator

during all of the calendar year immediately preceding the calendar year in which the state licensing program becomes effective, may be granted a waiver for a period of two years after the effective date of this Act, or until June 30, 1971, whichever is earlier, to allow the person or persons to meet the conditions or requirements as set by this board.

**Section 4. Licensing Function.)** The board shall license nursing home administrators in accordance with rules and regulations issued, and from time to time revised by it. A nursing home administrator's license shall not be transferable and shall be valid until surrendered for cancellation or suspended or revoked for violation of this Act or any other laws or regulations relating to the proper administration and management of a nursing home. Any denial of issuance or renewal, suspension or revocation under any section of this Act shall be subject to review upon the timely request of the licensee and pursuant to chapter 28-32, North Dakota Century Code.

**Section 5. License Fees.)** Each person licensed as a nursing home administrator shall be required to pay a license fee in an amount to be fixed by the board, which fee shall not exceed twenty-five dollars per annum. Said license shall expire on the thirty-first day of December of the year following its issuance, and shall be renewable biennially upon payment of the license fee.

**Section 6. Fund Created.)** All fees collected under the provisions of this Act shall be paid to North Dakota board of examiners for nursing home administrators, who shall deposit the same with the treasurer of the state of North Dakota to be kept in a special fund to be known as the state board of examiners for nursing home administrators' fund, which fund may be used and expended by the board upon vouchers presented to the state treasurer, signed by the president and the secretary-treasurer of the board, to pay the compensation and travel expenses of members and employees of the board, and other expenses necessary for the board to administer and carry out the provisions of this Act.

**Section 7. Organization of Board.)** The board shall elect from its membership a chairman, vice chairman and secretary-



treasurer, and shall adopt rules and regulations to govern its proceedings. Each member shall receive, as compensation for his services, an amount agreed upon by the board but not to exceed that of other state boards. All members shall be allowed necessary travel expenses, as may be approved by the board, which shall be payable in the same manner as travel expense of other state officials. The board may employ and fix the compensation and duties of necessary personnel to assist it in the performance of its duties.

**Section 8. Exclusive Jurisdiction of Board.)** The board shall have sole and exclusive authority to determine the qualifications, competence and fitness of any person to serve as an administrator of a nursing home under the provisions of this Act, and the holder of a license under the provisions of this Act shall be deemed qualified to serve as the administrator of a nursing home.

**Section 9. Duties of the Board.)** The board shall have the duty and responsibility to:

1. Develop, impose, and enforce standards which must be met by individuals in order to receive a license as a nursing home administrator, which standards shall be designed to ensure that nursing home administrators will be individuals who are of good character and are otherwise suitable, and who, by training or experience in the field of institutional administration, are qualified to serve as nursing home administrators;
2. Develop and apply appropriate techniques, including examination and investigations, for determining whether an individual meets such standards;
3. Issue licenses to individuals determined, after application of such techniques, to meet such standards, and for cause, after due notice and hearing, to revoke or suspend licenses previously issued by the board in any case where the individual holding such license is determined substantially to have failed to conform to the requirements of such standards;
4. Establish and carry out procedures designed to en-



- sure that individuals licensed as nursing home administrators will, during any period that they serve as such, comply with the requirements of such standards;
5. Receive, investigate, and take appropriate action with respect to, and including the revocation of a license if necessary after due notice and hearing and for cause, any charge or complaint filed with the board to the effect that any individual licensed as a nursing home administrator has failed to comply with the requirements of such standards;
  6. Conduct a continuing study and investigation of nursing homes, and administrators of nursing homes within the state with a view to the improvement of the standards imposed for the licensing of such administrators and of procedures and methods for the enforcement of such standards with respect to administrators of nursing homes who have been licensed as such; and
  7. Conduct, or cause to be conducted, one or more courses of instruction and training sufficient to meet the requirements of this Act, and shall make provisions for such courses and their accessibility to residents of this state unless it finds that there are and approves a sufficient number of courses which courses are conducted by others within this state. In lieu thereof the board may approve courses conducted within and without this state as sufficient to meet the education and training requirements of this Act.

**Section 10. Renewal of License.)** Every holder of a nursing home administrator's license shall renew it biennially, by making application to the board. Such renewals shall be granted as matter of course, unless the board finds, after due notice and hearing, that the applicant has acted or failed to act in such manner or under such circumstances as would constitute grounds for suspension or revocation of a license.

**Section 11. Temporary Permits.)** Pending the issuance of a license, the board at its discretion may issue a

temporary permit without examination to practice as a licensed nursing home administrator, for one year, to an applicant who has been duly licensed under the laws of another state. The board may issue a temporary permit to practice as a licensed nursing home administrator for a period not exceeding six months to a qualified applicant who files with the board a written application for license.

**Section 12. Reciprocity with Other States.)** The board may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction, provided that the board finds that the standards for licensure at the time the license was issued in such other jurisdiction were at least the substantial equivalent of those prevailing in this state at the time of application and that the applicant is otherwise qualified.

**Section 13. Misdemeanor.)** It shall be unlawful and constitute a misdemeanor for any person to act or serve in the capacity as a nursing home administrator unless he is the holder of a license as a nursing home administrator, issued in accordance with the provisions of this Act.

**Section 14. Laws in Conflict Repealed.)** All laws and parts of laws in conflict with any of the provisions of this Act are hereby repealed.

Approved March 13, 1969.



# OFFICES AND OFFICERS

---

## CHAPTER 399

S. B. No. 52

(Christensen, Lips)

(Recommended by Legislative Audit and  
Fiscal Review Committee)

### EMPLOYEES' AND OFFICIALS' EXPENSE ALLOWANCE

#### AN ACT

To amend and reenact sections 44-08-04 and 54-06-09 of the North Dakota Century Code, relating to the 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 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**44-08-04. Expense Account—Amount Allowed—Verification.)**

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 o'clock a.m. to twelve o'clock noon and the sum shall not exceed one dollar and twenty-five cents;
2. Second quarter shall be from twelve o'clock noon to six o'clock p.m. and the sum shall not exceed one dollar and seventy-five cents;

3. Third quarter shall be from six o'clock p.m. to twelve o'clock midnight and the sum shall not exceed three dollars;
4. Fourth quarter shall be from twelve o'clock midnight to six o'clock a.m. and the sum shall not exceed nine 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; provided, however, the amount paid for such lodging shall not be required to be listed.

Such persons engaged in travel without the state shall not claim a sum in excess of eight 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 state auditing board except no receipt shall be required for taxi or cab fares up to and including the sum of five dollars. The state auditing board 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, 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 1967 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 nine 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 eleven cents per mile for each mile actually and necessarily traveled in the performance of official duty when such travel is by private airplane. If only one person shall engage in such travel in a motor vehicle exceeding at any geographical point one hundred fifty miles beyond the borders of this state, reimbursement shall be limited to seven cents per mile for the out-of-state portion of the travel. When any such motor vehicle or airplane is 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.

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 state auditing board or specifically requested by such board, verified by his certification. The statement shall be submitted to the state auditing board for approval and shall be paid only when approved by the auditing board.

Approved March 19, 1969.

## CHAPTER 400

S. B. No. 422  
(Decker, Coughlin)

**PURCHASE OF LIFE INSURANCE FOR  
PEACE OFFICERS' SURVIVORS**

**AN ACT**

To authorize political subdivisions to purchase insurance to provide death benefits to certain survivors of law enforcement officers who are killed or die in the performance of duty.

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

**Section 1. Definitions.)** As used in this Act:

1. "Law enforcement officer" means any sheriff, sheriff's deputy, police chief, policeman, fireman, and any investigator or detective employed by a political subdivision on a salaried basis to perform police duties.

**Section 2. Political Subdivisions Authorized to Purchase Insurance on the Life of Law Enforcement Officers—Benefits Payable to Dependent Survivor.)** Any political subdivision may purchase insurance on the life of a law enforcement officer employed by that political subdivision. Such insurance policy shall be purchased from an insurance company licensed to do business in this state. If the insurance is purchased, the officer insured thereunder may designate his dependent survivor or survivors to whom the death benefit provided under the policy shall be paid. The word "dependent" shall mean that the deceased officer provided some financial support within one year before his death to the survivor and shall be liberally construed for the purposes of this section. In the event the officer has not designated his dependent survivor or survivors, the death benefit payable shall be paid to his closest survivor in the following order:

1. Wife
2. Children
3. Parent

#### 4. Brother or sister

except that if there be more than one qualifying survivor in categories 2, 3 or 4, the death benefit shall be paid in equal shares to the survivors in that category. The death benefit provided by an insurance policy purchased pursuant to this section shall not exceed the amount of ten thousand dollars on the life of one law enforcement officer. Any death benefit paid due to purchase of an insurance policy under the provisions of this section shall be in addition to any benefits paid due to the death of that officer under any other provisions of law.

Approved March 19, 1969.



# PRINTING LAWS

---

## CHAPTER 401

S. B. No. 90  
(Melland)

### SOLICITING PROPOSALS FOR GOVERNMENTAL PRINTING

#### AN ACT

To amend and reenact section 46-02-05 of the North Dakota Century Code, relating to governmental printing contracts.

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

**Section 1. Amendment.)** Section 46-02-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**46-02-05. Proposals for Printing—Classifications 1, 2, 3 and 4.)** The department of accounts and purchases, at least six months immediately preceding each regular session of the legislative assembly, shall advertise for four weeks successively in two daily papers in the state, one of which shall be published at the seat of government, inviting sealed proposals for doing all printing and binding constituting each of classifications 1, 2, 3 and 4, required by the legislative assembly and by the several state departments for the two succeeding years commencing with the first day of December next following the date of the contract. Such bids shall specify the price and cost for which the said work will be performed and the stock furnished.

**Section 2. Existing Contracts.)** The provisions of this Act shall not be construed as altering the term of any valid printing contract in existence at the effective date of this Act.

Approved March 4, 1969.

## CHAPTER 402

H. B. No. 460  
(Stoltenow, Bullis, K. Johnson, Rivinius)

PUBLIC OFFICIALS' NAMES ON  
PUBLIC DOCUMENTS

AN ACT

To amend and reenact section 46-02-19 of the North Dakota Century Code, relating to the placing of names on public documents by public officials.

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

**Section 1. Amendment.)** Section 46-02-19 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**46-02-19. Unlawful for Public Officials to Place Name on Public Documents in Large-Size Type—Penalty.)** It shall be unlawful for any elected or appointed state, county, or local official to print his name, or cause his name to be printed, upon any public documents, reports, promulgated rules and regulations, envelopes, or stationery or publications paid for by the state or its political subdivisions unless his name is printed in a smaller-size type than the printed name of the office, department, or agency as it appears on such material. The provisions of this section shall not apply to the use of printed stocks of forms and supplies on hand on July 1, 1967. Any person who shall violate the provisions of this section shall be guilty of a misdemeanor and punished by a fine of not more than one hundred dollars.

Approved March 29, 1969.



# PROPERTY

---

## CHAPTER 403

S. B. No. 115  
(Trenbeath)

### DEFINITION OF MINERALS IN LEASES AND CONVEYANCES

#### AN ACT

To amend and reenact section 47-10-24 of the North Dakota Century Code, relating to the definition of minerals in leases and conveyances.

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

**Section 1. Amendment.)** Section 47-10-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**47-10-24. Description and Definition of Minerals in Leases and Conveyances.)** No conveyance of mineral rights or royalties separate from the surface rights in real property in this state, excluding leases, shall be construed to grant or convey to the grantee thereof any interest in and to any gravel, coal, clay or uranium unless the intent to convey such interest is specifically and separately set forth in the instrument of conveyance.

No lease of mineral rights in this state shall be construed as passing any interest to any minerals except those minerals specifically included and set forth by name in the lease. For the purposes of this paragraph the naming of either a specific metalliferous element, or non-metalliferous element, and if so stated in lease, shall be deemed to include all of its compounds and byproducts, and in the case of oil and gas, all associated hydrocarbons produced in a liquid or gaseous form so named shall be deemed to be included in the mineral named. The use of the words "all other minerals" or similar words of an all-

inclusive nature in any lease shall not be construed as leasing any minerals except those minerals specifically named in the lease and their compounds and byproducts.

Approved March 25, 1969.

---

## CHAPTER 404

H. B. No. 133  
(Dornacker)

### MAXIMUM CONTRACT RATE OF INTEREST

#### AN ACT

To amend and reenact section 47-14-09 of the North Dakota Century Code, relating to maximum contract rates of interest and usury, and declaring an emergency.

**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, copartnership, association, or corporation, 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 percent per annum higher than the maximum rate of interest payable on deposits 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. 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.



**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1969.

---

CHAPTER 405

S. B. No. 391  
(Unruh)

HOMESTEAD EXEMPTION WITHIN TOWN  
PLAT

AN ACT

To amend and reenact 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 exemption within a town plat.

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

**Section 1. 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 it appears that said homestead is within a town plat and, upon an appraisal as provided by section 47-18-06, it appears that the value of said homestead is more than forty 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 forty thousand dollars.

**Section 2. Amendment.)** Section 47-18-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**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 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 pro-

tection 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 20, 1969.

---

CHAPTER 406

S. B. No. 76  
(Longmire)

PATENTING OF EMPLOYEES' INVENTIONS  
BY INSTITUTIONS OF HIGHER LEARNING

AN ACT

To amend and reenact section 47-28-01 of the North Dakota Century Code, relating to the patenting of inventions by employees of a state institution of higher learning.

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

**Section 1. Amendment.)** Section 47-28-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**47-28-01. Patenting Inventions and Discoveries by Faculty, Officials, and Employees of State Institutions of Higher Learning.)** All letters patent on inventions or discoveries resulting from research sponsored by a state institution of higher learning and conducted by faculty, officials or employees of a state institution of higher learning shall inure to and be taken out by or assigned to the respective state institution of higher learning in accordance with a general policy established by each institution of higher learning with the approval of the state board of higher education. Ownership, control, management, and disposal of such inventions or discoveries by faculty, officials, or employees of each institution of higher learning shall be vested in each respective institution, or in an independent foundation created for the purpose of obtaining patents or inventions, receiving gifts, administering or disposing of such patents and promoting research at the respective institution by every proper means.

Approved March 25, 1969.



## CHAPTER 407

H. B. No. 297  
(Atkinson, Hentges, Dahl)

## RECORDING OF A MASTER MORTGAGE

## AN ACT

Relating to recording of a master mortgage.

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

**Section 1. Recording Master Form.)** An instrument containing a form or forms of covenants, conditions, obligations, powers, and other clauses of a mortgage or deed of trust may be recorded in the office of register of deeds of any county and the register of deeds of such county, upon the request of any person, on tender of the lawful fees therefor, shall record the same in his registry. Every such instrument shall be entitled on the face thereof as a "Master form recorded by ...(name of person causing the instrument to be recorded)". Except as otherwise provided for in this Act, such mortgage or deed of trust instruments shall meet all other requirements for recording.

**Section 2. Indexing.)** When any such instrument is recorded, the register of deeds shall index such instrument under the name of the person causing it to be recorded in the manner provided for miscellaneous instruments relating to real estate.

**Section 3. Incorporating Master Form.)** Thereafter any of the provisions of such master form instrument may be incorporated by reference in any mortgage or deed of trust of real estate situated within this state, if such reference in the mortgage or deed of trust states that the master form instrument was recorded in the county in which the mortgage or deed of trust is offered for record, the date when, the document number, or the book and page or pages where such master form instrument was recorded, and that a copy of such master form instrument was furnished to the person executing the mortgage or deed of trust. The recording of any mortgage or deed of trust which has so incorporated by reference therein any of the provisions of a master form instrument recorded as provided in this section



shall have like effect as if such provisions of the master form so incorporated by reference had been set forth fully in the mortgage or deed of trust.

**Section 4. Recording Instrument Incorporating Master Forms.)** Whenever a mortgage or deed of trust is presented for recording on which is set forth matter purporting to be a copy or reproduction of such master form instrument or of part thereof, identified by its title as provided in section 1 of this Act and stating the date when it was recorded and the book and page where it was recorded, preceded by the words "do not record" or "not to be recorded", and plainly separated from the matter to be recorded as a part of the mortgage or deed of trust in such manner that it will not appear upon a photographic reproduction of any page containing any part of the mortgage or deed of trust, such matter shall not be recorded by the register of deeds to whom the instrument is presented for recording; in such case the register of deeds shall record only the mortgage or deed of trust apart from such matter and shall not be liable for so doing, any other provisions of law to the contrary notwithstanding.

Approved March 25, 1969.

## CHAPTER 408

H. B. No. 34

(Connolly, Davis, Dick, Glaspey, Jenkins, Mueller)

(J. Peterson, Reimers, O. Solberg, Streibel, Tweten)

(Wagner, Wilkie)

(From Legislative Research Committee Study)

TRANSFER AND EXCHANGE OF CERTAIN  
REAL PROPERTY

## AN ACT

Authorizing the board of administration to sell and transfer certain real property owned by the state for the benefit of the state penitentiary and authorizing the state health department to exchange certain property owned by the state for the benefit of the state hospital, and declaring an emergency.

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

**Section 1. The Board of Administration May Sell, Transfer, and Convey Certain Real Property Owned by the State for the Benefit of the State Penitentiary.)** The board of administration may sell, transfer, and convey by public bid in accordance with sections 54-01-05.1 and 54-01-05.2 the real property described in this section owned by the state for the use and benefit of the state penitentiary. The board of administration may sell the property as one unit or as logically divisible units of not less than ten acres each based upon maximum, estimated proceeds from such sale. The board of administration shall provide an independent appraisal of the property and shall reject all bids of an amount less than the appraised value of such property. The property is described as follows:

A tract of land lying in the north one-half of section two, township one hundred thirty-eight north, range eighty west of the fifth principal meridian, Burleigh County, North Dakota, described as follows: commencing at the northwest corner of said section two; thence in a southerly direction along the west boundary of said section two for a distance of seven hundred seventy-four and six-tenths feet; thence turning at a right angle to the left and traveling due east along a line which is parallel to the north boundary of said section two for a distance of eight hundred eighty-nine and nine-tenths feet to a point which shall be called the point of beginning; thence turning a deflection angle



of ninety degrees and twenty-two minutes to the right and traveling in a southerly direction a distance of six hundred eighty-four and twenty-eight hundredths feet to a point which intersects the north edge of the Minneapolis, St. Paul and Sault Ste. Marie Railroad right-of-way boundary and thence traveling in an easterly and northeasterly direction along said railroad right-of-way to a point where said railroad right-of-way intersects a line which is parallel to and forty feet south of the north boundary of said section two; thence traveling in a westerly direction along said line forty feet south and parallel to the north boundary of said section two to a point which lies one thousand five hundred seven feet east of the west boundary of said section two; also known as the northeast corner of lot four; thence south along a line which is parallel to the west boundary of said section two for a distance of seven hundred thirty-four and six-tenths feet, to a point which is also known as the southeast corner of lot six; thence turning at a right angle to the right and traveling due west a distance of six hundred seventeen and one-tenth feet to the point of beginning, said tract containing sixty-six and forty-seven hundredths acres of land, more or less, and all that part of the north half of section two, township one hundred thirty-eight north, range eighty west, of the fifth principal meridian, lying within a tract of land located on the easterly side of the Minneapolis, St. Paul and Sault Ste. Marie Railroad Company right-of-way and on the northerly side of present United States highway number ten, excepting all that portion previously acquired for public highway right-of-way and all that portion lying within thirty-three feet of the section lines, said tract containing twenty-seven and five one-hundredths acres, more or less.

**Section 2. Mineral Reservations—Utilization of Funds—Acquisition of Property.)** The transactions authorized in sections 1 and 2 of this Act shall not be subject to the provisions of section 38-09-01 of the North Dakota Century Code. Only such mineral reservations shall be included in the conveyances executed hereunder as are deemed appropriate by the board of administration after due consideration of all factors relevant to the situation, including but not limited to, the appraisal of same, prices actually received, and rights and titles received in exchange therefor. Upon the sale of the land described in section 1 hereof, or any part of same, the proceeds of sale shall be deposited in a special fund in the state treasury for replacement of same, including but not limited to, purchase price, monetary damages, appraisal fees, and incidental expenses, which said fund is hereby appropriated to be used for such purposes.

Acquisition of full fee simple title to the property described as:

All that part of the southeast quarter of section two, township one hundred thirty-eight range eighty west of the fifth principal meridian, Burleigh County, North Dakota, lying to the north and east of the situs of old highway number ten, which situs is described as a tract of land in the southeast quarter of section two, township one hundred thirty-eight north range eighty west of the fifth principal meridian, described as beginning with a strip two hundred sixteen feet wide lying thirty-three feet right and one hundred eighty-three feet left of the following described survey line, beginning at a point on the west line of said southeast quarter one thousand four hundred fourteen and two-tenths feet, north of the southwest corner thereof, thence running south fifty-six degrees thirty-seven minutes east eight hundred thirty-nine and six-tenths feet, then continuing with a strip sixty-six feet wide lying thirty-three feet on each side of said survey line south fifty-six degrees thirty-seven minutes east one thousand one hundred eleven and two-tenths feet, thence along a three-degree curve left one thousand one hundred one and seven-tenths feet, more or less, to the east line of said section two, which situs has heretofore been conveyed to Burleigh County, North Dakota, by instrument dated on the eighteenth day of May in the year 1960,

is essential to the maintenance of adequate security at the North Dakota state penitentiary.

The board of administration shall proceed to acquire said described premises in the following manner:

- a. Purchase any and all parts of the tracts described in this section for its value as determined by such independent appraisal with such part of the proceeds of the sale of the premises described in section 1 of this Act, as is necessary for same, or
- b. Proceed by the process of eminent domain, as set out in chapter 32-15 of the North Dakota Century Code, as amended to date, to acquire same. The estates and rights to be taken in the above-described property for this purpose is the same as is taken for public buildings and grounds as prescribed in subsection 1 of section



32-15-03 of the North Dakota Century Code, to-wit, a fee simple.

**Section 3. The State Health Department Authorized to Exchange Certain Real Property Owned by the State for the Benefit of the State Hospital.)** The state health department is hereby authorized for the consideration of the exchange of other property and an amount equal to one-half the costs incurred in surveying the properties under consideration and hereinafter described, to convey to Leroy Roeske and Velma Roeske, husband and wife, of Jamestown, North Dakota, the following described real property:

All that part of section five, township one hundred thirty-nine north, range sixty-three west, in Stutsman County, North Dakota, lying north and east of that certain township road which runs in a general southeast-northwest direction and generally parallel to the Northern Pacific Railway right-of-way, therein excepting that rectangular tract in the northeast corner thereof containing fifty-six acres, more or less, and reserving to the state of North Dakota for right-of-way a tract one hundred feet in width along the north boundary thereof and immediately adjacent to the south boundary of interstate ninety-four, all of which real property and conveyance shall be subject to final survey thereof by a registered land surveyor to accurately define the legal description thereof.

The real property to be conveyed by Leroy Roeske and Velma Roeske, of Jamestown, North Dakota, to the state of North Dakota, as consideration for the foregoing conveyance is described as follows:

The south half of the northeast quarter of section seven and the northeast quarter of the northeast quarter of section seven, less a prior conveyance to Albert Neva and Michael J. Neva by a warranty deed dated January 14, 1964, and recorded on the seventeenth day of January, 1964, in Book 193 of Deeds, pages 78-79, and the conveyance to the Midland Continental Railroad Company of Jamestown, North Dakota, all lying in township one hundred thirty-nine north, range sixty-three west, in Stutsman County, North Dakota.

**Section 4. The Board of Administration Shall Transfer the Following Described Land to the State Water Commission.)** A

tract of land lying in the northwest quarter of section two, township one hundred thirty-eight north, range eighty west of the fifth principal meridian, Burleigh County, North Dakota, and described as follows: commencing at the northwest corner of said section two; thence traveling in a southerly direction along the west boundary of said section two for a distance of seven hundred seventy-four and six-tenths feet; thence turning a right angle to the left and traveling in an easterly direction along a line which is parallel to the north boundary of said section two for a distance of forty-seven feet, which shall be called the point of beginning and is also known as the southwest corner of lot two; thence continuing due east along said line for a distance of eight hundred forty-two and nine-tenths feet; thence turning a deflection angle of ninety degrees and twenty-two minutes to the right and traveling in a southerly direction for a distance of one hundred fifty feet to a point also known as the northeast corner of the North Dakota state water commission property, (Chapter 374, North Dakota Session Laws, 1965); thence turning a deflection angle of eighty-nine degrees and thirty-eight minutes to the right and traveling in a westerly direction along the north boundary of the North Dakota state water commission property, (Chapter 374, North Dakota Session Laws, 1965) for a distance of eight hundred forty-two and nine-tenths feet to the northwest corner of said North Dakota state water commission property; thence turning a deflection angle of ninety degrees and twenty-two minutes to the right and traveling a distance of one hundred fifty feet to the point of beginning, said tract containing two and nine-tenths acres of land, more or less.

**Section 5. Conveyance.)** The said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota, by the governor and attested by the secretary of state.

**Section 6. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 29, 1969.



## CHAPTER 409

H. B. No. 117  
(Hoghaug, Jones)

SALE OF LAND BELONGING TO  
SCHOOL FOR DEAF AND DUMB

AN ACT

To provide for the sale of lands managed and controlled by the school for the deaf and dumb of North Dakota to the Devils Lake public school district number one for the use of the lake region junior college.

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

**Section 1. Board of Administration May Sell Certain Lands of the School for the Deaf and Dumb of North Dakota to Devils Lake Public School District.)** The board of administration is hereby authorized to sell certain state lands under the control and management of the school for the deaf and dumb of North Dakota to the Devils Lake public school district number one for the use of the lake region junior college, described as follows:

That portion of the east one-half of the northwest one-quarter of section twenty-seven, township one hundred fifty-four north, range sixty-four west of the fifth principal meridian, county of Ramsey, state of North Dakota, more particularly described as starting at a point one thousand three hundred twenty-one and one-tenth feet north eighty-nine degrees fifty-five minutes east of the northwest corner of said section twenty-seven, thence south zero degrees three minutes west two thousand six hundred forty-three and five-tenths feet along the west boundary of the east one-half of the northwest one-quarter of said section twenty-seven, thence north eighty-nine degrees fifty-six minutes east one thousand forty-one and seven-tenths feet along the northern boundary of the lake region junior college property, thence north two degrees twelve minutes east two thousand six hundred forty-six feet along the west right-of-way of North Dakota highway number twenty, thence south eighty-nine degrees fifty-five minutes west one thousand one hundred forty and one-tenth feet to the point of beginning, the de-



scribed tract to contain sixty-six and twenty-one hundredths acres, more or less.

The board of administration shall cause the above-described property to be appraised in accordance with its value for agricultural purpose and set the minimum sale price for said land. The said board of administration is authorized to negotiate the sale of the aforescribed real estate, but, under no conditions may negotiate a price for the sale of the land in an amount less than that appraised by the board of university and school lands. Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed. Further, the quitclaim deed shall recite that if the land is ever no longer used for school purposes, then the land shall revert to the state of North Dakota upon the payment to the school district, the same price for which it was purchased.

Upon the sale of such land, the proceeds shall be deposited in the general fund in the state treasury.

The said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

**Section 2.)** The state shall not be 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.

Approved March 28, 1969.

## CHAPTER 410

S.B. No. 219

(Wenstrom, Jacobson, Ringsak)

TRANSFER OF LAND TO RURAL  
REHABILITATION CORPORATION

## AN ACT

Providing for the transfer of forty acres in McKenzie County, North Dakota, from the state of North Dakota to the North Dakota rural rehabilitation corporation for the purpose of clearing title to such property, and declaring an emergency.

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

**Section 1. Transfer of Tax Land—North Dakota Rural Rehabilitation Corporation.)** On November 9, 1939, the state of North Dakota acquired from McKenzie County, a political subdivision of the state of North Dakota, by tax deed, forty acres of real estate situated in McKenzie County, North Dakota; that thereafter, along with various other lands also conveyed to the state of North Dakota by McKenzie County, North Dakota, the North Dakota rural rehabilitation corporation acquired title and paid taxes on said real estate prior to its transfer by special warranty deed dated November 26, 1957, in favor of Cloyd J. Wegley and Muriel O. Wegley, as joint tenants, the surface interest in and to the property hereinafter described. Because of the mistake in not including the hereinafter described real property, or if included in a separate instrument of conveyance, the original having been lost prior to filing for record in the office of the register of deeds of McKenzie County, North Dakota, and to complete the break in the chain of title to said real property, the governor of the state of North Dakota, on behalf of the state of North Dakota, for the consideration of one dollar, plus other good and valuable consideration, is hereby directed to execute the state of North Dakota's deed, quitclaiming, releasing, and remissing to the North Dakota rural rehabilitation corporation, Bismarck, North Dakota, all right, title, and interest of the state of North Dakota in the following described tract of real property, situated in McKenzie County, North Dakota, to wit:

The southeast quarter of the northwest quarter of section twenty-one in township one hundred fifty-three north, range one hundred one west.

Such deed and the governor's signature thereto shall be attested by the secretary of state and shall be duly notarized by a notary public.

**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 February 22, 1969.



## CHAPTER 411

S. B. No. 440  
(Nething, Melland)

SALE OF STATE HOSPITAL  
LAND

AN ACT

To authorize the state health officer of the state department of health to sell and convey certain land owned by the state of North Dakota, which land was formerly used for agricultural purposes, by the North Dakota state hospital.

**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 under conditions hereafter stated, is authorized to sell at public sale at the price of not less than \$6,000.00 certain land owned by the state of North Dakota, which land consists of and is described as the northeast quarter of the northeast quarter of section eight, township one hundred thirty-nine, range sixty-three, Stutsman County, North Dakota, of which a portion of such land was formerly used for agricultural purposes by the state hospital.

Such conveyance shall reserve to the state all mineral rights in and under the premises conveyed.

Upon the sale of such land, the proceeds shall be deposited in the general fund in the state treasury.

The said real property shall be conveyed by quitclaim deed executed in the name of the state of North Dakota by the governor and attested by the secretary of state.

**Section 2.)** The state shall not be 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.

Approved March 26, 1969.

# PUBLIC BUILDINGS

---

## CHAPTER 412

H. B. No. 144

(Strinden, Froelich, Emerson)

### SECURITY DEPOSIT BY PUBLIC BUILDING CONCESSIONAIRE

#### AN ACT

To amend and reenact section 48-09-03 of the North Dakota Century Code, relating to security requirements of a successful bidder for a concession on public buildings and grounds.

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

**Section 1. Amendment.)** Section 48-09-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**48-09-03. Security Required of Successful Bidder.)** The governing body, in its discretion, may require a deposit of security by the successful bidder for a concession within ten days after notice of the acceptance of his bid. If such deposit of security is not so furnished, the concession may be let to the next highest bidder, and if there is no other bidder, to some other party. Such deposit of security must be approved and accepted before the renting, leasing, or licensing of such public property shall become effective. Vending, service, and merchandising machines shall be permitted in public buildings only upon payment of an adequate compensation for such privilege. All moneys received under the provisions of this section and section 48-09-01 shall be turned into the general fund of the state, county, or municipality, as the case may be.

Approved March 13, 1969.



## CHAPTER 413

S. B. No. 410

(Hernett, Chesrown, Berube)

(From Capitol Grounds Planning Commission Study)

CONSTRUCTION OF MULTIPURPOSE  
BUILDING ON CAPITOL GROUNDS

## AN ACT

Authorizing the construction of a multipurpose building for the occupancy and use of the Bank of North Dakota and such other legislative and executive branch uses as the legislative assembly may prescribe, and providing for an appropriation.

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

**Section 1. Authorization to Construct Bank of North Dakota and Multipurpose Building.)** The state industrial commission shall construct a multipurpose building for the use and occupancy of the Bank of North Dakota and such other legislative and executive branch or general purpose use as may be prescribed by the legislative assembly, or prescribed by the capitol grounds planning commission in the event the legislative assembly shall not prescribe all specific uses prior to time of planning and construction. Such building shall be constructed immediately east of the existing state capitol building but connected thereto. The cost for planning, construction and for attached fixtures and furniture of not in excess of two million six hundred thousand dollars from funds of the Bank of North Dakota, and such building shall be an asset of the Bank of North Dakota. The industrial commission, with the approval of the capitol grounds planning commission, shall employ North Dakota resident architects for the planning, designing, and supervising of construction, approve all plans and contracts for the construction of the building, execute any contracts relating to the construction and equipping of the building, superintend the construction of the building, and perform any other function related to the construction and equipping of such building. The capitol grounds planning commission may call upon the staff of the legislative research committee for such assistance as it may deem desirable in the course of its work.



**Section 2. Occupancy of Multipurpose Building and Other Buildings.)** In addition to providing necessary building space for the use of the Bank of North Dakota in the multipurpose building, suitable space shall be allocated for use of the central data processing center, a new cafeteria, legislative lounge, additional legislative committee rooms and for legislative council facilities and other legislative functions, and a new visitors' entrance to the state capitol building. Other space in such multipurpose building may be allocated to other departments and agencies as directed by the capitol grounds planning commission and shall be utilized by such departments and agencies.

Upon the vacating of space in the state highway department building by the central data processing center, the capitol grounds planning commission shall direct the transfer of highway or motor vehicle related functions of state government from the state capitol building to the vacated space in the state highway department building.

The capitol grounds planning commission shall review alternative uses for the existing Bank of North Dakota building or the feasibility of its sale and make its recommendations to the forty-second legislative assembly.

If feasible, provision may be made in the course of construction of the multipurpose building for the necessary alteration and improvement of the existing offices of the governor, secretary of state, and the attorney general.

**Section 3. Appropriation for Legislative Quarters.)** There is hereby appropriated to the capitol grounds planning commission, out of any moneys in the state capitol building fund not otherwise appropriated, the sum of \$600,000.00, or so much thereof as may be necessary, for the purpose of supplementing the appropriation provided in section 1 of this Act, as deemed necessary by the capitol grounds planning commission, in paying a portion of the costs of construction, equipping, and furnishing that portion of the multipurpose building to be used and occupied by the legislative assembly or its agencies, which appropriation shall be in addition to that provided in section 1 of this Act.

**Section 4. Custody of Multipurpose Building.)** The board of administration shall control, manage, and maintain the

multipurpose building in the same manner as provided for the state office building in section 54-21-18 and as provided by law for the state capitol building.

Approved March 29, 1969.



# PUBLIC UTILITIES

## CHAPTER 414

S. B. No. 339  
(Hernett, Wilhite)

### LIMITATION OF JURISDICTION OF PUBLIC SERVICE COMMISSION

#### AN ACT

To amend and reenact section 49-02-01.1 of the North Dakota Century Code, relating to extending the jurisdiction of the public service commission to safety requirements of public utilities owned and operated by the state and any political subdivision thereof and public utilities not operated for profit.

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

**Section 1. Amendment.)** Section 49-02-01.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-02-01.1. Jurisdiction of Commission Limited as to Certain Utilities.)** Nothing in this chapter shall authorize the commission to make any order affecting rates, contracts, services rendered, adequacy, or sufficiency of facilities, or the rules or regulations of any public utility owned and operated by the state or by any city, county, township, village, or other political subdivision of the state or any public utility that is not operated for profit, but all other provisions herein shall apply to such utilities. However any telephone and telegraph utility so owned or operated shall be subject to the jurisdiction of the commission and to the provisions contained in sections 49-02-05 and 49-21-09.

Approved March 13, 1969.

S. B. No. 121  
(Lips)CARRIERS SERVING CITIES OF LIMITED  
TRANSPORTATION SERVICE

## AN ACT

To amend and reenact section 49-18-02 of the North Dakota Century Code, by creating a new subsection to exempt from the provisions of section 49, the transportation of property for hire to and from cities with limited transportation service.

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

**Section 1. Amendment.)** Section 49-18-02 of the North Dakota Century Code is hereby amended and reenacted by creating the following new subsection:

4. To the transportation of property for hire to or from any city not being served at least two times a week by certified common carriers.

Approved March 26, 1969.

## CHAPTER 416

S. B. No. 123  
(Lips)

EXEMPTING TRANSPORTATION OF CROP  
SAMPLES FROM REGULATION

## AN ACT

To amend and reenact section 49-18-02 of the North Dakota Century Code, by creating a new subsection relating to exemption from regulation of the transportation of samples of agricultural crops to inspection laboratories, and declaring an emergency.

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

**Section 1. Amendment.)** Section 49-18-02 of the North Dakota Century Code is hereby amended and reenacted by creating the following new subsection:

To the transportation, for hire, of samples of agricultural crops moving to inspection laboratories for the purpose of establishing the official grade or other laboratory tests.

**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, 1969.



S. B. No. 124  
(Lips)

LIMITATION ON REGULATION OF COMMON OR  
SPECIAL MOTOR CARRIERS

AN ACT

To amend and reenact section 49-18-03 of the North Dakota Century Code, relating to the regulation of common or special motor carriers of property.

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

**Section 1. Amendment.)** Section 49-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-18-03. Application of Chapter to Common Motor Carrier Limited.)** This chapter shall not apply to any common or special motor carrier of property or passengers operating:

1. Wholly within a city in this state; or
2. Such distance beyond the corporate limits of a city as the public service commission may determine.

Approved March 29, 1969.



## CHAPTER 418

S. B. No. 314

(Ringsak, Nething)

**OBTAINING TELECOMMUNICATIONS SERVICE  
FRAUDULENTLY****AN ACT**

To amend and reenact section 49-21-21 of the North Dakota Century Code, relating to fraudulent telecommunications, and providing a penalty.

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

**Section 1. Amendment.)** Section 49-21-21 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**49-21-21. Fraudulent Telecommunications—Penalty.)** Any individual, corporation, or other person, who, with intent to defraud or to aid and abet another to defraud any individual, corporation, or other person, of the lawful charge, in whole or in part, for any telecommunications service, shall obtain or attempt to obtain, or aid and abet another to obtain or to attempt to obtain, any telecommunications service by:

1. Charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the legitimate holder thereof; or
2. Charging such service to a nonexistent, false, fictitious, or counterfeit telephone number or credit card number or to a suspended, terminated, expired, canceled, or revoked telephone number or credit card number; or
3. Use of a code, pre-arranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information; or
4. Installing, rearranging, or tampering with any facilities or equipment, whether physically, inductively, acoustically, or electronically; or

- 5. Any other trick, stratagem, impersonation, false pretense, false representation, false statement, contrivance, device, or means,

shall, when the value of the services is two hundred dollars or less, be guilty of a misdemeanor, or, when the value of the services exceeds two hundred dollars, shall be guilty of a felony, and shall be punished by imprisonment in the state penitentiary for not more than two years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment.

Approved March 25, 1969.



# PUBLIC WELFARE

---

## CHAPTER 419

S. B. No. 427  
(Nething, Lips, Kelly)

### FOSTER FAMILY CARE HOMES FOR ADULTS AND CHILDREN

#### AN ACT

To provide for the establishment, licensing, and supervision of foster family care homes for adults; to amend and reenact sections 50-11-01, 50-11-02, 50-11-03, 50-11-04, 50-11-05, 50-11-06, 50-11-07, 50-11-08, 50-11-09 and 50-11-10 of the North Dakota Century Code, relating to the establishment, licensing and supervision of children's homes.

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

**Section 1. Amendment.)** Section 50-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-01. Foster Family Care Home for Children—License Required.)** Any person, partnership, voluntary association, or corporation owning or operating a home or institution receiving for day care or full-time foster family care for children or otherwise during the calendar year, one or more children under the age of eighteen years shall procure annually from the public welfare board a license so to do. The provisions of this section shall not apply when the children received by such person are related to him by blood or marriage, nor shall it apply to any home or institution under the management and control of the state.

**Section 2. Amendment.)** Section 50-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-02. License Granted—Term.)** A license for the operation of a home or institution for receiving children shall

be granted by the public welfare board to reputable and responsible persons upon showing that:

1. The premises to be used are in fit sanitary condition and properly equipped to provide good care for all children who may be received;
2. The persons in active charge of such home or institution and their assistants are properly qualified to carry on efficiently the duties required of them;
3. The home or institution 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. The institution or home will be maintained according to the standards prescribed for its conduct by the rules and regulations of the public welfare board. Such license shall be in force and effect for a period of not more than one year.

**Section 3. Amendment.)** Section 50-11-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-03. Public Welfare Board To Make Rules and Regulations—Children Registered.)** The public welfare board may prescribe forms for the registration and record of all children and adults cared for in any home or institution licensed under this chapter and shall make such reasonable rules and regulations for the conduct of such place as are necessary to carry out the purposes of this chapter.

**Section 4. Amendment.)** Section 50-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-04. Inspection by the Public Welfare Board.)** The public welfare board and its authorized agents at any time may inspect any home or institution licensed under the provisions of this chapter. The board and its agents shall have full and free access to every part of such home or institution. All records of the home or institution shall be open for the



inspection of the board or its agents and they may see and interview all children and adults cared for therein.

**Section 5. Amendment.)** Section 50-11-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-05. Contents of Records Not Disclosed—Exception.)** No agent of the public welfare board shall disclose the contents of the records of homes or institutions licensed under the provisions of this chapter or of reports which may be received therefrom, except:

1. In a judicial proceeding;
2. To officers of the law or other legally constituted boards or agencies; or
3. To persons having a definite interest in the well-being of the child or children concerned and who are in a position to serve their interests should that be necessary.

**Section 6. Amendment.)** Section 50-11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-06. Children's Home Not to Hold Itself Out As Having Authority to Dispose of Child by Adoption Unless Licensed.)** No licensee under the provisions of this chapter shall hold himself out as having authority to dispose of any child, nor shall he advertise that he will give children for adoption, or hold himself out directly or indirectly, as being able to dispose of children, unless he shall have been licensed so to do expressly by the public welfare board, according to law.

**Section 7. Foster Family Care Home for Adults Defined.)** As used in this chapter, the term foster family care home for adults shall mean any home in which four or less adults who are eligible for or receiving public assistance and not related by blood or marriage to the licensee of said home are received, kept and provided with food, shelter and care for hire or compensation.

**Section 8. Public Welfare Board to Establish Standards—Licensing—Inspection—Prosecute Violations.)** It shall be

the duty of the public welfare board of North Dakota, hereinafter referred to as the board, to establish reasonable minimum standards for such homes. The board shall grant annual licenses to such homes as conformed to the standards established and to comply with the rules prescribed, inspect all places which are provided for in the preceding section, and prosecute all violation of this chapter. Upon request of the board, the county welfare board of the county wherein the home is located, shall inspect any place for which a license is applied for or issued and shall report these findings to the board.

**Section 9. License Required—Term—Revocation.)** No person shall keep, operate, conduct or manage a foster family care home for adults as defined in this chapter, without holding a valid license issued by such board as herein provided. License shall not be valid for more than one year. Any license may be revoked by the board for violation of the provisions of this chapter and the rules which may be prescribed by the board.

**Section 10. Contents of License.)** The license shall show the name of the owner or operator of the foster family care home for adults, its location and the maximum number of persons who may be received and kept in the home at any one time.

**Section 11. Records Kept By Home.)** A record of every adult person received and kept by any such foster family care home for adults shall be maintained by the owner or operator in the manner and form prescribed by the board at the place licensed.

**Section 12. The Board to Furnish Information When Requested.)** It shall be the duty of the board whenever called upon by any person, organization or corporation interested in establishing such a foster family care home for children or adults to furnish information concerning the minimum requirements for such home, and concerning the need for such foster family care home for children or adults in any given community.

**Section 13. Amendment.)** Section 50-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:



**50-11-07. Revocation of License.)** The public welfare board may revoke the license of any foster family care home or institution for children or adults upon proper showing that:

1. Any of the conditions set forth in section 50-11-02 as prerequisites for the issuance of the license no longer exist;
2. The license was issued upon fraudulent or untrue representations;
3. The owner or proprietor of such home or institution has violated any of the rules and regulations of the public welfare board; or
4. The owner or proprietor of such home or institution has been guilty of moral turpitude.

**Section 14. Amendment.)** Section 50-11-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-08. Denial or Revocation of License—Hearing.)** Before any application for a license under the provisions of this chapter shall be denied, or before revocation of any such license shall take place, written charges as to the reasons therefor shall be served upon the applicant or licensee. Such applicant or licensee shall have the right to a hearing before the public welfare board if such hearing is requested within ten days after service of the written charges.

**Section 15. Amendment.)** Section 50-11-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-09. Appeal from Decision of Public Welfare Board Denying or Revoking License.)** The applicant for a license to operate a foster family care home for children or adults or institution receiving children or adults and a person holding such license may appeal to the district court from any decision of the public welfare board denying an application or revoking a license. An appeal shall be taken in the manner provided in chapter 28-32 of the title Judicial Procedure, Civil.

**Section 16. Amendment.)** Section 50-11-10 of the North

Dakota Century Code is hereby amended and reenacted to read as follows:

**50-11-10. Penalty.)** Any person, whether owner, manager, operator or representative of any owner, operator or manager, who violates any of the provisions of this chapter, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment.

Approved March 29, 1969.

---

CHAPTER 420

S. B. No. 435

(Kautzmann, Stafne, Litten)

COMPENSATION OF CHILD-PLACING AGENCIES

AN ACT

To amend and reenact section 50-12-09 of the 1967 Supplement to the North Dakota Century Code, relating to compensation of child-placing agencies.

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

**Section 1. Amendment.)** Section 50-12-09 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-12-09. Compensation for Child-Placing.)** A child-placing agency in making an adoptive placement may be reimbursed by the adoptive couple for the cost of making the adoptive study of the home and the supervision and evaluation of any placement which may be made prior to the legal adoption. No couple shall be deprived of receiving a child for adoption on the basis of inability to pay any portion of such expense.

Approved March 26, 1969.



## CHAPTER 421

S. B. No. 244  
(G. Larson)

**LOANS TO NURSING HOMES AND HOMES FOR AGED**

## AN ACT

To amend and reenact section 50-21-03 of the 1967 Supplement to the North Dakota Century Code, relating to the Bank of North Dakota loans to nursing homes and homes for the aged.

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

**Section 1. Amendment.)** Section 50-21-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**50-21-03. Amount of Loan—Terms and Conditions.)** Loans in an amount not exceeding one-half of the cost of construction or reconstruction including the cost or value of real estate upon which the facility is located and in no event exceeding one hundred fifty thousand dollars to any one applicant shall be made by the Bank of North Dakota to nonprofit corporations to be used in the construction or reconstruction in this state of nursing homes and homes for the aged and infirm, or combination nursing homes and homes for the aged and infirm. Such loans shall bear interest at the rate of seven percent per annum and shall be repayable in the manner prescribed by the manager of the Bank of North Dakota within a period of not more than twenty-five years. In addition, in consideration of the granting of the loans, each nonprofit corporation shall execute a contract with the state to operate such home for a period of not less than twenty years, and to operate and maintain the home in accordance with the standards prescribed for the licensing of such home by the state health department or public welfare board, as the case may be. Such contract shall also require the nonprofit corporation to maintain facilities for not less than five persons referred to such home by any county welfare board. Such contract shall also provide that if the use of such home is discontinued or if it shall be diverted to other purposes, the full amount of the loan provided under this chapter shall immediately become due and payable. Loans shall be made only to an applicant who is not receiv-

ing other loans or grants of funds from this state for such construction or reconstruction. Payments of interest and principal upon such loans shall be made to the Bank of North Dakota and credited to the revolving fund.

Approved February 22, 1969.

---

CHAPTER 422

S. B. No. 472  
(Committee on Delayed Bills)

TERMINATION OF NURSING HOME  
CONSTRUCTION LOANS

AN ACT

To terminate the making of loans by the Bank of North Dakota to nonprofit corporations for use in the construction or reconstruction of nursing homes and homes for the aged and infirm and to transfer the balance of the revolving loan fund and repayments to such fund to the general fund, and declaring an emergency.

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

**Section 1. Termination of the Making of Loans by the Bank of North Dakota to Nursing Homes—Transfer of Funds to General Fund.)** Notwithstanding the provisions of sections 50-21-01, 50-21-02, 50-21-02.1, 50-21-03, 50-21-04, and 50-21-05, the Bank of North Dakota shall make no new loans from the revolving loan fund to nursing homes and homes for the aged and infirm. It is the intent of the legislative assembly that loans made pursuant to the provisions of this chapter be discontinued beginning with the effective date of this Act. The balance in the revolving loan fund on July 1, 1969, shall be transferred to the general fund and all payments made to the revolving loan fund after that date shall be transferred monthly by the manager of the Bank of North Dakota to the general fund.

**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1969.



# SALES AND EXCHANGE

---

## CHAPTER 423

S. B. No. 345  
(Becker, Trenbeath)

### LIMITED LIABILITY OF CREDIT CARD HOLDER

#### AN ACT

To define credit cards and other terms, and to provide for limited imposition of liability on the holder of a credit card.

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

**Section 1. Definition of Credit Cards and Other Terms and Imposition of Liability on Cardholder.)** In this section the following words and phrases shall, unless the context otherwise requires, have the following meanings:

1. "Adequate notice" means a writing which is conspicuous and which is printed on the credit card or on each periodic statement.
2. "Conspicuous" means any term or clause which is so written that a reasonable person against whom it is to operate ought to have noticed it.
3. "Credit card" means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.
4. "Accepted credit card" means any credit card which the cardholder has requested in writing or has signed or has used, or authorized another to use, for the purpose of obtaining money, property, labor, or services on credit. A renewal credit card shall be deemed to be accepted if it is issued within one year after a prior card has been paid for or used. A credit card issued in connection with a merger, acquisition, or the like of card issuers or

credit card services in substitution for an accepted credit card shall be deemed to be an accepted credit card.

5. "Card issuer" means any person who issues a credit card.
6. "Cardholder" means any person to whom a credit card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person.
7. "Unauthorized use" means a use of a credit card by a person other than the cardholder who does not have actual, implied, or apparent authority for such use and from which the cardholder receives no benefit.

A provision imposing liability on a cardholder for the unauthorized use of a credit card shall be effective only if the card is an accepted credit card, the liability imposed is not in excess of one hundred dollars, the card issuer gives adequate notice to the cardholder of the potential liability, and the unauthorized use occurs before the cardholder has notified the card issuer of the loss or theft of the card or of any unauthorized use.

Except as hereinbefore provided, a cardholder incurs no liability from the unauthorized use of either an accepted or an unaccepted credit card.

Approved March 17, 1969.



# SOCIAL SECURITY

---

## CHAPTER 424

S. B. No. 340  
(Lowe)

### REQUALIFICATION FOR UNEMPLOYMENT COMPENSATION

#### AN ACT

To create and enact subsection 10 of section 52-06-02 of the North Dakota Century Code, to provide for a means to requalify for benefits with the passage of time.

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

**Section 1.** Subsection 10 of section 52-06-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

10. The period of disqualification heretofore set forth in subsections 2a and 3a shall be overcome if claimant first completes a ten-week disqualification period following the week in which a claim was filed.

Approved March 20, 1969.

## CHAPTER 425

S. B. No. 274  
(Committee on Appropriations)

DEFINITION OF PRIMARY INSURANCE  
BENEFIT

AN ACT

To amend and reenact subdivision (3) of subsection D of section 52-09-20 of the North Dakota Century Code, relating to definitions of primary insurance benefit under North Dakota old age and survivor insurance system.

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

**Section 1. Amendment.)** Subdivision (3) of subsection D of section 52-09-20 of the North Dakota Century Code is amended and reenacted to read as follows:

- (3) From and after April 1, 1969, the term "primary insurance benefit" shall be the total of the sums determined in (1) and (2) of this subsection plus twenty dollars. Where the primary insurance benefit thus computed is less than twenty-five dollars, such benefit shall be twenty-five dollars. The provisions herein shall apply to valid claims filed before and after the specified date.

Approved March 25, 1969.

# STATE GOVERNMENT

---

## CHAPTER 426

H. B. No. 403

(Strinden, Sanstead, Bunker, Hoffner)

### LEGISLATORS' EXPENSE ALLOWANCE

AN ACT

To amend and reenact section 54-03-20 of the North Dakota Century Code, relating to the expense allowance for legislators, and declaring an emergency.

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

**Section 1. Amendment.)** Section 54-03-20 of the 1967 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 thirty-five dollars a day, as reimbursement for his living expenses, including meals, lodging, uncompensated travel, and other necessary expenses, for each calendar or natural day during any organizational, regular, or special legislative session. Such expenses shall be paid at the end of each month during a legislative session.

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 thirty-five dollars a month, which sum shall be payable every six months commencing on July 1, 1967, and every six months thereafter. 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.

**\*Note:** Section 54-03-20 was also amended by section 5 of chapter 427, 1969 S.L.



Attendance at any session of the legislative assembly by any member thereof shall be a conclusive presumption of the expenditure of such expense allowances for the purposes set forth in this section and shall be excluded from gross income for income tax purposes. The provisions of this section shall be retroactive to January 1, 1969.

**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1969.

---

## CHAPTER 427

H. B. No. 44

(Aamoth, Link, Streibel)

(From Legislative Research Committee Study)

### LEGISLATIVE ORGANIZATIONAL SESSION

#### AN ACT

To create and enact sections 54-03-02.1 and 54-03-20.1 of the North Dakota Century Code, to amend and reenact sections 54-03-02, 54-03-03, 54-03-04, 54-03-20, 54-03.1-02, and 54-03.1-03 of the North Dakota Century Code, and to repeal sections 54-03.1-01 and 54-03.1-04 of the North Dakota Century Code, all relating to the legislative assembly, and declaring an emergency.

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

**Section 1.)** Section 54-03-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**54-03-02.1. Definitions.)** For the purposes of this chapter and chapter 53-03.1 the following terms shall have the following meanings:

1. "Organizational session" shall mean 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 the legislative session commencing on the first Tuesday after the first Monday in January of the odd-numbered years.

**Section 2. 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.

**Section 3. Amendment.)** Section 54-03-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-03-03. Secretary of Senate and Chief Clerk of House to Make Roll of Members—Certificate Filed.)** The secretary of the senate and the chief clerk of the house of representatives, at the opening of each organizational session of the legislative assembly, shall make a correct roll of the members of their houses respectively to whom certificates of election have been issued by the proper officers. The certificates shall be filed by the secretary and chief clerk. Each certificate shall be prima facie evidence of the right to membership of the person certified therein to be elected for all purposes of the organization of either branch of the legislative assembly.

**Section 4. 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 to Order by Secretary and Chief Clerk—Officers—Term of Office.)** The secretary of the senate and chief clerk of the house serving at the close of a regular session 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 research committee pursuant to section 54-03.1-02, the president of the senate and the speaker of the house, or in the absence of either, then some member or other person appointed by the members present,



shall call the members of their respective houses so enrolled to order. The members of the respective houses then may proceed to the election of the necessary officers. The term of office of all officers of the senate and house of representatives shall expire with the close of the regular session at which they were elected, except the secretary of the senate and the chief clerk of the house for the purposes herein designated and except as provided in section 54-03-08.

**\* Section 5. Amendment.)** Section 54-03-20 of the 1967 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 twenty-five dollars a day, as reimbursement for his living expenses, including meals, lodging, uncompensated travel, and other necessary expenses, for each calendar or natural day during any organizational, special, or regular session. The expense allowance shall be paid immediately following the organizational session in December and at the end of each month during a regular or special session.

A day, or portion of a day spent in traveling to or returning from an organizational, special, or regular session shall be included as a calendar or natural day during a legislative session for the purpose of calculation of the expense allowance provided by this section.

In addition, each such member shall receive during the term for which he was elected, for uncompensated expenses incurred in the execution of his public duties during the biennium, the sum of thirty-five dollars a month, which sum shall be payable every six months. Provided, however, should a member die or resign from office during his term, he shall be paid only the allowances provided for in this section for the period for which he was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member thereof shall be a conclusive presumption of the expenditure of such expense allowances for the purposes set forth in this section and shall be

**\*Note:** Section 54-03-20 was also amended by section 1 of chapter 426, 1969 S. L.



excluded from gross income for income tax purposes. The provisions of this section shall be retroactive to December 1, 1968.

**Section 6.)** Section 54-03-20.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**54-03-20.1. Compensation for Attending Legislators.)** Each member of the legislative assembly shall receive as compensation for his services at any organizational, special, or regular session, five dollars per day and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the legislative assembly by the most usual route. No member of the legislative assembly shall make claim for reimbursement for more than three trips to and from the place of meeting of the legislative assembly during any regular session.

**Section 7. Amendment.)** Section 54-03.1-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\* 54-03.1-02. Time and Place of Meeting—Who Must Attend.)** In each even-numbered year on the first Tuesday after the first Monday in the month of December, all persons elected at the previous November general election as members of the succeeding legislative session, and members of the senate whose terms do not expire during the following session of the legislative assembly, shall meet in the state capitol in the city of Bismarck, or at such other place as may be designated, at the hour of nine o'clock a.m. for the purpose of conducting an organizational session. The legislative research committee shall call the organizational session and make such arrangements as may be necessary for its operation.

**\*Note:** Section 54-03.1-02 was also amended by section 23 of chapter 448, 1969 S.L.

**Section 8. Amendment.)** Section 54-03.1-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-03.1-03. Agenda.)** The agenda of the organizational session shall include, but not be limited to, the following:

1. Orientation classes upon legislative rules and procedure for new legislators;

2. Presentation of reports by legislative interim boards or committees;
3. Party caucuses to determine which party has a majority in each house of the legislative assembly and thereafter proceed to select party nominees for officers of each body;
4. Appointment of employment committees to process applications for positions of employment with the legislative assembly and make recommendation for hiring the selected employees;
5. Appointment of a senate committee on committees;
6. Each legislator shall present his committee appointment preferences to the speaker of the majority party or the chairman of the interim senate committee on committees; and
7. All other similar matters, in order that the legislative assembly be fully organized and ready to begin its business by the first day of the regular session.

**Section 9. Repeal.)** Sections 54-03.1-01 and 54-03.1-04 of the 1967 Supplement to the North Dakota Century Code are hereby repealed.

**Section 10. Emergency.)** This measure is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 8, 1969.



## CHAPTER 428

S. B. No. 245  
(Melland)

APPROVAL AND PAYMENT OF  
LEGISLATIVE EXPENSES

AN ACT

To amend and reenact section 54-03-11 of the North Dakota Century Code, relating to approval and payment of legislative costs and expenses.

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

**Section 1. Amendment.)** Section 54-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-03-11. Payment of Legislative Costs and Expenses — President of the Senate and Speaker of the House Jointly Approve Vouchers.)** During any legislative session, the speaker of the house and the president of the senate, or persons designated by the speaker and the president, shall, on behalf of the legislative assembly and without further legislative action, jointly approve vouchers for payment of compensation, salaries, and other costs of operation and expenses of the legislative assembly, its committees, and its employees within the limits of special, general, or standing legislative appropriations.

Approved March 4, 1969.

## CHAPTER 429

H. B. No. 256

(R. Peterson, Strinden, Streibel)

## LEGISLATIVE COMPENSATION COMMISSION

## AN ACT

To create a legislative compensation commission, appointed by the governor, with authority to recommend the rate of legislative expense allowance and interim per diem.

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

**Section 1. Creation of Legislative Compensation Commission—Appointment of Members.)** A legislative compensation commission is hereby created which shall be responsible for determining appropriate rates of expense allowance and interim reimbursement to be paid members of the legislative assembly.

The commission shall consist of five members appointed by the governor. No member of the commission shall hold state office or serve in state government in any capacity at the time of his appointment or during his service on the commission. The members shall be appointed for a term of four years, and the governor shall appoint one of the members chairman of the commission.

**Section 2. Meetings—Powers and Duties—Expenses.)** The commission shall meet at the call of the chairman as often as may be necessary, but shall meet at least once during each biennium. The commission shall determine a proper level of legislative interim compensation, expense, and per diem paid for service upon interim committees, and a proper expense allowance to be paid during legislative sessions. In making such recommendations it shall review expense and compensation allowances for legislative service in other states, and comparable compensation and allowances in other areas of state and federal service as well as private industry, and shall determine rates of compensation and reimbursements that shall permit citizens to hold legislative office without undue financial sacrifice or disadvantage. It shall report its findings and recommendations to the legislative assembly within ten days after convening the regular legislative session. Members of the legislative compen-



sation commission shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred due to attendance at meetings in the same manner as other state officials. Such expense allowance shall be paid from appropriations then in effect for the legislative assembly. The commission may solicit the assistance of the staff of the legislative research committee to provide information, aid, and assistance in carrying out its duties.

Approved March 15, 1969.

---

## CHAPTER 430

S. B. No. 434

(Freed, Chesrown, Wenstrom, Meschke)

### CONTINUANCE OF CIVIL PROCEEDINGS INVOLVING LEGISLATOR

#### AN ACT

To amend and reenact section 54-03-22 of the North Dakota Century Code, relating to the continuance of civil actions and proceedings before commissions, boards, and agencies of the state or its political subdivisions when a party to the action or proceeding, or his attorney, is a member of the legislative assembly, and the legislative assembly is in session.

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

**Section 1. Amendment.)** Section 54-03-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-03-22. When Party or Attorney is Member of Legislative Assembly.)** In any civil action pending in any court in this state at any time when the legislative assembly is in session, it shall be sufficient cause for a continuance of such action to a succeeding term of court, if it shall be made to appear by affidavit of any attorney of record that the party to said action applying for such continuance, or any attorney who has been the attorney of record of such party since commencement of such action or for more than fifteen days prior to filing such affidavit, is a member of either house of the legislative assembly and is then, or, at the beginning of the

term of the court in which such action is pending, will be, actually engaged in the performance of his duties at a session of the legislative assembly, and that the attendance of such party or the attorney of record is necessary to the fair and proper trial of said action. Notice of motion, together with a copy of the affidavit, shall be served upon the other party to the action at least ten days prior to the opening of the term of court at which said action is pending, if said action is pending in such court at the opening of the term. Upon the proof of service of such notice and affidavit the case shall be continued over to the next succeeding term, and shall not be tried over the objection of the party within ten days after the adjournment of the legislative assembly. It shall be sufficient cause for the continuance of any proceeding before any board, commission, or agency of the state or its political subdivisions that any party to the proceeding, or his attorney, is a member of the legislative assembly and the legislative assembly is in session. The party or his attorney shall give written notice of the fact of his membership in the legislative assembly along with a request for continuance of the proceeding to the board, commission, or agency before which he was to appear, and upon receipt thereof, the board shall cause the proceeding to be continued to a date not less than ten days after adjournment of the legislative assembly, and shall notify the other parties to the proceeding, and their attorneys, of such continuance.

Approved March 20, 1969.



## CHAPTER 431

H. B. No. 43  
(Aamoth, Link, Streibel)

(From Legislative Research Committee Study)

CODE OF PROCEDURE FOR LEGISLATIVE  
INVESTIGATIONS

AN ACT

To provide a code of fair procedure to be followed by legislative investigating committees, and providing a penalty.

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

**Section 1. Establishment and Purpose of Code.)** A code of fair procedure for legislative investigating committees is hereby established for the purpose of providing for the creation and operation of legislative investigating committees in a manner which will enable them to perform properly the powers and duties vested in them, including the conduct of hearings, in a fair and impartial manner, consistent with protection of the constitutional rights of persons called to testify at such hearings and preservation of the public good.

**Section 2. Definitions.)** As used in this code:

1. "Investigating committee" means any of the following which has the power to compel the attendance and testimony of witnesses or the production of books, records, papers and documents to secure information on a specific subject for the use of the legislature:

- a. A standing or select committee of either house of the legislature.
- b. A joint committee of both houses.
- c. An authorized subcommittee of a legislative committee.

- d. Any body created by law, the members of which may include non-legislators.
2. "Hearing" means any meeting in the course of an investigatory proceeding, other than a preliminary conference or interview at which no testimony is taken under oath, conducted by an investigating committee for the purpose of taking testimony or receiving other evidence. A hearing may be open to the public or closed to the public.
  3. "Public hearing" means any hearing open to the public, or the proceedings of which are made available to the public.

**Section 3. Establishment of Investigating Committees by Legislature.)** An investigating committee may exercise its powers during sessions of the legislature, and also in the interim between sessions when so provided by law or by the resolution or statute by which the committee was established or from which it derives its investigatory powers. The resolution or statute establishing an investigating committee shall state the committee's purposes, powers, duties and duration, the subject matter and scope of its investigatory authority, and the number of its members.

**Section 4. Adoption of Rules.)** Each investigating committee shall adopt rules, not inconsistent with law or any applicable rules of the legislature, governing its procedures, including the conduct of hearings.

**Section 5. Finances and Staff.)** Each investigating committee may employ such professional, technical, clerical, or other personnel as necessary for the proper performance of its duties, to the extent of funds made available to it for such purpose and subject to such restrictions and procedures relating thereto as may be provided by law or any applicable rules of the legislature.

**Section 6. Membership, Quorum and Voting.)** An investigating committee shall consist of not less than five members. A quorum shall consist of a majority of the total authorized membership of the committee. No action shall be taken by a committee at any meeting unless a



quorum is present. The committee may act by a majority vote of the members present and voting at a meeting at which there is a quorum, unless the provisions of this Code or any other statute require a greater number or proportion.

**Section 7. Hearings.)** An investigating committee may hold hearings appropriate for the performance of its duties, at such times and places as the committee determines.

The committee shall provide by its rules that each member of the committee be given at least three days' written notice of any hearing to be held when the legislature is in session and at least seven days' written notice of any hearing to be held when the legislature is not in session. Such notices shall include a statement of the subject matter of the hearing. A hearing, and any action taken at a hearing, shall not be deemed invalid solely because notice of the hearing was not given in accordance with this requirement.

Any investigating committee shall not conduct a hearing unless a quorum is present.

**Section 8. Issuance of Subpoenas.)** Every investigating committee empowered to issue subpoenas, by majority vote of all of its members, may issue a subpoena requiring a person to appear before the committee and be examined in reference to any matter within the scope of the inquiry or investigation being conducted by the committee. The committee may also issue a subpoena or subpoena duces tecum requiring any person to appear before the committee and bring with him any books, papers, or other documents pertinent thereto.

A person subpoenaed to attend a hearing of an investigating committee shall receive the same fees and allowances as a person subpoenaed to give testimony in an action pending in a court of record.

**Section 9. Notice to Witnesses.)** Service of a subpoena requiring the attendance of a person at a hearing of an investigating committee shall be made in the manner provided by law for the service of subpoenas in civil ac-

tions at least seven days prior to the date of the hearing unless a shorter period of time is authorized by majority vote of all of the members of the committee in a particular instance when, in their opinion, the giving of seven days' notice is not practicable; but if a shorter period of time is authorized, the person subpoenaed shall be given reasonable notice of the hearing, consistent with the particular circumstances involved.

Any person who is served with a subpoena to attend a hearing of an investigating committee also shall be served with a copy of the resolution or statute establishing the committee, a general statement informing him of the subject matter of the committee's investigation or inquiry, and a notice that he may be accompanied at the hearing by counsel of his own choosing.

**Section 10. Conduct of Hearings.)** All hearings of an investigating committee shall be public except an investigative hearing of an individual may be closed upon specific request by the individual or his counsel with consent of a majority of the committee.

The chairman of an investigating committee, if present and able to act, shall preside at all hearings of the committee and shall conduct the examination of witnesses himself or supervise examination by other members of the committee, the committee's counsel, or members of the committee's staff who are so authorized. In the chairman's absence or disability, the vice chairman shall serve as presiding officer. The committee shall provide by its rules for the selection of a presiding officer to act in the absence or disability of both the chairman and the vice chairman.

No hearing, or part thereof, shall be televised, filmed or broadcast except upon approval of the committee, by majority vote of all of its members.

**Section 11. Right to Counsel and Submission of Questions.)** Every witness at a hearing of an investigating committee may be accompanied by counsel of his own choosing, who may advise the witness as to his rights, subject to reasonable limitations which the committee may



prescribe to prevent obstruction of or interference with the orderly conduct of the hearing.

Any witness at a hearing, or his counsel, may submit to the committee proposed questions to be asked of the witness or any other witness relevant to the matters upon which there has been any questioning or submission of evidence, and the committee shall ask such of the questions as are appropriate to the subject matter of the hearing.

**Section 12. Testimony.)**

1. An investigating committee shall cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced, which record shall include rulings of the chair, questions of the committee and its staff, the testimony or responses of witnesses, sworn written statements submitted to the committee, and such other matters as the committee or its chairman may direct.
2. All testimony given or adduced at a hearing shall be under oath or affirmation unless the requirement is dispensed with in a particular instance by majority vote of the committee members present at the hearing.
3. Any member of an investigating committee may administer an oath or affirmation to a witness at a hearing of such committee.
4. The presiding officer at a hearing may direct a witness to answer any relevant question or furnish any relevant book, paper, or other document, the production of which has been required by subpoena duces tecum. Unless the direction is overruled by majority vote of the committee members present, disobedience shall constitute a contempt.
5. A witness at a hearing or his counsel, with the consent of a majority of the committee members present at the hearing, may file with the committee for incorporation into the record of the hearing

sworn written statements relevant to the purpose, subject matter, and scope of the committee's investigation or inquiry.

6. A witness at a hearing, upon his advance request and at his own expense, shall be furnished a certified transcript of his testimony at the hearing.
7. Testimony and other evidence given or adduced at a hearing closed to the public shall not be made public unless authorized by majority vote of all of the members of the committee, which authorization shall also specify the form and manner in which the testimony or other evidence may be released.
8. All information of a defamatory or highly prejudicial nature received by or for the committee other than in an open or closed hearing shall be deemed to be confidential. No such information shall be made public unless authorized by majority vote of all of the members of the committee for legislative purposes, or unless its use is required for judicial purposes.

**Section 13. Interested Persons.)** Any person whose name is mentioned or who is otherwise identified during a hearing of an investigating committee and who, in the opinion of the committee, may be adversely affected thereby, may, upon his request or upon the request of any member of the committee, appear personally before the committee and testify in his own behalf, or, with the committee's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing.

Upon the consent of a majority of its members, an investigating committee may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance, or submission of evidence shall limit in any way the investigating committee's power of subpoena.

Any person who appears before an investigating com-



mittee pursuant to this section shall have all the rights, privileges, and responsibilities of a witness provided by this Code.

**Section 14. Contempt.)**

1. A person shall be in contempt if he:
  - a. Fails or refuses to appear in compliance with a subpoena or, having appeared, fails or refuses to testify under oath or affirmation; or
  - b. Fails or refuses to answer any relevant question or fails or refuses to furnish any relevant book, paper, or other document subpoenaed by or on behalf of an investigating committee; or
  - c. Commits any other act or offense against an investigating committee which, if committed against the legislature or either house thereof, would constitute a contempt.
2. An investigating committee may, by majority vote of all of its members, apply to the legislature or the house thereof by which it was established for a contempt citation. The application shall be considered as though the alleged contempt had been committed in or against such house or the legislature itself. If the investigating committee is an interim committee, its application may in the alternative be made to the district court of Burleigh County.

**Section 15. Penalties.)** A person guilty of contempt under the provision of this Code shall be fined not more than two hundred fifty dollars or imprisoned not more than one hundred eighty days or both, or shall be subject to such other punishment as the legislature or the appropriate house thereof may, in the exercise of its inherent powers, impose prior to and in lieu of the imposition of the aforementioned penalty.

If any investigating committee fails in any material

respect to comply with the requirements of this Code, any person subject to a subpoena or a subpoena duces tecum who is injured by such failure shall be relieved of any requirement to attend the hearing for which the subpoena was issued or, if present, to testify or produce evidence therein; and such failure shall be a complete defense in any proceeding against such person for contempt or other punishment.

Any person other than the witness concerned or his counsel who violates subsections 7 or 8 of section 12 of this Code shall be fined not more than two hundred fifty dollars or imprisoned not more than one hundred eighty days, or both. The attorney general, on his own motion or on the application of any person claiming to have been injured or prejudiced by an unauthorized disclosure, may institute proceedings for trial of the issue and imposition of the penalties provided herein. Nothing in this subsection shall limit any power which the legislature or either house thereof may have to discipline a member or employee or to impose a penalty in the absence of action by a prosecuting officer or court.

**Section 16. Limitations of Code.)** Nothing contained in this Code shall be construed to limit or prohibit the acquisition of evidence or information by an investigating committee by any lawful means not provided for herein.

Approved March 11, 1969.

## CHAPTER 432

S. B. No. 54

(Christensen, Lips, Sorlie)

(Legislative Audit and Fiscal Review Committee)

**PENALTY FOR FALSE CERTIFICATION  
OF TRAVEL AND EXPENSE ACCOUNTS**

## AN ACT

To amend and reenact section 54-06-09.1 of the North Dakota Century Code, relating to penalty for false certification of expense and traveling accounts.

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

**Section 1. Amendment.)** Section 54-06-09.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-06-09.1. Certification of Unlawful Expense and Traveling Account—Penalty—Action for Violation.)** Any person who certifies to an expense and traveling account knowing it to be false is guilty of a misdemeanor and shall be punished by imprisonment in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both such fine and imprisonment.

Approved March 25, 1969.



## CHAPTER 433

S. B. No. 380  
(Melland)

## OFFICE OF ECONOMIC OPPORTUNITY

## AN ACT

To create the office of economic opportunity within the office of the governor and to repeal section 54-34-09 of the North Dakota Century Code, relating to the office of economic opportunity.

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

**Section 1. Division of Economic Opportunity.)** A division of economic opportunity is hereby created as a division of the governor's office and under the supervision of the governor of the state of North Dakota in order that the state may participate in the program provided under Public Law 88-452 and amendments thereto known as the Economic Opportunity Act of 1964. The governor shall employ such other personnel as may be necessary in order to carry out the provisions of this section.

The governor shall be authorized to accept federal funds available for the operation of this program and for such state projects or programs under Public Law 88-452, as amended, as may be available to departments, institutions, and agencies of the state. The governor through the division of economic opportunity shall aid and assist political subdivisions of this state in matters pertaining to their participation in projects and programs under such law. All departments, institutions, and agencies, within the limits of personnel and legislative appropriations available, shall provide such assistance to the governor through the division of economic opportunity as may be requested by it to ensure the maximum use of all resources available in carrying out projects and programs under the provisions of Public Law 88-452, as amended.

**Section 2. Repeal.)** Section 54-34-09 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 19, 1969.

## CHAPTER 434

## H. B. No. 50

(Davis, Giffey, Opedahl, Wagner)

(Recommended by Legislative Audit and Fiscal Review  
Committee)

## POWERS OF STATE AUDITOR

## AN ACT

To amend and reenact subsection 2 of section 54-10-01 of the North Dakota Century Code, relating to the powers of the state auditor.

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

**Section 1. Amendment.)** Subsection 2 of section 54-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Be vested with the duties, powers, and responsibilities involved in making a complete examination of the books, records, accounting methods, and internal controls of any and all state agencies, including the occupational and professional boards provided for in title 43 of the North Dakota Century Code and the state bar board, board of examiners for mine foreman, state board of veterinary medical examiners, and all other professional boards created by law. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered to all agencies which receive and expend moneys from other than the general fund, unless for good cause the amounts charged shall be waived by the auditor for a one-year period of time with such waiver being subject to annual renewal after proper application has been filed with the auditor. The governing board of any occupational and professional boards may provide for an audit annually by a certified public accountant, and such audit report shall be in such form and contain such information as the state auditor may require, and in such case the state auditor shall not make the examination provided for in this section;

Approved February 7, 1969.



## CHAPTER 435

S. B. No. 55

(Christensen, Sorlie)

(Recommended by Legislative Audit and  
Fiscal Review Committee)

## STATE AUDITOR TO HAVE ACCESS TO TAX RETURNS

## AN ACT

Authorizing the state auditor to examine tax returns on file with the tax commissioner, and providing a penalty for divulging secret information.

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

**Section 1. The State Auditor Shall Have Access to Tax Returns and Other Records Filed with the Tax Commissioner.)** The state auditor and persons employed by him, when necessary in conducting an audit and on examination of the books and records of the tax commissioner as authorized by law, may examine any return, report, or other information filed with the tax commissioner, and confirm the authenticity of such return, report, or other information with the taxpayer who filed it.

The audit report of the state auditor shall identify every return, report or other document examined whose secrecy is guarded by law and which is examined pursuant to this Act by the state auditor or his representatives, provided, however, that the contents of the return, report, or other document shall not be set out in the audit report, except that such identification shall include the name and address of the taxpayer or other person who filed the return, report, or other document or to whom it relates, and the tax department file identification number for it; the audit report shall also show the name or names of the individuals who examined each such return, report, or other document.

**Section 2. Penalty for State Auditor or Those Under His Employ for Divulging Secret Information.)** The state auditor and every person performing the examination of any return, report, or other information filed and in the possession of the tax commissioner which is made confi-



dential by law, shall guard the secrecy of any return, report, or other information examined except when otherwise directed by judicial order, or as is otherwise provided by law. Any person violating the provisions of this section shall upon conviction be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment and, if the offender is an officer or employee of the state, he, in addition, shall be dismissed from office and shall be ineligible to hold any public office or position in this state for a period of five years thereafter.

Approved March 8, 1969.

---

CHAPTER 436

S. B. No. 135  
(Holand)

RECORDS OF STATE TREASURER

AN ACT

To amend and reenact subsection 4 of section 54-11-04 of the North Dakota Century Code, relating to records of state treasurer.

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

**Section 1. Amendment.)** Subsection 4 of section 54-11-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Such other books as the state auditor shall prescribe.

Approved February 22, 1969.

## CHAPTER 437

S. B. No. 136  
(Holand)

## IRREGULARITIES IN TREASURER'S BOOKS

## AN ACT

To amend and reenact section 54-11-06 of the North Dakota Century Code, relating to irregularities in books of treasurer, auditor to report to the governor and temporary suspension of treasurer.

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

Section 1. Amendment.) Section 54-11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-11-06. Irregularities in Books of Treasurer—Auditor to Report to Governor—Temporary Suspension of Treasurer.)** If the state auditor upon examination finds that the books of the state treasurer do not correspond with the amount of funds on hand, or do not show the actual condition of the funds, or if it appears to the state auditor that any moneys belonging to the state have been embezzled, diverted, or in any manner taken from the treasury without authority of law, or that the state treasurer has been guilty of negligence in keeping his books or taking care of the public moneys, the auditor must certify the fact to the governor. Upon the receipt of such certificate the governor forthwith must take possession of all books, moneys, papers, and other property belonging to the state, which have come into the possession of the state treasurer by virtue of his office, or otherwise, and must temporarily suspend him from his office of state treasurer.

Approved February 22, 1969.



## CHAPTER 438

S. B. No. 134  
(Holand)

## SUSPENSION OF TREASURER BY GOVERNOR

## AN ACT

To amend and reenact section 54-11-07 of the North Dakota Century Code, relating to suspension of treasurer by governor and appointment.

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

**Section 1. Amendment.)** Section 54-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-11-07. Suspension of Treasurer by Governor—Appointment.)** When a certificate is made to the governor by the state auditor under the provisions of the preceding section, the governor, with the state auditor and the state examiner, thereupon must examine the books, papers, and all matters connected with the office of the state treasurer so suspended. If it appears to the governor, state auditor, and state examiner on such examination that the state treasurer has embezzled or converted to his own use the public moneys, or has been negligent in keeping his books, or in taking care of public moneys, the governor on the certificate of the state auditor and the state examiner to that effect may remove the state treasurer and appoint another person to fill the place of the suspended state treasurer. The person so appointed must execute an official bond and enter upon the office of state treasurer as provided by law. The governor must report all his acts done in removing the state treasurer to the next succeeding legislative assembly. The state treasurer so appointed shall hold his office until the suspended state treasurer is reinstated or his successor is elected and qualified.

Approved February 22, 1969.

## CHAPTER 439

H. B. No. 52

(Davis, Giffey, Wagner)

(Recommended by Legislative Audit  
and Fiscal Review Committee)

## WITHHOLDING FROM STATE EMPLOYEES' SALARIES

## AN ACT

To provide all departments, agencies, boards, commissions, and institutions in state government with authority to withhold from the compensation of state employees amounts as required by law.

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

**Section 1. All Departments, Agencies, Boards, Commissions, and Institutions in State Government Shall Have the Authority to Withhold Certain Amounts from State Employees' Compensation.)** All departments, agencies, boards, commissions, and institutions in state government shall compute and withhold from state employees' monetary compensation only those amounts which are required by law to be withheld and only those other items approved by the state auditing board.

Approved March 8, 1969.



## CHAPTER 440

S. B. No. 425  
(Lips, Wenstrom)

## DIRECTOR OF INSTITUTIONS

## AN ACT

To create and enact section 54-21-06.1 of the North Dakota Century Code, relating to the definition of the term "board of administration" in the North Dakota Century Code; to amend and reenact sections 54-21-06, 54-21-07, 54-21-09, 54-21-10, 54-21-11, 54-21-12, 54-21-13, 54-21-18, 54-21-19, 54-21-20, and 54-21-24 of the North Dakota Century Code, relating to establishment of a director of institutions and abolishment of the board of administration; and to repeal sections 54-21-01, 54-21-02, 54-21-03, 54-21-04, 54-21-05, and 54-21-08 of the North Dakota Century Code, relating to the membership, powers, and duties of the board of administration.

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

**Section 1. Amendment.)** Section 54-21-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-06. Director of Institutions—Appointment—Term—Additional Employees—Compensation—Removal—Expenses.)** The governor shall appoint a director of institutions who shall have the powers and duties previously held by the board of administration. The term of office of the director of institutions shall be four years and shall coincide with the governor's term of office, except that a director shall be appointed within fifteen days of the effective date of this section for a term ending on January 1, 1973. Any appointment of a director of institutions shall be submitted to the senate for its approval or disapproval. If the senate shall fail to approve or disapprove within thirty legislative days, or if the governor shall have submitted a name for approval prior to the thirty-fifth legislative day and the senate fails to approve or disapprove before the legislative assembly adjourns sine die, the appointment shall be deemed to be approved. No appointee whose appointment has been disapproved by the senate shall be appointed or reappointed by the governor to such position. The governor may remove the director of institutions for cause. The salary of the director shall be set by the governor within the limits of legislative appropriations. The director may employ such other administrative assistants, busi-

ness managers, accountants, and any other employees as may be necessary, and may fix their compensation within the appropriation made for such purpose. The director may remove any such employee when, in his judgment, the public service demands it. The director and other employees within his office shall be reimbursed for expenses incurred in carrying out their duties under this chapter at the same rate and in the same manner as other state officials.

**Section 2.)** Section 54-21-06.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**54-21-06.1. Director of Institutions To Be Substituted for Board, Members of Board, and Secretary of Board.)** Wherever the terms "board of administration", "chairman of the board of administration", "secretary of the board of administration", or "member of the board of administration", or any derivative of those terms which, when used in context indicates an intention to refer to those persons or that board, shall appear in the North Dakota Century Code, the term "director of institutions", or the term "director", as the case may be, shall be substituted therefor. It is the intent of the legislative assembly that the director of institutions shall be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by the board of administration, the chairman of the board of administration, the secretary of the board of administration, and any member of the board of administration.

**Section 3. Amendment.)** Section 54-21-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-07. Bonds Required of Director and His Employees Who Have Control of Money.)** The director of institutions shall furnish a bond in an amount not less than thirty thousand dollars or as may be approved by the governor, and his employees, and any employee of any institution under his control, who may be charged with the custody or control of any money or property belonging to the state, and who is not otherwise required by law to give a bond, shall furnish a bond in such sum as may be fixed by the director in an amount not less than one thousand dollars. The bond shall conform to the provisions of law applicable to the bonds of state officers and employees. Each such bond shall be filed in the office of the secretary of state.



**Section 4. Amendment.)** Section 54-21-09 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-09. Report of Director of Institutions to Governor and Secretary of State.)** The director of institutions shall file with the governor and secretary of state on or before the first day of October in each even-numbered year a report as prescribed by section 54-06-04, covering in detail the operations of his office and of the institutions under his control.

**Section 5. Amendment.)** Section 54-21-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-10. Contents of Report—Daily Record.)** The director of institutions shall publish in his report the name and salary of every employee of his office, and the name and salary of each officer and employee of the several institutions subject to his control. The director shall require the proper officer of each institution to keep a daily record, in the manner and form prescribed by the director, of the time and number of hours of service of each employee, and the monthly payroll shall be made from that record and shall be in accord therewith. When an appropriation is based on the number of inmates in or persons at an institution, the director shall require to be kept a daily record of the persons actually residing at and domiciled in the institution.

**Section 6. Amendment.)** Section 54-21-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-11. Governor May Require Additional Report.)** The governor, at any time, may call upon and require the director to make a general report in regard to the transactions of the institutions under his control, or a special report in regard to any part thereof. The request for an additional report shall be in writing and shall be left with the director. The director shall make the report and deliver it to the governor.

**Section 7. Amendment.)** Section 54-21-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-12. Suggestions for Legislation Included in Report.)**

The director shall incorporate in his report to the governor suggestions to the legislative assembly respecting legislation for the benefit of the institutions under his control, or for the dependent, defective, or criminal classes of the state. The director, or his designee, on request, shall attend the meetings of the legislative committees to which such questions may be submitted for consideration, and shall furnish such committees the information in regard to the conduct of institutions under his control as may be demanded.

**Section 8. Amendment.)** Section 54-21-13 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-13. Child Welfare—Mentally Deficient Persons—Powers and Duties of Director of Institutions.)** In addition to the other duties prescribed by law, the director of institutions shall have the following duties and powers:

1. Repealed by S. L. 1947, ch. 200, section 24;
2. Repealed by S. L. 1961, ch. 337, section 1;
3. & 4. Repealed by S. L. 1947, ch. 323, section 1;
5. To accept the guardianship of the persons of children who may be committed to his care by courts of competent jurisdiction as neglected, delinquent, dependent, or defective;
6. To make such provision for children committed to his care as are within the resources of his office, and as will afford them proper care and protection;
7. to 13. Repealed by S. L. 1961, ch. 337, section 1;
14. To receive and provide for such mentally deficient persons as may be committed to his guardianship by courts of competent jurisdiction;
15. Repealed by S. L. 1961, ch. 337, section 1;
16. To act as parole officer of juveniles upon the re-



quest of courts or of superintendents of institutions of the state to which dependent, neglected, handicapped or delinquent children may be committed, provided that the director may delegate his function under this subsection to an administrative assistant employed in his office;

17. Repealed by S. L. 1961, ch. 337, section 1;
18. To take the initiative in protecting and conserving the rights and interests of neglected, dependent, delinquent, illegitimate, and defective children;
19. Repealed by S. L. 1961, ch. 337, section 1;
20. To perform such other duties as may be conferred upon him by the laws of this state.

**Section 9. Amendment.)** Section 54-21-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-18. Custody of Office Building—Considered Part of Capitol Building—Director Has Control of Public Property.)** The director of institutions shall control, manage, and maintain the state office building. The building shall be considered a part of the state capitol building within the meaning of statutes relating to the custody, maintenance, and control of the state capitol building and grounds, and within the meaning of statutes requiring state departments or agencies to maintain their offices in the state capitol building.

The director shall have charge and control of the executive mansion, the capitol, and the park and public grounds connected therewith.

**Section 10. 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 to Capitol, State Offices, and Executive Mansion.)** The director shall, through the department of accounts and purchases, provide all necessary fuel and light for the state offices as well as all necessary

furniture, fuel, lights, express, freight, drayage, and all other necessary supplies for the executive mansion and the public grounds and parks connected therewith, and shall make all necessary repairs upon the capitol building and executive mansion.

**\*Note:** Section 54-21-19 was also amended by section 1 of chapter 442, 1969 S.L.

**Section 11. Amendment.)** Section 54-21-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-20. Director Authorized to Acquire Property for Capitol Park.)** The director may secure by purchase or by condemnation proceedings for the state any lots or land which in his judgment might be necessary for the capitol park and site purposes.

**Section 12. Amendment.)** Section 54-21-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-21-24. Additional Office Space May Be Obtained Outside State Capitol.)** In the event that office space in the state capitol building becomes insufficient to accommodate the various state departments, agencies, and boards, the director of institutions may contract for and obtain such additional office space outside the state capitol in the city of Bismarck or in the Bismarck area as is necessary in order to provide accommodations for all state departments, agencies, and boards. When office space is obtained in this manner, any department, agency, or board which occupies such office space shall be deemed to be located at the state capitol for purposes of statutes which require that a department, agency, or board must be maintained at the state capitol.

**\*Note:** Section 54-21-24 was also amended by section 2 of chapter 442, 1969 S.L.

**Section 13. Repeal.)** Sections 54-21-01, 54-21-02, 54-21-03, 54-21-04, 54-21-05, and 54-21-08 of the North Dakota Century Code are hereby repealed.

Approved March 28, 1969.



## CHAPTER 441

H. B. No. 216  
(Davis, Wagner, Connolly)

## EMPLOYMENT OF CONSTRUCTION SUPERINTENDENT

## AN ACT

To amend and reenact section 54-21-17 of the North Dakota Century Code, relating to the construction superintendent.

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

**Section 1. Amendment.)** Section 54-21-17 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-21-17. Construction Superintendent—Appointment—Duties.)** The secretary of state shall employ a qualified construction superintendent for the purpose of giving advice in purchasing, planning, setting depreciation schedules, evaluation for insurance, and assisting in and coordinating the construction of buildings by departments, institutions, and agencies of the state. A person so employed shall possess a minimum of ten years' experience in construction methods and procedures. All state agencies shall, prior to the letting of bids, submit to the construction superintendent plans and specifications for any building construction, and the superintendent shall maintain surveillance during construction as might be necessary to insure construction conforms to plans and specifications.

The provisions of this section shall also require compliance by the board of higher education and all other agencies of the state of North Dakota. The provisions in this chapter shall be construed as not to relieve the architect of his contractual duties, responsibilities and obligations.

Approved March 29, 1969.

## CHAPTER 442

H.B. No. 55

(Davis, Giffey, Opedahl, Wagner)

(Recommended by Legislative Audit and Fiscal Review  
Committee)

## MAINTENANCE OF STATE OFFICES

## AN ACT

To amend and reenact sections 54-21-19 and 54-21-24 of the North Dakota Century Code, relating to the maintaining of state offices.

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

**Section 1. Amendment.)** Section 54-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-21-19. Board to Furnish Supplies and Maintain Capitol, State Offices, and Executive Mansion and Shall Have Authority to Charge for Services.)** The board shall, through the department of accounts and purchases, provide all necessary fuel, light, insurance, janitorial, telephone, and other services necessary to maintain the state offices as well as all necessary furniture, fuel, lights, express, freight, drayage, and all other necessary supplies for the executive mansion and the public grounds and parks connected therewith, and shall make all necessary repairs upon the capitol building and executive mansion, and the board 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 board for a one-year period of time with such waiver being subject to further annual renewals after proper application has been filed with the board.

**\*Note:** Section 54-21-19 was also amended by section 10 of chapter 440, 1969 S. L.

**Section 2. Amendment.)** Section 54-21-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-21-24. Additional Office Space may be Obtained Outside State Capitol.)** In the event that office space in the



state capitol building becomes insufficient to accommodate the various state departments, agencies and boards, the board of administration may contract for and obtain such additional office space outside the state capitol in the city of Bismarck or in the Bismarck area as is necessary in order to provide accommodations for all state departments, agencies and boards. When office space is obtained in this manner, any department, agency or board which occupies such office space shall be deemed to be located at the state capitol for purposes of statutes which require that a department, agency or board must be maintained at the state capitol, and the board 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 board for a one-year period of time with such waiver being subject to further annual renewals after proper application has been filed with the board.

\*Note: Section 54-21-24 was also amended by section 12 of chapter 440, 1969 S. L.

Approved February 20, 1969.

---

## CHAPTER 443

S. B. No. 131  
(Holand)

### CUSTODY OF INSTITUTIONAL INMATES' FUNDS

#### AN ACT

To amend and reenact section 54-23-28 of the North Dakota Century Code, relating to care and custody of funds belonging to inmates of state institutions.

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

**Section 1. Amendment.)** Section 54-23-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-23-28. Care and Custody of Funds Belonging to Inmates of State Institutions.)** The superintendent or warden of any state institution under the management and control of

the board, when the care and custody of any funds belonging to inmates 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 board, taking proper vouchers therefor in all cases. Each superintendent or warden shall give a bond in such sum as may be required by law, or as may be prescribed by the board, conditioned for the faithful performance of his duties and a due accounting for the funds entrusted to his care.

Approved February 22, 1969.

---

## CHAPTER 444

### H.B. No. 32

(Connolly, Davis, Dick, Glaspey, Jenkins, Mueller)  
(J. Peterson, Reimers, Streibel, Tweten, Wagner)  
(From Legislative Research Committee Study)

## COORDINATION OF INSTITUTIONAL FARM ACTIVITIES

### AN ACT

Providing coordination by the board of administration of institutional farm activities, providing for transfer of products between institutions, and requiring a biennial report to the governor and legislature.

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

**Section 1. Board of Administration to Coordinate and Assist Charitable and Penal Institutions in Farm Operations.)** All crop, vegetable, livestock, dairy, and related activities at the state penitentiary, state farm, state industrial school, state hospital, Grafton state school, and the soldiers' home, shall be coordinated to the greatest possible extent by the board which shall provide the various institutions with the managerial and technical assistance necessary to develop and maintain efficient nonduplicating farm and related operations.

**Section 2. Transfer of Agricultural Products Between Charitable and Penal Institutions.)** The board shall authorize the transfer of agricultural products between institutions for



the benefit of such institution's residents. The board shall keep proper records of such transfers to any institution for products transferred to it.

**Section 3. Board of Administration to Keep Proper Records and Make Biennial Report.)** The board shall keep complete and accurate records of all institutional farm operations by institution and transfers of products made by each institution, and shall make a biennial report on such activities to the governor and the legislature.

Approved March 5, 1969.

---

## CHAPTER 445

H. B. No. 128

(Hilleboe, Metzger, Hentges, Boustead, McDonald)

(Hensrud, Stone, White, Aamoth, Wagner, Giffey)

(Boyum, Seibel, Larson, Aas, Eagles, Bunker, Strinden)

### REGULATION OF SALE AND USE OF DAIRY PRODUCTS AT STATE INSTITUTIONS

#### AN ACT

To repeal chapter 54-25 of the North Dakota Century Code, relating to the regulation as to sale and use of dairy products by state institutions.

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

**Section 1. Repeal.)** Chapter 54-25 of the North Dakota Century Code, as amended, is hereby repealed.

Approved March 13, 1969.

## CHAPTER 446

S. B. No. 381  
(Melland)

BUSINESS AND INDUSTRIAL DEVELOPMENT  
DEPARTMENT

## AN ACT

To reorganize the economic development commission and the functions and duties of the economic development department and its director; to amend and reenact sections 54-34-01, 54-34-02, 54-34-03, 54-34-04, 54-34-06, and 54-34-08 of the North Dakota Century Code, relating to the economic development commission and the functions and duties of the economic development department and its director; and to repeal section 54-34-05 of the North Dakota Century Code.

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

**Section 1. Amendment.)** Section 54-34-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-01. Title.)** This chapter shall be known as the Business and Industrial Development Act.

**Section 2. Amendment.)** Section 54-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-02. Appointment of Director of Business and Industrial Development Department.)** The governor, or his designee, shall appoint a state director of the business and industrial development department hereinafter called the "director", who shall administer and carry out the functions and programs of the department. Such appointment shall be for a four-year term at a salary set by the governor. The director may be removed from such position at the will of the governor. The director shall be compensated for his expenses in carrying on his official duties in the same manner as other state officials.

**Section 3. 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.)** The business and industrial development commission, hereafter called the commission, shall consist of the governor as chairman and eight members appointed by him, one member to be appointed from each of the six judicial districts and two members to be appointed from the state at large. The members shall be appointed for a term of four years staggered so that the terms of two members expire each year. 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.

**Section 4. Initial Commission Membership.)** The members of the economic development commission serving upon such commission upon the effective date of this Act, shall automatically become members of the business and industrial development commission and shall so serve during any unexpired portion of the term for which they were appointed as members of the economic development commission without regard to the judicial district of their residence. Thereafter, members of the business and industrial development commission shall be appointed in accordance with the provisions of section 54-34-03.

**Section 5. Amendment.)** Section 54-34-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-04. Meeting and Duties of Business and Industrial Development Commission.)** Meetings of the commission shall be at least quarterly or additionally at the call of the governor or upon the written notice of three members of the commission. Five members of the commission shall constitute a quorum. A vice chairman of the commission shall be elected by the members of the commission and shall preside over meetings in the absence of the governor. The director of the commission shall act as secretary. It shall be the duty of each commissioner to advise the chairman and the director in the performance of the functions, duties, and activities in relation to business and industrial development as provided in this chapter.

**Section 6. Amendment.)** Section 54-34-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-06. Duties of Director of Business and Industrial Development Department.)** The director, under the supervision of the governor and subject to legislative appropriation, shall have the following powers and duties:

1. To appoint such personnel to assist him as may be necessary to carry out the provisions of this chapter, and to fix their compensation;
2. To plan, execute and direct a program of publicity and industrial development which will
  - a. Attract entrepreneurs, investment capital, and new residents;
  - b. Further the development and use of all the resources of this state; and
  - c. Assist in improving the business climate of North Dakota to encourage the growth and development of business and industry;
3. To encourage through the universities and colleges of the state and other public and private institutions and agencies such projects of research as will promote the business and industrial development of the state;
4. To cooperate with departments and agencies of the federal government and of other states, and with departments, agencies, institutions and political subdivisions of this state and with associations, corporations and individuals upon such terms as may be agreed upon in providing programs of advertising, promotion, or research which will advance the business and industrial development of the state;
5. To receive and accept from any source, public or private, money, property, services or other things of value, to be held, or used for the purpose tendered;
6. To encourage the formation and coordination of the ef-



forts of local development organizations throughout the state; make available to such local development organizations and to cities and the various political subdivisions of the state, such facts, data, and information as may be useful and desirable in their efforts to encourage the location of business and industry within the state:

7. To do all things reasonably necessary and proper to realize the benefits and carry out the provisions of this chapter.

All state departments, institutions, and officials shall furnish assistance as may reasonably be requested by the director in carrying out the provisions of this chapter and may use portions of their funds for such purpose.

The director shall not be appointed or required to serve on any additional boards, committees, or commissions of state government. His sole responsibility, except as otherwise provided by the legislative assembly, shall be to encourage, promote, and advertise in the interests of business and industrial development in the state of North Dakota as provided in this chapter.

**Section 7. Amendment.)** Section 54-34-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-08. Patents and Profits.)** Any and all patents for equipment, processes, methods, designs, or developments based upon research conducted under this chapter or by the department shall inure to and be taken out or assigned to the state of North Dakota.

**Section 8. Repeal.)** Section 54-34-05 of the North Dakota Century Code is hereby repealed.

Approved March 19, 1969.

## CHAPTER 447

S. B. No. 379  
(Melland)

## STATE PLANNING AGENCY

## AN ACT

To amend and reenact section 54-34.1-02 of the North Dakota Century Code, relating to the state planning agency; and to repeal section 54-34.1-07 of the North Dakota Century Code.

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

**Section 1. Amendment.)** Section 54-34.1-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34.1-02. State Planning Agency Created.)** In order to promote the health, safety, and general welfare of the citizens of this state, there is hereby created a state planning division which, for administrative purposes, will be placed as a division of the department of accounts and purchases and under the director of the department of accounts and purchases. The director of the state planning division shall be appointed by and serve at the pleasure of the governor.

**Section 2. Repeal.)** Section 54-34.1-07 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 19, 1969.



## CHAPTER 448

S. B. No. 42

(Lips, Meschke, Unruh)

(From Legislative Research Committee Study)

## LEGISLATIVE COUNCIL

## AN ACT

To amend and reenact sections 46-03-10, 46-03-11, 46-03-15, 46-03-18, 46-03-19, 54-03-01.2, subsection 3 of section 54-04-02, subsections 2 and 4 of section 54-06-04, sections 54-35-01, 54-35-02, 54-35-03, 54-35-04, 54-35-05, 54-35-06, 54-35-07, 54-35-08, 54-35-09, 54-35-10, 54-35-11, 54-35-12, 54-35-13, 54-35-14, 54-35.1-01, 54-35.1-03, 54-35.1-05, 54-44.1-07, and 54-49-08 of the North Dakota Century Code, relating to the legislative research committee, its name, function, powers, and duties.

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

**Section 1. Amendment.)** Section 54-35-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-01. Council—Created—Members—Vacancy—Terms.)** There shall be a legislative council which is hereinafter referred to as the "legislative council" or the "council". The legislative council shall consist of the majority and minority floor leaders of the house and of the senate plus five senators and six representatives to be chosen biennially before the close of each regular legislative session. In the house of representatives such council members shall be chosen in the same manner as the members of other committees from the list of nine members recommended by each political faction and shall be divided equally between such factions, except that the speaker shall by virtue of his office be one of the three members appointed from his faction. In the senate such council members shall be chosen by the lieutenant governor, three from the majority faction and two from the minority faction, such council members to be chosen from a list of seven members recommended to him by each such faction. In the event there shall be less than nine members of the minority faction in the house of representatives or less than seven members of the minority faction in the senate, the names of all members of the minority faction with the exception

of the minority floor leader shall be recommended. Any vacancy occurring when the legislature is not in session shall be filled by the selection of another member of the legislature belonging to the same faction as the member originally appointed, said selection to be made by the remaining senate or house members of the council, depending upon which body has the vacancy. Each senator and each representative chosen to serve on the council shall serve until a new council has been selected at the next regular legislative session; provided, however, that no senator, not a holdover, who is not reelected to the senate, and no representative, who is not reelected to the house of representatives, shall serve as a member of the council beyond the closing day of the term to which he was elected. Any vacancy occurring because any member of the council is not reelected, shall be filled for the period from the beginning of the session until a new council is selected, in the same manner as the original council is selected.

**Section 2. Amendment.)** Section 54-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-02. Power and Duties.)** In addition to the other applicable provisions of this chapter the council shall have the power and right to study, consider, accumulate, compile, and assemble information on any subject upon which the legislature may legislate, and upon such subjects as the legislature may by concurrent or joint resolution authorize or direct, or any subject requested by a member of the legislature; to collect information concerning the government and general welfare of the state and of its political subdivisions; to study and consider important issues of public policy and questions of general interest; 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 and adoption by the several states and through such member or members 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. It



shall prepare proposed bills and resolutions for consideration of the succeeding legislature. The council may as it deems advisable call to its assistance other members of the legislature, 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 and delegate by written resolution to such committees such of its powers and rights as it may deem advisable. Any member of the legislature 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.

**Section 3. Amendment.)** Section 54-35-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-03. State Departments, Officers, and Employees to Cooperate.)** Each department, board, commission, agency, officer or employee in the state government shall furnish such information and render such assistance to the council as the council or its committees may from time to time request.

**Section 4. Amendment.)** Section 54-35-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-04. Meetings—When Held—How Called—Quorum.)** The council or any committee appointed by it, may sit at such time and place as it may deem advisable, but the council shall meet at least once in each year and shall meet at any time upon the call of the chairman or a call signed by seven members of the council. At any meeting of the council, seven members shall constitute a quorum and a majority of such quorum shall have the authority to act in any matter falling within the jurisdiction of the council.

**Section 5. Amendment.)** Section 54-35-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-05. Governor Sending Messages to Meetings.)** The governor may send messages to such meetings of the

council as he may deem advisable.

**Section 6. Amendment.)** Section 54-35-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-06. Officers—Accept Funds—Expenditures.)** The council shall select a chairman and a vice chairman from its own members and may prescribe its own rules of procedure. It may appoint a secretary who need not be a member, and shall appoint a director who shall be in charge of the offices and staff of the council and who shall be paid such salary as the council may determine. The council may employ such other persons and obtain the assistance of such research agencies as it may deem necessary. The council is authorized to accept and use any funds made available to it through the terms of any agreement that it may make with any agency whatsoever for the accomplishment of the purpose of this chapter. Expenditures of funds made available to the council by legislative appropriation shall be made in accordance with rules or motions duly approved by the council.

**Section 7. Amendment.)** Section 54-35-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-07. Records—Reports.)** The council shall keep minutes of its meetings and a record of all its transactions and shall at the beginning of each biennial legislative session, and may at any other time, make a report of its activities and recommendations to the members of the legislature and to the governor.

**Section 8. Amendment.)** Section 54-35-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-08. Recommended Legislation May Be Required in Advance.)** The council may require that any recommendation for legislation that is to be presented by any department, board, commission, agency, officer, official or employee of the state desiring the consideration of the council, be presented to it at least sixty days in advance of any regular session.



**Section 9. Amendment.)** Section 54-35-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-09. Recommendations—When Made Public—Distribution.)** The recommendations of the council shall be completed and made public prior to any session of the legislature at which such recommendations are to be submitted; and a copy of said recommendations shall be mailed to each member-elect of the legislature, to each elective state officer, and to the state law library.

**Section 10. Amendment.)** Section 54-35-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-35-10. Compensation of Members.)** 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 twenty 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.

**\*Note:** Section 54-35-10 was also amended by section 1 of chapter 449, 1969 S. L.

**Section 11. Amendment.)** Section 54-35-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-11. Preparation For and Assistance to Legislative Assembly—Custody of Equipment—Approval of Delayed Vouchers.)** The legislative council is hereby authorized, on behalf of the legislative assembly, to make all necessary arrangements prior to each legislative session, for the procurement of necessary supplies, equipment, services, excluding the employment of legislative employees, building space, or any other preparations or arrangements it deems necessary or desirable to be made prior to the commencement of each legislative session in order to facilitate the proper convening and operation of the legislative assembly. The legislative council shall act as the custodial agency to ensure the proper storage and safekeeping of legislative supplies and equipment during the interim periods between legislative sessions, and shall be authorized to approve vouchers on behalf of the legislative

assembly, or may authorize its director to do so, for the payment from legislative appropriations of delayed billings or other billings for legislative expenses during periods when the legislative assembly is not in session. It shall, through its own actions or through its staff, carry out such duties or projects and provide such service and assistance to the legislative assembly or its committees and members as may be requested by concurrent resolution of the legislative assembly or deemed necessary or desirable in assisting the legislative assembly in meeting its responsibilities and carrying out its duties during the legislative session or the interim between sessions.

**Section 12. Amendment.)** Section 54-35-12 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-12. Legislative Budget Analyst and Auditor.)** The legislative council shall appoint a legislative budget analyst and auditor. No person shall be eligible for such appointment unless he holds a baccalaureate degree from a recognized institution of higher learning or is a certified public accountant or has had five years' experience in government accounting. The appointment of the legislative auditor shall be based upon qualifications of eligible persons without reference to partisan politics. His salary shall be determined by the council and it may employ such additional persons as may be necessary to carry out the provisions of sections 54-35-12 through 54-35-14.

**Section 13. Amendment.)** Section 54-35-13 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-13. Personnel—Compensation—Expenses.)** The salaries, travel, and other expenses of the legislative budget analyst and auditor and other personnel within his office shall be submitted, approved, and paid in the same manner as other employees of the legislative council.

**Section 14. Amendment.)** Section 54-35-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35-14. Powers and Duties of Legislative Budget**



**Analyst and Auditor.)** The legislative budget analyst and auditor shall attend all budget hearings carried on by the executive budget officer and shall have access to all budget material submitted to the executive budget officer and all studies carried on by him; he shall analyze the executive budget when prepared, with special reference to sources of revenue, trends in governmental spending and finance, policies followed and inconsistencies in such policies, and proposed new or substantially expanded or reduced areas of spending and prepare a report of his analysis for the legislative assembly. He shall report thereon to the appropriations committees of the senate and house of representatives in joint meeting and shall perform such services for such committees during the legislative session as they shall reasonably request. The legislative audit and fiscal review committee may call upon the legislative budget analyst and auditor for such assistance as it may deem necessary in the analysis of any audit submitted to such committee. Each department, institution, and agency shall furnish such records and information to the legislative budget analyst and auditor as he may request in the performance of his duties.

**Section 15. Amendment.)** Section 54-35.1-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35.1-01. Committee on Audits and Fiscal Review.)** For the purpose of studying and reviewing the financial transactions of this state; to assure the collection and expenditure of its revenues and moneys in compliance with law and legislative intent and sound financial practices; and to provide the legislative assembly with formal, objective information on revenue collections and expenditures to provide a basis of legislative action to improve the fiscal structure and transactions of this state, there shall be a committee on audits and fiscal review, hereafter, referred to as the "committee". The committee shall consist of the lieutenant governor as chairman, four members of the house of representatives, and three members of the senate. The members shall be appointed in the same manner and for the same terms as provided for members of the legislative council in section 54-35-01, except that each political faction shall be required to submit a list of only five members to the respective presiding officers, and except that at least one member of the respective ap-

propriation committees of each house of the legislative assembly shall be appointed to the committee. Vacancies between sessions shall be filled in the same manner as vacancies upon the legislative council as provided in section 54-35-01.

**Section 16. Amendment.)** Section 54-35.1-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35.1-03. Meetings—Quorum—Officers.)** The committee, or any subcommittee composed of members of the committee, may meet at such time and place as it may deem desirable, but the committee shall meet at least once in each quarter year. All meetings shall be held at the call of the chairman or a call signed by four members of the committee. At any meeting five members shall constitute a quorum, and a majority of such quorum shall have authority to act in any matter falling within the jurisdiction of the committee. The committee may prescribe its own rules of procedure.

The committee shall select a vice chairman who shall carry out the duties of the chairman during his absence or inability to act. It may make arrangements with the legislative council for the provision of clerical assistance and for assistance in drafting any legislation it may recommend.

**Section 17. Amendment.)** Section 54-35.1-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-35.1-05. Compensation of Members.)** The chairman and members of the committee shall be compensated for their service on the committee in the same manner and at the same rate as provided for members of the legislative council in section 54-35-10.

**Section 18. Amendment.)** Section 46-03-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**46-03-10. Secretary of State Arranging and Correcting Laws.)** In arranging the laws, memorials, and resolutions for publication, the secretary of state, and the leg-



islative council shall make such corrections in orthography, grammatical construction, and punctuation of the same as in their judgment shall be proper. When any words or clauses are inserted, the same shall be enclosed in brackets.

**Section 19. Amendment.)** Section 46-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**46-03-11. Publication of Session Laws and Pocket Supplements.)** The secretary of state and the legislative council shall correct ministerial or clerical errors and supervise the publication of the Session Laws and pocket part supplements to this Code in a manner and form prescribed by the legislative council, correlating each year's laws with this Code. The secretary of state shall secure a copyright of the Session Laws of each session of the legislative assembly before the same are distributed for the exclusive use and benefit of the state. The copyright procurement shall be printed in each volume of the Session Laws.

**Section 20. Amendment.)** Section 46-03-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**46-03-15. Authentication of Laws, Memorials, and Resolutions.)** All laws printed or published by authority of this state shall be printed or published without the requirement of any certificate or additions to the same, except the word "approved" and the date of such approval. In each authenticated volume of the laws published there shall be a general certificate made by the secretary of state and the legislative council to the effect that all laws, memorials, and resolutions contained therein have been compared with the originals thereof in the office of the secretary of state and that they are correct copies.

**Section 21. Amendment.)** Section 46-03-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**46-03-18. Copies of Laws and Journals To Be Furnished Printer—by Whom.)** The secretary of state and the legis-

lative council shall furnish a true and accurate copy of the laws as they may be demanded by the printer thereof. The secretary of the senate and the chief clerk of the house each shall furnish for the printer, who is bound by his contract to print the same, a copy of each journal, bill, report, and other paper and document, without unnecessary delay. No contractor shall be accountable for any delay occasioned by the want of such copy.

**Section 22. Amendment.)** Section 46-03-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**46-03-19. When Documents Officially Printed—Faith and Credit Given.)** All laws journals, and documents printed and published by any contractor under the provisions of this title, and duly certified by the secretary of state and the legislative council as provided herein, shall be deemed officially to be printed and published, and full faith and credit shall be given to them as such.

**Section 23. Amendment.)** Section 54-03.1-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-03.1-02. Time and Place of Meeting—Who Must Attend.)** In each even-numbered year on the first Tuesday after the first Monday in the month of December, all persons elected at the previous November general election as members of the succeeding legislative session, and members of the senate whose terms do not expire during the following session of the legislative assembly, shall meet in the state capitol in the city of Bismarck, or at such other place as may be designated, at the hour of nine o'clock a.m. for the purpose of conducting a pre-session legislative conference. The legislative council shall call such conference and make such arrangements as may be necessary for the operation of the conference.

**\*Note:** Section 54-03.1-02 was also amended by section 7 of chapter 427, 1969 S. L.

**Section 24. Amendment.)** Subsection 3 of section 54-04-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The enrolling shall be done on a typewriter in such form or style, and on paper of such a character



and size, as the legislative council shall prescribe;

**Section 25. Amendment.)** Subsections 2 and 4 of section 54-06-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Three typewritten or mimeographed copies of any report mentioned in subsection 1 shall be submitted in the form and style prescribed by the director of accounts and purchases. One copy of each report shall be submitted to the governor and two copies to the secretary of state. The secretary of state shall require the printing of each report mentioned in subsection 1 into pamphlets, the size and number of copies to be printed to be determined by the secretary of state. The secretary of state shall set aside twenty-five copies of each report printed in pamphlet form to be bound into volumes or sets and to be known as "public documents". The style of binding to be used for the public documents shall be determined by the secretary of state. There shall be provided by the secretary of state a suitable table of contents referring to the reports contained in the public documents. A copy of the public documents shall be distributed by the secretary of state on or before the second day of January of each odd-numbered year to the following agencies:

- a. Governor's office;
- b. Attorney general's office;
- c. Legislative council;
- d. State law library;
- e. The state institutions of higher education;
- f. State library; and
- g. Two volumes shall remain in the office of the secretary of state for official and public use.

The remaining volumes or sets of the public documents shall be retained by the secretary of state to be distributed at his discretion.

4. The state budget officer and the legislative council shall make biennial reports as prescribed by law, which may, at their discretion, be included in the public documents.

**Section 26. Amendment.)** Section 54-44.1-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-44.1-07. Presentation of Budget Data—How Presented to the Legislature.)** The director of the budget or his designated subordinate shall present the budget data information in section 54-44.1-06, including the budget and revenue proposals recommended by the governor, and make available sufficient copies thereof to a special committee of the legislative council on budget review. The budget data shall be completed and made available to the legislative council in such form as may be acceptable to it by December first of each year next preceding the session of the legislature. The chairman of the legislative council or its committee on budget review shall set the time and place at which such budget data is to be presented.

**Section 27. Amendment.)** Section 54-49-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-49-08. Reports.)** The council shall make a report as prescribed by subsection 6 of section 54-06-04, to the governor and secretary of state of its findings and recommendations and such additional reports as may be required of it by the legislature or the legislative council. The council shall also report upon its findings and recommendations to council members as it is deemed advisable.

Approved March 4, 1969.

## CHAPTER 449

H. B. No. 295  
(Streibel, Hilleboe, Backes, Sanstead)

## LEGISLATORS' INTERIM COMPENSATION

## AN ACT

To amend and reenact section 54-35-10 of the North Dakota Century Code, relating to legislative compensation.

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

**Section 1. Amendment.)** Section 54-35-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\* 54-35-10. Compensation of Members.)** The members of the council and the members of any committee of the council shall be compensated for the time spent in attendance at sessions of the council and of its committees at the rate of thirty dollars per day and shall also be paid for their actual expenses incurred in attending said meetings and in the performance of their official duties.

\*Note: Section 54-35-10 was also amended by section 10 of chapter 448, 1969 S.L.

Approved March 8, 1969.



## CHAPTER 450

H. B. No. 419  
(Grant, Connolly)

MEMBERSHIP OF NORTH DAKOTA INDIAN  
AFFAIRS COMMISSION

## AN ACT

To amend and reenact section 54-36-01 of the North Dakota Century Code, relating to the addition of one member to the North Dakota Indian affairs commission.

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

**Section 1. Amendment.)** Section 54-36-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-36-01. Commission—Members—Officers—Expenses of Certain Members.)** The North Dakota Indian affairs commission shall consist of the governor, commissioner of agriculture, executive director of the public welfare board of North Dakota, state health officer, director of the North Dakota state employment service, director of Indian education in the North Dakota department of public instruction, and the chairmen of the boards of county commissioners of Sioux, Mercer, McLean, McKenzie, Dunn, Rolette, Benson, Mountrail and Eddy counties or their designees; and the tribal chairmen of the Standing Rock, Fort Berthold, Fort Totten and Turtle Mountain Indian reservations or their designees. The commission may call upon the state director of the business and industrial department for consultation upon business and industrial matters involved in the operation of the commission. The governor or his authorized representative shall act as chairman of the commission and the commission shall select one of its members as secretary. The chairmen of the boards of county commissioners who are members of the commission and the Indian members of the commission or their designees shall receive the mileage and expenses allowed state officers which shall be paid from the appropriation made to such commission.

Approved March 27, 1969.

## CHAPTER 451

H. B. No. 465  
(Atkinson, Burke, Lang)

JOINT EXERCISE OF  
GOVERNMENTAL POWERS

## AN ACT

To amend and reenact section 54-40-08 of the 1967 Supplement to the North Dakota Century Code, relating to joint exercise of governmental powers.

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

**Section 1. Amendment.)** Section 54-40-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-40-08. Joint Functions—Who May Participate.)** Any municipality, county, park district and school district or political subdivision of this state upon approval of their respective governing bodies may enter into agreements with one another for joint or cooperative action, on a cost-sharing basis, or otherwise, to carry out any function or duty which may be authorized by law or assigned to one or more of them, to provide moneys for a library fund under chapter 40-38 or other public funds to be used within their territorial limits for the acquisition of a site or additional sites, for the construction or for the additional construction of buildings, and the equipment thereof and for the major remodeling of the same to furnish better library service or other services or facilities to their inhabitants and to expend funds of such municipality, county, park district, school district or political subdivision pursuant to such agreement, to use unexpended balances of their respective current funds, to enter into lease-option to buy and contract for deed agreements, and to accumulate funds from year to year for library and other services and facilities, and otherwise share or contribute property in accordance with such agreement in jointly and cooperatively carrying out such function or duty.

Approved March 29, 1969.



S.B. No. 356  
(Decker)

**POWERS AND DUTIES OF DIRECTOR  
OF ACCOUNTS AND PURCHASES**

AN ACT

To amend and reenact subsection 21 of section 54-44-04 of the North Dakota Century Code, relating to the powers and duties of the director of accounts and purchases.

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

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

21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service. This purchasing service shall include the purchase, 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;

Approved March 4, 1969.



## CHAPTER 453

H. B. No. 130

(Burke, Metzger, Atkinson, Boustead, Wagner, Lang)

WITHHOLDING FROM STATE EMPLOYEES  
PAY FOR TAX-SHELTERED ANNUITIES

## AN ACT

To authorize the director of the department of accounts and purchases to withhold or deduct from compensation to state employees such amounts as the employer and employee may determine to participate in those tax-favored or tax-sheltered annuities authorized by the internal revenue code.

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

**Section 1. The Director of the Department of Accounts and Purchases Shall Have Authority to Withhold or Deduct Certain Amounts from Employees' Compensation.)** The director of the department of accounts and purchases, in addition to other deductions or withholdings authorized or permitted by law, shall be authorized to withhold or deduct from the employees' monetary compensation such amounts as may be determined by the employer and employees to participate in tax-favored or tax-sheltered annuity programs which are authorized by the federal internal revenue code.

Approved March 15, 1969.

## CHAPTER 454

S. B. No. 33

(Coughlin, Holand, Litten, Wenstrom)  
(From Legislative Research Committee Study)

## OFFICE OF CENTRAL DATA PROCESSING

## AN ACT

To establish an office of central data processing, and to amend and reenact section 54-44-11 of the North Dakota Century Code, relating to an operating fund.

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

**Section 1. Office of Central Data Processing—Creation.)**

The office of central data processing is hereby established in the department of accounts and purchases. The director of the department of accounts and purchases shall be its ex officio director. Such director of the central data processing office shall supervise and regulate electronic data processing activities of all of the state agencies, institutions, departments, and boards, except the North Dakota employment security bureau and the office of the adjutant general. The office of central data processing shall establish an electronic data processing center which shall, unless excepted by the director, be used by all state agencies, departments, and institutions except the institutions under the control of the board of higher education, the state employment bureau, and the office of the adjutant general.

The director of central data processing shall appoint a central data processing supervisor who shall be appointed upon the basis of education, experience, and other qualifications in data processing and administration, without reference to partisan politics, and who shall serve at the pleasure of the director of central data processing. The director of central data processing shall employ such other professional, technical, and clerical personnel as he may deem necessary to carry out the duties prescribed in this chapter and shall, within the limits of the legislative appropriation, fix the salaries of all employees within the office of central data processing. All personnel within



the office of central data processing shall be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

**Section 2. Office of Central Data Processing—Powers and Duties.)** The office of central data processing shall:

1. Provide systems design, programming, and other data processing services.
2. Design, plan, justify, and implement all data processing systems within and between state agencies which utilize the services of the office of central data processing.
3. Have the authority to purchase or lease such additional equipment or replace present equipment as may be necessary to carry out the provisions of this Act. 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.

4. Provide data processing assistance and advisory service to the legislative, executive, and judicial branches.
5. Establish and justify data processing activities and costs in order that effectiveness can be measured.
6. Perform all other duties necessary to carry out the provisions of this chapter.
7. Be authorized to establish a data bank to eliminate the duplicate storage of common data and thereby develop more economical and efficient use of the data processing system. The data bank shall consist of data, except where data is restricted from such use by law and such confidentiality cannot be reasonably maintained in such data bank, contained within the files of all agencies, departments, and institutions being provided services by the office of central data processing. In the event that the data bank contains data of use to other departments, agencies, and institutions, such data may be made available to such departments, agencies, and institutions after notice has been given to the agency, department, or institution from which the data was originally received.

### **Section 3. Acquisition of Data Processing Equipment.)**

All electronic data processing equipment owned or leased by any agency, department, or institution of this state except the North Dakota employment security bureau, the institutions under the control of the board of higher education and the office of the adjutant general shall, upon the effective date of this Act, be transferred to and be subject to the control of the office of central data processing. Where any such equipment so transferred from any such a-

gency, department, or institution was purchased by the agency, department, or institution from a dedicated fund or trust fund, the office of central data processing shall credit such agency, department, or institution with an amount equal to the fair market value or fair rental value of such equipment, and charges thereafter made to such agency, department, or institution for services furnished by the office of central data processing shall offset against such credit.

**Section 4. Appointment of Data Processing Coordinators.)** Each agency, department, or institution of this state utilizing the services and equipment provided by the office of central data processing shall appoint an electronic data processing coordinator. Such coordinator shall maintain liaison with the office of central data processing and assist the office in such activities as the establishment of priorities, rescheduling, reports, and other areas related to making the most economical use of the data processing services and equipment.

**Section 5. Report to Governor and Legislature.)** The director of the office of central data processing shall furnish to the governor and legislature at the end of each biennium a statement showing the financial condition of the said office, an inventory of all electronic data processing equipment under its control, and such other information regarding the office as may be necessary for a proper understanding of its operations.

**Section 6. Secrecy Provision.)** The personnel of the office of central data processing are hereby authorized to receive from the various departments, and the employees of the various departments are hereby authorized to provide to the office of central data processing, any information from the files and records of the various departments necessary to effect the purposes of this Act without regard to the confidential or secret nature of the information; provided, however, the personnel of the office of central data processing shall be subject to the same restrictions and penalties regarding the dissemination of this information as are the personnel of the department involved.

**Section 7. Amendment.)** Section 54-44-11 of the 1967 Supplement to the North Dakota Century Code is hereby a-



mended and reenacted to read as follows:

**54-44-11. Purchasing Department Operating Fund 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 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 thousand dollars on June thirtieth of each year shall be transferred to the state general fund.
2. Each office, agency, or institution provided with data processing service 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 operating fund and shall be expended in accordance with legislative appropriations.

Approved March 14, 1969.



## CHAPTER 455

S.B. No. 344  
(Becker, Trenbeath)

MEMBERSHIP AND MEETINGS OF NATURAL  
RESOURCES COUNCIL

AN ACT

To amend and reenact section 54-49-03 and section 54-49-04 of the North Dakota Century Code, relating to the membership of the natural resources council and the time of meeting.

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

**Section 1. Amendment.)** Section 54-49-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-49-03. Membership.)** There is hereby created a natural resources council of state agencies consisting of the governor as chairman, the chairmen of both senate and house natural resources committees, the commissioner of agriculture, the attorney general, executive secretary of state soil conservation committee, the game and fish commissioner, the state land commissioner, the state geologist, the secretary of the state water commission, the state forester, the dean of agriculture of the North Dakota state university of agriculture and applied science, the superintendent of the state historical society, the director of the economic development commission, the state highway commissioner, the state health officer, the director of the state park service, the state liaison officer of the state outdoor recreation agency, or the duly assigned staff representative of any herein named.

**Section 2. Amendment.)** Section 54-49-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-49-04. Procedure.)** The governor shall call the first meeting of the council within sixty days after the effective date of this chapter at the state capitol, at which meeting the council shall elect from within its own body a "working chairman"

and a secretary. Following organization, meetings may be called by the working chairman or, at the request of any six members, may be held as often as necessary but not less than once each three months, which meetings shall be given publicity through the usual news channels. A majority of the members shall constitute a quorum.

Approved March 29, 1969.

---

## CHAPTER 456

S. B. No. 46

(Berube, Goldberg, Longmire, Meschke, Morgan, Nothing)

(Trenbeath)

(From Legislative Research Committee Study)

### EXTENDING MEMBERSHIP IN EMPLOYEES' RETIREMENT SYSTEM

#### AN ACT

To create and enact sections 54-52-02.1 and 54-52-02.2 of the North Dakota Century Code; to amend and reenact section 40-46-02, subsections 3, 6, 7, and 11 of section 54-52-01, section 54-52-03, subsection 6 of section 54-52-04, sections 54-52-05, 54-52-06, 54-52-07, 54-52-10, 54-52-11, and 54-52-22; and to repeal section 54-52-24 of the North Dakota Century Code, relating to the employees' retirement system, extending the membership therein to county and city employees.

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

**Section 1.)** Section 54-52-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**\*54-52-02.1. County and City Employees Authorized to Join Public Employees' Retirement System.)** The boards of county commissioners of the several counties and the governing bodies of any city are hereby authorized on behalf of their permanent employees to enter into an agreement with the state retirement board for the purpose of extending the benefits of the state employees' retirement system, as provided in chapter 54-52, to such employees. The agreement may, in accordance with chapter

**\*Note:** Section 54-52-02.1 was also created by section 1 of chapter 457, 1969 S.L.



54-52, 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 shall agree upon, but such agreement shall provide that:

1. The county or city 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 on a matching basis, equal to one dollar of every four dollars of county contribution shall be devoted to a county administrative expense and benefit fund. A portion of the moneys, paid by the cities on a matching basis, equal to one dollar of every four dollars of city contribution shall be devoted to a city administrative expense and benefit fund. These funds shall be administered by the state retirement board and shall be used to defray that portion of the administrative expenses of the retirement board attributed to the several counties and cities and to provide prior service benefits to county and city employees.
3. The board of county commissioners of a county or the governing body of a city electing to participate in the employees' retirement system shall compute a prior service benefit for long-term county or city employees in the manner provided in sections 54-52-19 and 54-52-20, except that the dates January 1, 1969, and December 31, 1963, shall be substituted for the dates set forth in section 54-52-19. A register of eligible employees for whom prior service has been computed shall be forwarded to the executive secretary of the state retirement board by the board of county commissioners or the governing body of the city.

Section 2.) Section 54-52-02.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

**\*54-52-02.2. Employee Referendum—Authorization and Supervision.)** On their own motion or upon petition by twenty percent of the permanent county or city employees of any county or city, the board of county commissioners or the governing body of the city shall authorize and supervise a referendum of the permanent em-

\*Note: Section 54-52-02.2 was also created by section 2 of chapter 457, 1969 S.L.

ployees employed by that county or city on the question whether such employees elect to participate in the retirement system, and if the majority of such employees vote in favor of participation in the retirement system the board of county commissioners or the governing body of a city, notwithstanding anything to the contrary in chapter 40-46 of the North Dakota Century Code, may in its discretion enter into the agreement provided for in section 54-52-02.1. Notwithstanding provisions to the contrary in chapters 18-05, 18-11, and 40-45 of the North Dakota Century Code, the police department of any city, the fire department of any city, or both may hold referendums among their employees on the question of whether their department should join the remaining city employees in participation in the retirement system established by this chapter. If a majority of the city police or city firemen, or both, vote in favor of such participation the governing body of the city shall include such policemen and firemen within any agreement entered into pursuant to section 52-52-02.1 of this Act, and shall arrange for discontinuance of any existing policemen's or firemen's pension fund as provided by law.

**Section 3. Amendment.)** Section 40-46-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**40-46-02. Tax Levy for City Employees' Pension Fund and Federal Social Security Authorized—Limitations.)** In addition to any other levies authorized by law for general purposes, any city which has adopted a civil service system for city employees may levy an annual tax of not more than four mills for the purpose of creating and maintaining a city employees' pension fund and for the purpose of paying the city's share of federal social security payments to the United States for coverage of city employees under federal social security. Any pension system shall be based on actuarial tables and actuarial valuation shall be performed at intervals of not more than five years.

**Section 4. Amendment.)** Subsections 3, 6, 7, and 11 of section 54-52-01 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:



- \*3. "Employee" shall mean any person employed by the state of North Dakota, or by any county or city thereof, whose compensation is paid out of state, county, or city funds or funds controlled or administered by a state, county, or city department, or paid by the federal government through any of its executive or administrative officials;
6. "Permanent employee" shall mean a state, county, or city employee who has been employed by the state, county, or city for five continuous months, is employed for more than twenty hours per week and more than five months each year;
7. "Prior service" shall mean state service or employment prior to January 1, 1965, or county, or city service or employment prior to January 1, 1969.
11. "Vested interest" shall mean all of the employee's contribution, plus credited earnings thereon, and that part of the agency, county, or city contribution, plus credited earnings thereon, as shown on the vesting schedule provided for in this chapter; and

**\*Note:** Subsections 3, 6, 7, and 11 of section 54-52-01 were also amended by section 3 of chapter 457, 1969 S.L.

**Section 5. Amendment.)** Section 54-52-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-03. Governing Authority.)** A state agency is hereby created to constitute the governing authority of the system to consist of a board of five persons known as the retirement board. No more than one member of the board shall be in the employ of a single department, institution or agency of the state or in the employ of political subdivisions.

1. One member of the board shall be appointed by the governor to serve a term of five years. The appointee shall be a North Dakota citizen who is not a state, county, or city employee and who by experience is familiar with money management. The citizen member shall be chairman of the board.

**\*Note:** Section 54-52-03 was also amended by section 4 of chapter 457, 1969 S.L.

2. One member of the board shall be appointed by the attorney general from his legal staff and shall serve a term of five years.
3. Three board members shall be elected from among the participating members. The initial elected members shall be elected for terms which shall expire two years, three years, and four years after the date of establishment. Future members shall be elected to a five-year term, pursuant to an election called for by the board.
4. Members of the board shall receive an honorarium of twenty-five dollars for each month during which the board has been in session. This shall be in addition to any other pay or allowance due the members, plus an allowance for expenses they may incur through service on the board.
5. A board member shall serve a five-year term and until his successor qualifies. Each board member shall be entitled to one vote, and three of the five board members shall constitute a quorum. Three votes shall be necessary for resolution or action by the board at any meeting.
6. The state auditor, the state health officer, and the state examiner shall be ex officio, nonvoting, and advisory members of the board.

**Section 6. Amendment.)** Subsection 6 of section 54-52-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \*6. The board shall select the funding agent or agents and establish an investment agreement contract. The contract shall authorize the funding agent or agents to hold and invest moneys for the system. No moneys of the system shall be invested by the board. Said moneys shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. All securities, agreements, contracts, or instruments of value shall be delivered to the Bank of North Dakota, or its

**\*Note:** Subsection 6 of section 54-52-04 was also amended by section 5 of chapter 457, 1969 S.L.



agents. Except for dispensing money to the funding agent or agents, paying prior service benefits, or making withdrawal payments and refunds, the board shall expend money only for administrative purposes by preparing an appropriate voucher and submitting such vouchers to the department of accounts and purchases and as limited by the appropriation first made by the legislative assembly.

**Section 7. Amendment.)** Section 54-52-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-05. Membership Fee and Assessments.)** Every eligible permanent state, county, or city employee concurring in the plan shall so state in writing and all future eligible employees shall be participating members. Each member shall pay to the treasurer of the retirement fund a membership fee to be fixed by the retirement board in an amount not exceeding five dollars, which shall be paid into the administrative expense and benefit fund in the case of state employees, to the county administrative expense and benefit fund in the case of county employees, and to the city administrative expense and benefit fund in the case of city employees. An eligible employee shall be a permanent employee who has been employed by the state, county, or city for five months, has reached age twenty-one, 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.

**\*Note:** Section 54-52-05 was also amended by section 6 of chapter 457, 1969 S.L.

**Section 8. Amendment.)** Section 54-52-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-06. Employer's Contribution to Retirement Plan—Limitations.)** Each agency, county, or city shall match four percent of the monthly salary or wage of a participating member, but not to exceed a matching payment in excess of five hundred

**\*Note:** Section 54-52-06 was also amended by section 7 of chapter 457, 1969 S.L.

dollars annually. Each agency, county, or city shall pay such contributions into the retirement fund from its funds appropriated for payroll and salary or any other funds available for such purposes.

**Section 9. Amendment.)** Section 54-52-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-07. Agency, County, or City Contribution is Retirement Contribution.)** The agency, county, or city contribution to a retirement plan shall be considered a retirement contribution and not an additional compensation. This shall apply specifically to elected and appointed officials where maximum annual compensation is set by the statute or by state, county, or city boards or commissions. The retirement contribution shall not be considered by the employee as income in computing his net income for purposes of state income tax until such time as the moneys come under the control of the employee.

**\*Note:** Section 54-52-07 was also amended by section 8 of chapter 457, 1969 S.L.

**Section 10. Amendment.)** Section 54-52-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-10. Allocation of Funds.)** For the purpose of internal accounting records of the board, and not for the purpose of the segregation of moneys on deposit, or investment, there shall be created:

1. An "employee account fund", consisting of the employee contribution plus credited earnings thereon;
2. A "vesting fund", consisting of three of each four dollars of agency or county contribution plus credited earnings thereon;
3. An "administrative expense and benefit fund", consisting of one of each four dollars of agency contribution;
4. A "county administrative expense and benefit fund", consisting of one of each four dollars of county contribution; and

**\*Note:** Section 54-52-10 was also amended by section 9 of chapter 457, 1969 S.L.



- 5. A "city administrative expense and benefit fund", consisting of one of each four dollars of city contribution.

Any and all expenses incurred by or for the operation of the retirement plan shall be paid from the funds established by subsections 3, 4, and 5 of this section. From the funds established by subsections 3, 4, and 5 of this section the board shall have the authority to provide prior service benefits and that portion not needed for the payment of prior service benefits and administrative expenses may be credited annually to individual employee accounts in proportion to the member's contribution to the fund. The funds allocated in subsections 1 and 2 hereof shall constitute the "employees' retirement fund".

**Section 11. Amendment.)** Section 54-52-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-11. Vesting—Vesting Schedule of Agency Contribution.)** Upon severance of the employment of a participating member, either voluntarily or involuntarily, for any reason other than set forth in this section, the contribution of the participant plus credited earnings thereon shall be vested in him. Three out of every four dollars of agency, county, or city contribution shall be vested in the employee according to years of state, county, or city employment prior to this chapter. The employees' vested interest in the "vesting fund" shall be as follows:

Years of State, County, or City Employment	Percentage of Vesting Fund Interest
0 years through 3 years	None
Over 3 years through 7 years	20% plus credited earnings thereon
Over 7 years through 11 years	30% plus credited earnings thereon
Over 11 years through 15 years	40% plus credited earnings thereon
Over 15 years through 18 years	60% plus credited earnings thereon
Over 18 years through 20 years	80% plus credited earnings thereon
Over 20 years	100% plus credited earnings thereon

An employee's one hundred percent vesting fund interest plus credited earnings thereon shall be vested, and nonforfeitable, when the employee reaches the age of sixty-five, or is permanently disabled; and an employee's one hundred percent vesting fund interest shall be vested in the beneficiary of the employee in case of the employee's death. At the age of sixty-five, or less as may be determined by the board, all interests vested in an employee shall be available to him for payment of retirement benefits as may be provided for under this chapter. Amounts forfeited under the vesting fund interest shall be paid into the respective administrative expense and benefit funds.

**\*Note:** Section 54-52-11 was also amended by section 10 of chapter 457, 1969 S. L.

**Section 12. Amendment.)** Section 54-52-22 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-22. Interpretation Clause.)** This chapter shall not be construed so as to commit the state of North Dakota, any county, or city or the agency to any liability either moral or legal for any benefits to any beneficiary under the plan or plans resulting from enactment of this chapter, nor as an exemption from any regulatory laws of the state of North Dakota.

**\*Note:** Section 54-52-22 was also amended by section 11 of chapter 457, 1969 S.L.

**\*Section 13. Repeal.)** Section 54-52-24 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

**\*Note:** Section 54-52-24 was also repealed by section 12 of chapter 457, 1969 S.L.

Approved April 20, 1969.



## CHAPTER 457

H.B. No. 388

(Bunker, Sanstead, Haugland, Metzger)

**EXTENDING EMPLOYEES' RETIREMENT TO COUNTY  
AND CITY EMPLOYEES AND NON-CERTIFIED  
EMPLOYEES OF SCHOOL DISTRICTS**

## AN ACT

To create and enact sections 54-52-02.1 and 54-52-02.2 of the North Dakota Century Code; to amend and reenact subsections 3, 6, 7 and 11 of section 54-52-01, section 54-52-03, subsection 6 of section 54-52-04, sections 54-52-05, 54-52-06, 54-52-07, 54-52-10, 54-52-11, and 54-52-22; and to repeal section 54-52-24 of the North Dakota Century Code, relating to the employees' retirement system, extending the membership therein to county, city, and non-certified school district employees.

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

**Section 1.)** Section 54-52-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**\*54-52-02.1. County, City, and Non-Certified 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 non-certified 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 state employees' retirement system, as provided in chapter 54-52, to such employees. Such an agreement may, in accordance with chapter 54-52, 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 on a matching basis, equal to one dollar of every four dollars of county, city, or school district contribution shall be devoted to a county, city, or school district administrative expense and benefit fund. These funds shall be administered by the state retirement board and shall be used to defray that portion of the administrative expenses of the retirement board attributed to the several counties, cities, or school districts and to provide prior service benefits to county employees, city employees, and to non-certified school district employees.
  
3. The board of county commissioners of a county or the governing body of a city or a school district electing to participate in the employees' retirement system shall compute a prior service benefit for long-term county employees, city employees, or non-certified school district employees in the manner provided in sections 54-52-19 and 54-52-20, except that the dates January 1, 1969, and December 31, 1963, shall be substituted for the dates set forth in section 54-52-19. A register of eligible employees for whom prior service has been computed shall be forwarded to the executive secretary of the state retirement board by the board of county commissioners or the governing body of the city or school district.

**\*Note:** Section 54-52-02.1 was also created by section 1 of chapter 456, 1969 S. L.

**Section 2.)** Section 54-52-02.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

**\*54-52-02.2. Employee Referendum—Authorization and Supervision.)** On their own motion or upon petition by twenty percent of the permanent county or city employees or the permanent non-certified employees of any school district, the board of county commissioners or the governing body of the city or school district shall authorize and supervise a referendum of the permanent employees employed by that county or city or of the non-certified permanent employees employed by that school district on the question whether such employees elect to participate in the retirement system, and if the majority of such employees vote in favor of participation in the retirement system the board of county commissioners or the

governing body of a city or school district, notwithstanding anything to the contrary in chapter 40-46 of the North Dakota Century Code, may in its discretion enter into the agreement provided for in section 54-52-02.1.

**\*Note:** Section 54-52-02.2 was also created by section 2 of chapter 456, 1969 S. L.

**Section 3. Amendment.)** Subsections 3, 6, 7 and 11 of section 54-52-01 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- \*3. "Employee" shall mean any person employed by the state of North Dakota, or by county or city thereof, or any non-certified employee of any school district, including all Public School Districts and the Fargo School District, whose compensation is paid out of state, county, city, or school district fund or funds controlled or administered by a state department, county, city, or school district, or paid by the federal government through any of its executive or administrative officials; non-certified employees of a school district shall mean those employees not eligible to participate in the Teachers' Insurance and Retirement Fund;
6. "Permanent employee" shall mean a state, county, city, or non-certified school district employee who has been employed by the state, county, city, or school district for five continuous months, is employed for more than twenty hours per week and more than five months each year;
7. "Prior service" shall mean state service or employment prior to January 1, 1965, or county, city, or school district service or employment prior to January 1, 1969;
11. "Vested interest" shall mean all of the employee's contribution, plus credited earnings thereon, and that part of the agency, county, city, or school district contribution, plus credited earnings thereon, as shown on the vesting schedule provided for in this chapter; and

**\*Note:** Subsections 3, 6, 7, and 11 of section 54-52-01 were also amended by section 4 of chapter 456, 1969 S. L.



**Section 4. Amendment.)** Section 54-52-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted read as follows:

**\*54-52-03. Governing Authority.)** A state agency is hereby created to constitute the governing authority of the system to consist of a board of five persons known as the retirement board. No more than one member of the board shall be in the employ of a single department, institution or agency of the state or in the employ of political subdivisions.

1. One member of the board shall be appointed by the governor to serve a term of five years. The appointee shall be a North Dakota citizen who is not a state, or school district employee and who by experience is familiar with money management. The citizen member shall be chairman of the board.
2. One member of the board shall be appointed by the attorney general from his legal staff and shall serve a term of five years.
3. Three board members shall be elected from among the participating members. The initial elected members shall be elected for terms which shall expire two years, three years, and four years after the date of establishment. Future members shall be elected to a five-year term, pursuant to an election called for by the board.
4. Members of the board shall receive an honorarium of twenty-five dollars for each month during which the board has been in session. This shall be in addition to any other pay or allowance due the member, plus an allowance for expenses they may incur through service on the board.
5. A board member shall serve a five-year term and until his successor qualifies. Each board member shall be entitled to one vote, and three of the five board members shall constitute a quorum. Three votes shall be necessary for resolution or action by the board at any meeting.
6. The state auditor, the state health officer, and the

state examiner shall be ex officio, non-voting, and advisory members of the board.

**\*Note:** Section 54-52-03 was also amended by section 5 of chapter 456, 1969 S. L.

**Section 5. Amendment.)** Subsection 6 of section 54-52-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \*6. The board shall select the funding agent or agents and establish an investment agreement contract. The contract shall authorize the funding agent or agents to hold and invest moneys for the system. No moneys of the system shall be invested by the board. Said moneys shall be placed for investment only with a firm or firms whose primary endeavor is money management, and only after a trust agreement or contract has been executed. All securities, agreements, contracts, or instruments of value shall be delivered to the Bank of North Dakota, or its agents. Except for dispensing money to the funding agent or agents, paying prior service benefits; or making withdrawal payments and refunds, the board shall expend money only for administrative purposes by preparing an appropriate voucher and submitting such vouchers to the department of accounts and purchases and as limited by the appropriation first made by the legislative assembly.

**\*Note:** Subsection 6 of section 54-52-04 was also amended by section 6 of chapter 456, 1969 S. L.

**Section 6. Amendment.)** Section 54-52-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-05. Membership Fee and Assessments.)** Every eligible permanent state, county, city, or non-certified school district employee concurring in the plan shall so state in writing and all future eligible employees shall be participating members. Each member shall pay to the treasurer of the retirement fund a membership fee to be fixed by the retirement board in an amount not exceeding five dollars, which shall be paid into the administrative expense and benefit fund in the case of state employees, to the county administrative expense and benefit fund in the case of county employees, to the city administrative expense and benefit fund in the case of city employees, and to the school dis-



strict expense and benefit fund in the case of non-certified school district employees. An eligible employee shall be a permanent employee who has been employed by the state, county, city, or school district for five months, has reached age twenty-one, 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.

**\*Note:** Section 54-52-05 was also amended by section 7 of chapter 456, 1969 S. L.

**Section 7. Amendment.)** Section 54-52-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-06. Employer's Contribution to Retirement Plan.)** Each agency, county, city, or school district shall match four percent of the monthly salary or wage of a participating member, but not to exceed a matching payment in excess of five hundred dollars annually. Each agency, county, city, or school district shall pay such contribution into the retirement fund from its funds appropriated for payroll and salary or any other funds available for such purposes.

**\*Note:** Section 54-52-06 was also amended by section 8 of chapter 456, 1969 S. L.

**Section 8. Amendment.)** Section 54-52-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-07. Agency, County, City, or School District Contribution is Retirement Contribution.)** The agency, county, city, or school district contribution to a retirement plan shall be considered a retirement contribution and not an additional compensation. This shall apply specifically to elected and appointed officials whose maximum annual compensation is set by the statute or by state, county, city, or school district governing bodies, boards, or commissions. The retirement contribution shall not be considered by the employee as income in computing his net income for purposes of state income tax until such time as the moneys come under the control of the employee.

**\*Note:** Section 54-52-07 was also amended by section 9 of chapter 456, 1969 S. L.



**Section 9. Amendment.)** Section 54-52-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-10. Allocation of Funds.)** For the purpose of internal accounting records of the board, and not for the purpose of the segregation of moneys on deposit, or investment, there shall be created:

1. An "employee account fund", consisting of the employee contribution plus credited earnings thereon;
2. A "vesting fund", consisting of three of each four dollars of agency, county, city, or school district contribution plus credited earnings thereon;
3. An "administrative expense and benefit fund", consisting of one of each four dollars of agency contribution;
4. A "county administrative expense and benefit fund", consisting of one of each four dollars of county contribution;
5. A "city administrative expense and benefit fund", consisting of one of each four dollars of city contribution; and
6. A "school district administrative expense and benefit fund", consisting of one of each four dollars of school district contribution.

Any and all expenses incurred by or for the operation of the retirement plan shall be paid from the funds established by subsections 3, 4, 5, and 6 of this section. From the funds established by subsections 3, 4, 5, and 6 of this section the board shall have the authority to provide prior service benefits and that portion not needed for the payment of prior service benefits and administrative expenses may be credited annually to individual employee accounts in proportion to the member's contribution to the fund. The funds allocated in subsections 1 and 2 hereof shall constitute the "employees' retirement fund".

**\*Note:** Section 54-52-10 was also amended by section 10 of chapter 456, 1969 S. L.

**Section 10. Amendment.)** Section 54-52-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-11. Vesting—Vesting Schedule of Agency, County, City, or School District Contribution.)** Upon severance of the employment of a participating member, either voluntarily or involuntarily, for any reason other than set forth in this section, the contribution of the participant plus credited earnings thereon shall be vested in him. Three out of every four dollars of agency, county, city, or school district contribution shall be vested in the employee according to years of state, county, city, or school district employment including state, county, city, or school district employment prior to this chapter. The employees' vested interest in the "vesting fund" shall be as follows:

Years of State, County, City or School District Employment	Percentage of Vesting Fund Interest
0 years through 3 years	None
Over 3 years through 7 years	20% plus credited earnings thereon
Over 7 years through 11 years	30% plus credited earnings thereon
Over 11 years through 15 years	40% plus credited earnings thereon
Over 15 years through 18 years	60% plus credited earnings thereon
Over 18 years through 20 years	80% plus credited earnings thereon
Over 20 years	100% plus credited earnings thereon

An employee's one hundred percent vesting fund interest plus credited earnings thereon shall be vested, and nonforfeitable, when the employee reaches the age of sixty-five, or is permanently disabled; and an employee's one hundred percent vesting fund interest shall be vested in the beneficiary of the employee in case of the employee's death. At the age of sixty-five, or less as may be determined by the board, all interests vested in an employee shall be available to him for payment of retirement benefits as may be provided for under this chapter. Amounts forfeited under the vesting fund interest



shall be paid into respective administrative expense and benefit funds.

**\*Note:** Section 54-52-11 was also amended by section 11 of chapter 456, 1969 S. L.

**Section 11. Amendment.)** Section 54-52-22 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*54-52-22. Interpretation Clause.)** This chapter shall not be construed so as to commit the state of North Dakota, or any county, city, or school district or the agency to any liability either moral or legal for any benefits to any beneficiary under the plan or plans resulting from enactment of this chapter, nor as exemption from any regulatory laws of the state of North Dakota.

**\*Note:** Section 54-52-22 was also amended by section 12 of chapter 456, 1969 S. L.

**\*Section 12. Repeal.)** Section 54-52-24 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

**\*Note:**Section 54-52-24 was also repealed by section 13 of chapter 456, 1969 S.L.

Approved March 29, 1969.

## CHAPTER 458

S. B. No. 58

(Lips, Sorlie)

(Recommended by Legislative Audit  
and Fiscal Review Committee)ACCOUNTING REQUIREMENTS OF  
STATE EMPLOYEES' RETIREMENT PROGRAM

## AN ACT

To repeal section 54-52-15 of the North Dakota Century Code, relating to state employees' retirement program accounting requirements.

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

**Section 1. Repeal.)** Section 54-52-15 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 25, 1969.

## CHAPTER 459

H. B. No. 42

(Aamoth, Link, Streibel)

(From Legislative Research Committee Study)

## DISPOSAL OF SURPLUS LEGISLATIVE CHAIRS

## AN ACT

Relating to the disposal of surplus chairs from the house and senate chambers, and declaring an emergency.

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

**Section 1. Disposal of Surplus Legislative Property.)** The desk chairs of the house and senate chambers of the North Dakota legislative assembly, formerly used in such chambers prior to the meeting of the forty-first legislative assembly, are hereby declared to be surplus property. Notwithstanding the provisions of section 15-61-05, such chairs shall be disposed of in the following manner:

The director of the department of accounts and purchases shall, upon an appraisal approved by him, establish a fair appraised value for all chairs or for each individual chair as he may deem proper, and such chairs shall, thereafter, be offered for sale at such fair appraised value. Preference, for a period of ninety days after the announcement by the director of the department of accounts and purchases of their availability, shall be given first to present legislators and, secondly, to former legislators for the purchase of one chair each. Any chairs remaining unsold to present or former legislators shall then be offered for sale at not less than the fair appraised sale price to agencies of the state, to political subdivisions of the state, and to other purchasers, with priority in their purchase to be given to counties for use as jury chairs. Any chair remaining unsold after a date set by the director of the department of accounts and purchases shall be disposed of as provided in section 15-61-05.

**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 14, 1969.



## CHAPTER 460

H. B. No. 119  
(Kingsbury, Berg, Lillehaugen, Lundene)

## LEASE OF GRAFTON STATE SCHOOL PROPERTY

## AN ACT

Authorizing the board of administration to lease certain property owned by the state and currently a part of the Grafton state school properties.

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

**Section 1.)** It is hereby found and determined that the lands owned by the state and currently a part of the Grafton state school properties, as described in section 2 of this Act, can be leased to the Walsh County historical society for museum purposes and it will be to the advantage of the Walsh County historical society to so lease said premises.

**Section 2.)** The board of administration may lease to the Walsh County historical society the premises described as:

Beginning at the southwest corner of lot number sixteen, block number six of the west side addition to the city of Grafton, North Dakota, thence in a northerly direction and along the west city limits boundary line, a distance of one thousand two hundred forty-one and eight-tenths feet, thence in a westerly direction and along the quarter quarter line, a distance of three hundred twenty-five feet, thence in a southerly direction a distance of one thousand two hundred forty-one and eight-tenths feet to the state highway number seventeen right-of-way line, thence in an easterly direction, and along the highway right-of-way line a distance of three hundred twenty-five feet to the point of beginning, all of which described tract of land is located in the east one-half of the southwest quarter of the southwest quarter of section thirteen, township one hundred fifty-seven north, range fifty-three west of the fifth principal meridian, Walsh County, North Dakota, said tract containing nine and two hundred and sixty-five thousandths acres, more or less.

Such lease shall be for a term of not to exceed ninety-nine years at an annual rental payable in advance as may be approved by the state board of administration, upon such terms and conditions as the board of administration shall prescribe.

Approved March 8, 1969.

---

CHAPTER 461

H. B. No. 384  
(Halcrow)

CESSION OF PROPERTY BY STATE  
OF MINNESOTA

AN ACT

To amend and reenact section 1, chapter 410 of the 1967 Session Laws, relating to the acceptance of the cession by the state of Minnesota to the state of North Dakota of a certain parcel of real property and declaring an emergency.

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

**Section 1. Amendment.)** Section 1, chapter 410 of the 1967 Session Laws, is hereby amended and reenacted to read as follows:

**Section 1. Acceptance by North Dakota of Cession of Property by Minnesota.)** Whereas, due to the construction of a dam on the Red River of the North for industrial and municipal water supply purposes, an avulsion has occurred leaving a parcel of land described as:

That portion of government lot 1, section 18, township 159 north, range 50 west of the 5th principal meridian, county of Kittson, state of Minnesota, bounded by the thread of the Red River of the North as it existed prior to April, 1964, and the thread of the new channel and spillway constructed to the east of the old channel said parcel contains 2.83 acres of land more or less,

detached from the state of Minnesota and attached to the state of North Dakota. The state of North Dakota, upon passage by the

legislature of the state of Minnesota of the necessary enabling legislation, does hereby accept jurisdiction over the above-described property, which property shall thereafter be a part of the state of North Dakota and title thereto shall be vested in the city of Drayton, North Dakota.

Nothing contained in the provisions of this section shall be construed in such manner as to prejudice the title, right, or claim of any person to any of the lands herein involved. The register of deeds of Pembina County, North Dakota, shall accept and record, without charge therefor, patents, deeds, or other evidences of ownership or interest in any lands recorded in Kittson County, Minnesota, which were previously a part of the state of Minnesota but are now within the boundaries of the state of North Dakota. Recordings made under the provisions of this section shall have retroactive effect to the date of their original recording in the state of Minnesota.

The Act of the legislature of the state of Minnesota referred to in this section, together with this section, shall constitute the agreement between the states of Minnesota and North Dakota. The Congress of the United States, upon passage of such Acts by the respective legislatures of the states of Minnesota and North Dakota, is petitioned, pursuant to article 1, section 10, clause 3 of the United States Constitution, to give its consent to this agreement and to amend the Enabling Acts of such states accordingly. The secretary of state of North Dakota shall transmit duly certified copies of this Act to the presiding officers of the senate and house of representatives of the United States and to the several senators and representatives of the states of Minnesota and North Dakota in the Congress of the United States, who are petitioned to take such action as they deem proper to procure the consent of the Congress of the United States to this agreement between the states of Minnesota and North Dakota. This agreement shall become effective when it has been ratified and approved by the legislatures of the states of Minnesota and North Dakota and approved by the Congress of the United States.

**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 17, 1969.



## CHAPTER 462

H. B. No. 485

(Kelsch)

## CONSTITUTIONAL CONVENTION

## AN ACT

Establishing the procedures, methods of election and numbers of delegates, and conduct of the meetings of a constitutional convention, and to provide that the results of the convention may be submitted to the people.

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

**Section 1.)** A constitutional convention shall be held and the delegates thereto shall be selected and qualified as provided in this Act.

**Section 2.)** Delegates to the convention shall be elected at the general election held in 1970 as provided in this Act. Candidates for election to the office of delegate to the convention shall possess the qualifications required by law for a member of the house of representatives of the legislative assembly, and shall be qualified electors of the district from which they are elected. The election of delegates to the convention shall be on a nonpartisan basis, and no candidate shall designate political party affiliation at the time he files for election.

**Section 3.)** The basis for representation in the constitutional convention shall be as follows: ninety-eight delegates elected from the same legislative districts as members of the house of representatives of the legislative assembly. Vacancies in positions of delegates shall be filled by appointment by the convention from the same district in which the vacancy occurred.

**Section 4.)** A nominating commission consisting of the governor, lieutenant governor, and attorney general shall nominate one nominee for delegate to the constitutional convention for each member of the house of representatives of each legislative district, and shall certify such appointment to the secretary of state in writing. The commission must unanimously agree to the nomination of each nominee. Upon receiving the certificates of nomination from the nominating commission, the

secretary of state shall certify, as provided in section 5, the names of all such nominees from each district to the respective county auditors of the county or counties containing all or part of such district for inclusion on the general election ballot. The commission shall nominate and certify nominees, as provided in this section, within twenty days after the primary election to be held in 1970.

**Section 5.)** Every person desiring to be elected as a delegate from a particular district, who has not been nominated by the nominating commission pursuant to section 4 of this Act, shall file with the secretary of state a nominating petition containing at least one hundred fifty signatures of persons who are qualified electors within his district of residence. When a petition is filed on behalf of a candidate by someone other than the candidate, it shall contain or have attached thereto a statement signed by the candidate, and filed along with such petition, indicating the candidate's willingness to accept the nomination and to serve as a delegate. Persons who circulate nominating petitions shall execute an affidavit concerning the genuineness of the signatures on the petition. The petitions shall be filed with the secretary of state not less than thirty days before the next general election, and the secretary of state shall certify the names of all candidates and nominees from each district for the position of delegate to the constitutional convention to the respective county auditors of the county or counties containing all or part of such district not less than twenty-five days before the general election.

**Section 6.)** The county auditors of the several counties shall include on the general election ballot the names of all candidates for election as delegates to the constitutional convention as certified by the secretary of state. The names of the candidates for delegate shall be placed on the ballot in two columns in the manner prescribed by the secretary of state, one column being for the candidate nominated by the nominating commission pursuant to section 4 of this Act, and the other column for the candidate or candidates, if any, nominated by petition pursuant to section 5 of this Act.

**Section 7.)** In legislative districts represented by two members of the house of representatives of the legislative assembly, the two candidates for delegate who receive the highest number of the votes cast shall be declared elected as delegates to the



constitutional convention. In legislative districts represented by more than two members of the house of representatives of the legislative assembly, the number of candidates for delegate, equal to the number of members of the house of representatives representing the district, receiving the highest number of the votes cast shall be declared elected as delegates to the constitutional convention. In case of a tie between candidates, one of whom but for the tie, would have been declared elected, the secretary of state shall determine by lot, in the presence of the tied candidates, which one is to be declared elected and shall declare that candidate elected. Returns in regard to constitutional convention delegates shall be canvassed in the same manner as is provided by law for the canvassing of returns in regard to election of members of the legislative assembly.

**Section 8.)** In the event that there should be a change, for any reason, in the incumbents in the offices of governor, lieutenant governor, or attorney general from those persons holding such office on March 1, 1969, the majority and minority floor leaders of the senate and house of representatives of the legislative assembly shall meet and select a person or persons to serve on the nominating commission in place of the incumbent in the office or offices who, for any reason, is no longer serving. The person chosen as a replacement shall be a member of the same political party as was the former officer who is being replaced.

**Section 9.)** It shall be the duty of the delegates elected as provided in this Act to assemble at the state capitol building at ten o'clock a.m. on the first Tuesday after the first Monday in April 1971, for an organizational meeting of no longer than three days' duration. At that meeting each delegate shall take an oath to support the Constitution of the United States and to faithfully discharge the duties of a convention delegate. This meeting shall be for the purpose of electing permanent convention officers, adopting rules of procedure, and providing for such interim committees and staff members as may be necessary to prepare for the plenary meeting of the convention which shall convene at the state capitol building in the house chamber on the first Monday of the following January. The convention shall then remain in session for not longer than thirty consecutive natural days, excluding Sundays, of actual meetings. Thereafter, the finished draft of the proposed Constitution shall be certified by the president and secretary of

the convention to the secretary of state, and the secretary of state shall thereafter provide for the publication of the full text thereof in the same manner as provided by law for publication of initiative and referendum measures to be voted upon by the electors of this state. The convention shall expend such funds as may be necessary to publish and distribute a report and related information to the people explaining its proposals.

**Section 10.)** The governor shall preside at the organizational meeting of the convention until the president of the convention is selected, and the governor may vote in case of a tie vote in the selection of the president. A majority of the delegates shall constitute a quorum, and a majority of the total number of delegates shall be required for approval of any section to be included in a proposed constitution or amendments to the Constitution. The convention shall elect its own officers, and shall be sole judges of the qualifications and election of its own membership. All meetings of the convention shall be open to the public.

**Section 11.)** The appropriation to defray the expenses of the constitutional convention shall be made by the next regular session of the legislative assembly convening next after the general election at which delegates were elected as provided in this Act. The proposed budget for the expenses of the convention shall be prepared by the governor and promptly submitted to the legislative assembly for action thereon. Delegates to the convention shall be paid at the rate of twenty-five dollars for each day of attendance at meetings of the convention, plus their necessary expenses and mileage for not more than four trips to and from the convention at rates prescribed by law for state officials.

**Section 12.)** The convention may submit a new Constitution as one proposal to be voted on by the people, and it may submit proposed parts or alternative parts of a new Constitution. The proposals of the convention shall be submitted to the electors of this state for adoption or rejection at a special election held next following adjournment sine die called by the governor not less than ninety days nor more than one hundred fifty days next succeeding the date of adjournment of the constitutional convention. The returns of such issue at such special election shall be made, canvassed, and the results thereof declared in the same manner as provided by law for the initiated and referred measures. If a majority of the electors of the



state voting thereon at such special election shall vote for the proposed new Constitution, the same shall become effective on the date and in the manner provided in the proposed Constitution, or if no effective date shall be provided in the proposed new Constitution, the same shall become effective as now provided by law with reference to initiated measures. If a majority of the electors of the state voting thereon at such special election shall vote against the proposed new Constitution, the same shall be deemed rejected by the electors, and the existing Constitution of this state, as amended, shall continue to be the Constitution of this state. If proposed parts or alternative parts of the new Constitution are submitted separately, and the people shall vote against any part, such part shall be deemed rejected and shall be of no force and effect, but any proposed part or alternative part which receives a majority of the votes of the qualified electors voting thereon shall become effective on the date and in the manner provided for in such proposed part, or if no effective date is provided, such proposed part shall become effective as now provided by law with reference to initiated measures.

**Section 13.)** In the event that a majority of the qualified electors of this state voting on the question shall vote in the negative on the question of whether a constitutional convention shall be called as submitted to them at the statewide primary election in 1970, then the nomination of candidates for delegate to the constitutional convention and this Act shall be of no force and effect.

Approved March 29, 1969.

## CHAPTER 463

S. B. No. 97  
(Holand)

## ADMINISTRATION AND MANAGEMENT STUDY

## AN ACT

Making an appropriation for an administration and management study of certain state departments and programs by the legislative research committee, and declaring an emergency.

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

**Section 1.)** WHEREAS, appropriations from the state general fund have increased more than twofold in the past ten years; and

WHEREAS, tax increases have been necessary to fund such increases in appropriations and even further increases are foreseen in the near future if such rate of increased expenditures continues; and

WHEREAS, there are continuing demands for funds for health, education, and welfare services; and

WHEREAS, reliable estimates project even greater requests for such funds in the future; and

WHEREAS, an improvement in management and organization through improved procedures and more effective use of personnel would reduce the costs of new or increased levels of service; and

WHEREAS, many financial administrative, and management problems are apparent in state government today; and

WHEREAS, previous studies involving the efficiency of various departments, agencies, and institutions of state government have resulted in substantial dollar savings to the state; and

WHEREAS, consultants who have recently completed a com-



prehensive data processing study have recommended a review of procedures on a department-by-department basis to simplify paper work and eliminate duplication of effort, and the consultants also have recommended a personnel effectiveness study to provide standards for the large volume, highly repetitive clerical activities in many departments of government; and

WHEREAS, the subcommittee on budget of the legislative research committee recommends a comprehensive study of all aspects of the public welfare program in the state to improve the administration of all welfare programs at all levels of government; and

WHEREAS, the management of state departments, agencies, and institutions have never had specialists available to assist them in the development of sound management practices within their departments.

**Section 2. Appropriation.)** There is hereby appropriated out of any funds in the general fund of the state treasury, not otherwise appropriated, \$85,000.00, or so much thereof as may be necessary, to conduct an administration and management study of the public welfare department and its programs on the state and county level, and of such other departments, institutions, or agencies as may be selected for study by the legislative research committee. All departments, agencies and institutions shall provide such information, aid, and assistance as the committee may request. The committee may employ such consultants as it deems necessary for complete review of departments and programs designated for study. The legislative research committee shall be authorized to approve any request not contrary to law for authority from any department, institution, or agency to implement any committee recommendation which would be of immediate and material benefit to the economy and effectiveness of the operations of any department included in the study. The study shall include but shall not be limited to a comprehensive review of the utilization of all personnel in departments under study in regard to their present work assignments and an analysis of all positions to determine the classification of personnel necessary to perform the duties and accept the responsibilities of each position. The committee shall review the programs within the departments selected for study to determine whether such programs are necessary and shall also report on programs which should be consolidated with programs administered by other departments to eliminate unnecessary



duplication of governmental services, and the committee shall be authorized to expand the scope of the study within any department under review if additional funds shall become available from any private or governmental source, and such funds are hereby appropriated for such purpose. The committee shall make a report to the forty-second legislative assembly in regard to its findings and recommendations and shall prepare and present such legislation as may be necessary to implement such recommendations.

**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 26, 1969.

---

## CHAPTER 464

S.B. No. 402

(Holand, Chesrown, Meschke)

### STUDY OF COUNTY GOVERNMENT

#### AN ACT

Relating to a study by the legislative research committee of the procedures, administration, and functions of county government; and providing an appropriation.

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

#### **Section 1. Modernization of County Government.)**

WHEREAS, much of the organic law of the state in regard to county government has remained unchanged since statehood; and

WHEREAS, marked changes in population concentrations, transportation, the economy of the state, and demands on local governments have brought great pressure to bear on county government to quickly and efficiently accomplish its duties and responsibilities; and

WHEREAS, modern techniques in organization, administration, management, recordkeeping and information storage and retrieval are not generally applied in county government; and

WHEREAS, the duties and responsibilities of county officers often are ill-defined and ambiguous and overlap their contemporaries in their own and other political subdivisions; and

WHEREAS, county governments are important to a cohesive and viable state government in our federal system of separated powers.

**Section 2. Legislative Research Committee Study.)** The legislative research committee is hereby authorized and directed to carry on a study of the procedures, administration, and functions of county government for the purpose of determining the degree of application of modern administrative, management, record-keeping, and data retrieval and storage practices for the purpose of promoting economies in county government and improved governmental service; the feasibility of the shifting of functions and responsibilities of county officers or offices; the feasibility of consolidation or cooperation of county offices within the county and with those of other political subdivisions; and the efficacy of state law in regard thereto.

County officials, officials of other political subdivisions, and each department, agency, and institution of state government shall provide such aid, information, and assistance as the committee may request.

The committee shall report its findings and recommendations to the forty-second legislative assembly, together with such legislation as may be necessary to carry out such recommendations.

**Section 3. Appropriation.)** There is hereby appropriated to the legislative research committee out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$12,000.00 or so much thereof as may be necessary, to be expended in accordance with chapter 54-35 of the North Dakota Century Code for the purpose of carrying out the study provided for in sections 1 and 2 of this Act.

Approved March 25, 1969.



## CHAPTER 465

S. B. No. 483

(Committee on Delayed Bills)

**ACCEPTANCE OF DONATIONS FOR CHAPEL  
AT GRAFTON STATE SCHOOL**

## AN ACT

To amend and reenact chapter 387 of the 1967 Session Laws, relating to the construction of a chapel and vocational rehabilitation facility at the Grafton state school, and declaring an emergency.

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

**Section 1.)** Section 1 of chapter 387 of the 1967 Session Laws is hereby amended and reenacted to read as follows:

**Section 1. Board of Administration to Accept Donations, Gifts, Grants, Bequests for Construction of Chapel, and Other Funds for Vocational Rehabilitation Facility at Grafton State School—Funds Kept in State Treasury—Investment—Appropriation.)** The board of administration is hereby authorized to accept donations, gifts, grants, and bequests from any source offered or tendered to such board for the purpose of constructing and equipping an all-faiths chapel and adjoining vocational rehabilitation facility at Grafton state school. The board shall deposit such donations, gifts, grants, and bequests with the state treasurer who shall keep such donations, gifts, grants, and bequests in a special fund in the state treasury for the construction and equipping of such multipurpose building. The state treasurer shall furnish such information relating to such fund upon the request of the board. The state treasurer may invest such funds in certificates of deposit as authorized by law for the benefit of the fund. Any gifts received in the form of certificates of deposit shall remain in such form and with the issuing bank until needed by the board of administration for building purposes. Whenever the total amount of money in such fund shall be sufficient for the construction of a multipurpose building suitable for the needs of the Grafton state school, the board of administration, or its successors, shall construct and equip such building at the Grafton state school from moneys in the fund created in this Act, and the balance

in such fund, but not exceeding \$265,000.00, is hereby appropriated to the board of administration, or its successors, for the construction and equipping of such building as provided in this Act.

**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 28, 1969.

# SUCCESSION AND WILLS

---

## CHAPTER 466

S. B. No. 264  
(Unruh, Meschke)

### INHERITANCE BY ILLEGITIMATE CHILD

#### AN ACT

To amend and reenact section 56-01-05 of the North Dakota Century Code, relating to inheritance by a child born out of wedlock.

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

**Section 1. Amendment.)** Section 56-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**56-01-05. Inheritance by Child Born Out of Wedlock.)** Every child is hereby declared to be the legitimate child of his natural parents, and is entitled to support and education, to the same extent as if he had been born in lawful wedlock. He shall inherit from his natural parents, and from their kindred heir, lineal and collateral. The issue of all marriages null in law or dissolved by divorce are deemed to have been born in wedlock.

Approved March 13, 1969.



# TAXATION

---

## CHAPTER 467

H. B. No. 497  
(Dornacker, Link, Diehl)

### TAX COMMISSIONER TO REVIEW SALES RATIO STUDIES

#### AN ACT

To amend and reenact section 57-01-07 of the North Dakota Century Code, relating to the review of sales ratio studies by the state tax commissioner.

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

**Section 1. Amendment.)** Section 57-01-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-01-07. Review of Sales Ratio Study by State Tax Commissioner — Appeal.)**

1. The state tax commissioner shall notify each county board of commissioners of a scheduled hearing of the sales assessment ratio study before him. Such notice shall set forth the time and date and place of such hearing. After hearing objections to using certain sales in the sales assessment study, the state tax commissioner shall be authorized to withdraw such sales which he deems are not representative sales from the study. Within thirty days after the close of such formal hearing, the state tax commissioner shall notify each county board of commissioners, in writing, as to the action taken as a result of such hearing. Within ten days after receiving such notice from the state tax commissioner, each board of county commissioners may appeal the decision of the state

tax commissioner to the state board of equalization. Such board will review the findings of the state tax commissioner and render its final decision on such appeal.

2. No sale shall be used in any sales ratio study until it has been verified by the state tax commissioner, the county supervisor of assessments, or the board of county commissioners or its agent that none of the exclusions set forth in section 57-01-06 have been used in the study.

Approved March 14, 1969.

---

## CHAPTER 468

S. B. No. 473  
(Committee on Delayed Bills)

### APPROVAL OF REFUNDS BY TAX COMMISSIONER

#### AN ACT

To amend chapter 57-01 of the North Dakota Century Code, by creating and enacting thereto a new section, relating to the approval of refunds by the tax commissioner.

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

**Section 1. Amendment.)** Chapter 57-01 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

#### **Approval of Refunds by Tax Commissioner.)**

1. Notwithstanding any other provisions of law, if the tax commissioner determines that an amount in excess of the correct amount of tax, interest, or penalty due from any person has been paid by or on behalf of such person, the tax commissioner may approve a refund of such excess amount which shall then be paid to that person in the manner provided for payment of other claims against the state, except that it shall not be necessary for such person to first file a claim for refund of

such amount if the amount to be refunded was paid with respect to a return or report filed by such person with the tax commissioner in the form prescribed therefor.

2. The tax commissioner shall maintain a list showing the name and address of each person for whom the refund was approved, together with the nature and amount of the refund approved, which list shall be made available to the state auditor or his duly authorized representatives for examination by them in the course of examining the books and records of the tax commissioner.

Approved March 29, 1969.

---

## CHAPTER 469

H. B. No. 96  
(Dornacker)

### 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 not at a forced public auction sale. In arriving at the true and full value, consideration may be given to 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;

Approved March 14, 1969.



## CHAPTER 470

H. B. No. 132  
(Dornacker)

**HOMESTEAD CREDIT FOR PERSONS SIXTY-FIVE  
YEARS OLD OR OLDER**

AN ACT

To provide for a homestead credit for persons sixty-five years of age or older with a limited income, and providing a penalty.

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

**Section 1. Homestead Credit for Persons Sixty-Five Years of Age or Older with Limited Income—Penalty for False Statement.)** Any person sixty-five years of age or older with an income of three 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 fifty percent reduction in the assessment up to a maximum reduction of one thousand dollars of 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 Act regardless of whether or not such person is the head of a family. In no case shall a husband and wife who are living together both be entitled to the credit as provided for in this Act upon their homestead. The provisions of this Act 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 and that such income, including that of any dependent, as determined in this Act does not exceed three thousand dollars per annum. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. Any person knowingly signing a false statement shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than thirty days, or by both such fine and imprisonment. The assessor shall attach such statement to the assessment sheet and shall show the reduction on the assessment sheet.

Approved March 13, 1969.

## CHAPTER 471

H. B. No. 75  
(Dornacker)

**PROPERTY TAX EXEMPTIONS FOR PERSONS  
WITH MINIMUM INCOMES**

AN ACT

To amend and reenact section 57-02-21 of the North Dakota Century Code, relating to personal property tax exemption for certain persons with minimum income, and declaring an emergency.

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

**Section 1. Amendment.)** Section 57-02-21 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-02-21. Tax Exemption of Personal Property of Certain Persons with Minimum Income—Penalty for False Statement.)**

1. The assessor shall show upon his listing blank the name of every head of a family. For the purpose of this section, any person who has one or more others dependent upon him for support shall be regarded as the head of a family. If the total of the assessed value of the personal property of such person at the time of assessment does not exceed one hundred dollars, and his total income during the preceding twelve months has been less than fifteen hundred dollars, his personal property shall be exempt from taxation. After the assessor's valuation of such property shall have been equalized, the county auditor shall cause the names of such heads of families to be removed from the tax roll as exempt from personal property taxation.
2. The personal property of any person who receives a major part of his income from any state or federal public assistance program shall be exempt from taxation and the name of such person, if certified to the county auditor by the county welfare board, shall be removed from the personal property tax roll.



3. The household goods, clothing, and musical instruments of any person sixty-five years of age or older with an income of three 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 be exempt from personal property taxation. Any person eligible for the exemption herein provided shall sign a statement that he is sixty-five years of age or older and that such income, including that of any dependent, does not exceed three thousand dollars per annum. The term "dependent" shall include the spouse, if any, of the person claiming the exemption. Any person falsely signing such statement shall be guilty of a misdemeanor. The assessor shall attach such statement to the assessment sheet.
4. Any person exempt from personal property taxation under this section, and any dependent of such person, shall also be exempt from the per capita school tax, and such tax if levied shall be canceled by the county auditor.

**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1969.

S. B. No. 163  
(Kautzmann, Stroup)

**TAXATION OF PERSONAL PROPERTY  
LEASED FROM A BANK**

**AN ACT**

To create and enact section 6-03-59.1, to create and enact a new section to chapter 57-02, to create and enact a new subsection to section 57-39.2-04, and to create and enact a new subdivision to subsection 9 of section 57-40.2-01 of the North Dakota Century Code, relating to leasing of personal property, limitation on term and amount, and the taxation of possessory interests in and the use of such property.

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

**Section 1.)** Section 6-03-59.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**6-03-59.1. Leasing of Personal Property—Limitation on Term and Amount.)** A bank may become the owner and lessor of personal property upon the specific request of and for the use of a customer. The term of the lease shall not exceed five years and all such leases shall provide for the payment of at least annual rentals the total of which shall at least equal the cost to the bank of the personal property so leased. The total leasing obligation or rentals to a bank will be part of the total liability limitations of any borrower as set forth in section 6-03-59.

**Section 2. Amendment.)** Chapter 57-02 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

**Assessment to Lessee of Personal Property Owned by a Bank.)** A lessee of personal property owned by a bank shall be assessed and taxed for the value of such property in the same way as if such lessee were the owner of it. The taxes levied shall be payable by the lessee in the same manner and subject to the same conditions and requirements as are other personal property taxes. Collection of such taxes shall be enforced in the same manner as are other personal property taxes except

that this leased personal property shall not be subject to any lien for such taxes.

**Section 3. Amendment.)** Section 57-39.2-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended by creating and enacting thereto a new subsection to read as follows:

Gross receipts of banks from sales at retail.

**Section 4. Amendment.)** Subsection 9 of section 57-40.2-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended by creating and enacting thereto a new subdivision to read as follows:

The purchase, including the leasing or renting, of tangible personal property from any bank for storage, use or consumption.

Approved March 29, 1969.

---

## CHAPTER 473

H. B. No. 307  
(Strinden, Kelsch)

### TAX LIENS INVOLVING TAX EXEMPT CORPORATIONS

#### AN ACT

To amend and reenact section 57-02-41 of the North Dakota Century Code, relating to attachment of tax liens involving tax exempt corporations or organizations.

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

**Section 1. Amendment.)** Section 57-02-41 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-02-41. Attachment of Tax Lien and Prorating Taxes as Between Vendor and Purchaser.)** All taxes, as between vendor



and purchaser, shall become a lien on real estate on and after the first day of January following the year for which such taxes were levied. In any case where real property is sold or otherwise disposed of or purchased or otherwise acquired by a tax exempt corporation or organization after the assessment date and used for the purposes provided in section 57-02-08, the property shall be liable for taxes during the portion of the year for which it has been assessed computed to the nearest month / such property was not used as provided in section 57-02-08. The taxes so computed shall attach as a lien on such property and the purchaser shall take the property subject to such lien. When such property has not been assessed, it shall be assessed as omitted real property and taxes computed as herein provided.

Approved March 8, 1969.

---

## CHAPTER 474

H. B. No. 129  
(Dornacker)

### RAILROADS TO REPORT ANNUALLY TO TAX COMMISSIONER

#### AN ACT

To amend and reenact section 57-05-08 of the North Dakota Century Code, relating to report by railroad corporations to the state tax commissioner.

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

**Section 1. Amendment.)** Section 57-05-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-05-08. Report by Railroad Corporation to State Tax Commissioner.)** Each railroad corporation required to be assessed under the provisions of this chapter annually shall, on or before May first of each year, under oath of the presiding or other chief executive officer, make and file in such form as the tax commissioner may prescribe, a report containing the following information:

1. The name of the company;
2. The laws of what state or country organized, the date of original organization, the date of reorganization, consolidation, or merger, with specific reference to laws authorizing the same;
3. Location of its principal office;
4. The name of the place where its books, papers, and accounts are kept;
5. The name and post-office address of the president, secretary, treasurer, auditor, superintendent, general manager, and all other general officers;
6. The name and post-office address of the chief officer or managing agent of the company in North Dakota and of all other general officers residing in this state;
7. The total number of shares of capital stock;
8. The par value of the shares of the capital stock for the whole system, showing separately the amount authorized, amount issued, amount outstanding, and dividends paid thereon;
9. If such capital stock has no market value, the actual value on the dates and for the periods designated by the tax commissioner of this state;
10. The funded debt of the company for the whole system and a detailed statement of all series of bonds, debentures, or other securities, forming a part of the funded debt, at par value, with the date of issue, maturity, rate of interest, and amount of interest for the preceding year;
11. The market value of each series of funded debt securities for the whole system on the dates and for the periods designated by the tax commissioner, and if the whole or a part of such funded debt has no market value, then the actual value thereof for such dates and periods as the tax commissioner may specify;
12. Such general description of the operative and nonoperative



real estate of the company in North Dakota as would be sufficient in a conveyance thereof, under a judicial decree, to vest in the grantee all title and interest in and to the said property;

13. A description of the personal property of the company;
14. The number of miles of each main line of railroad, the number of miles of each branch line and sidetracks thereof within the state of North Dakota;
15. The entire gross earnings of the company from operation, expenses of operation, net earnings and income from operation, and the income from other sources, for the whole system, and in North Dakota, for the years or period the tax commissioner may request or specify, not exceeding five years;
16. The location of the property of the company within this state by counties, municipalities, and districts, in such manner and in such detail as the tax commissioner shall prescribe; and
17. Such other facts and information as the tax commissioner may require in the form of returns prescribed by him or which the company may deem material upon the question of taxation of its property in this state.

Approved March 8, 1969.

## CHAPTER 475

H. B. No. 238  
(Dornacker)

**PERSONAL PROPERTY ASSESSMENT FORMULA****AN ACT**

To provide that cities may provide for the uniform application of a percentage of the assessed valuation of the residential real property in which personal property is located and to give county boards of equalization the authority to adjust such percentages; and to amend and reenact subsection 2 of section 57-02-11 of the North Dakota Century Code, providing an exception to the requirement that personal property be assessed annually.

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

**Section 1. Assessment of Personal Property Determined as Percentage of Real Property Value—Right of Appeal.)** The governing body of any city may by ordinance provide for the uniform multiplication of a determined percentage times the assessed valuation of the residential real property in which personal property is located, which product shall be the assessed valuation for personal property tax purposes, in lieu of the annual assessment of such personal property. The governing body of the city may, in its discretion, require the listing and assessment of such personal property on April 1 of every odd-numbered year for the purpose of determining the relationship between the assessed valuation and the valuation as determined by this section. Any person whose personal property is taxed under the provisions of this section shall have the right to appeal his assessment to the city board of equalization, which shall then order that his personal property be assessed in the manner otherwise provided by law.

**Section 2. County Board of Equalization to Adjust Percentages.)** The county board of equalization shall have the authority to equalize assessments as between cities which use the percentage of value of real estate formula, as provided in section 1 of this Act, in equalizing personal property assessments between cities and townships which do not use such formula by adjusting the percentage to be applied pursuant to section 1 of this Act.

**Section 3. Amendment.)** Subsection 2 of section 57-02-11 of the North Dakota Century Code is hereby amended and reenacted

to read as follows:

2. All personal property, except stocks of merchandise, and except as otherwise provided by law, shall be listed and assessed annually with reference to its value on April first of each year. For the purpose of assessment for taxation, each stock of merchandise shall be valued according to the average value for the twelve-month period preceding April first. Each owner shall keep in his place of business a copy of all inventories taken during the preceding year, and all other records and data pertaining to the cost price of such merchandise, and such inventories and other cost data shall be available, at all times, for examination by the assessor or other taxing officers.

Approved March 25, 1969.

---

## CHAPTER 476

H. B. No. 446  
(Aamoth)

### ASSESSMENT SPOT CHECKS ON PROPERTY

#### AN ACT

To amend and reenact section 57-12-01.1 of the North Dakota Century Code, relating to spot checks of real and personal property, and providing a penalty for omission to list or for refusal to list property for assessment purposes.

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

**Section 1. Amendment.)** Section 57-12-01.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-12-01.1. Spot Checks of Real and Personal Property.)** Prior to the annual meeting of the county board of equalization, the board of county commissioners of each county within this state shall provide for spot checks upon property within each county to properly verify the accuracy of the personal



property listings and valuations and real property listings and valuations. The spot checks shall be reviewed by the county boards of equalization at their annual meeting in July and such boards shall make the necessary corrections in the property assessment listings and valuations. Such changes in the assessments shall be made in accordance with the provisions of chapter 57-12 of the North Dakota Century Code.

In case any person whose duty it is to list property with the assessor shall refuse to list such property or shall intentionally omit a portion of such property in his listing as indicated by the spot check, the county boards of equalization, as a penalty for such refusal or omission, may make an added assessment on such property of twenty-five percent in excess of its true valuation unless the assessor has imposed the penalty provided in section 57-02-12 of the North Dakota Century Code.

The board of county commissioners may select such persons or agencies as may be necessary to carry out the provisions of this section and provide for their compensation.

Approved March 10, 1969.

## CHAPTER 477

S. B. No. 268

(Doherty, Rait, Wenstrom, Kelly)

## COUNTY LEVY LIMITATIONS

## AN ACT

To amend and reenact section 57-15-06 of the North Dakota Century Code, relating to limitations on county tax levies.

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

**Section 1. Amendment.)** Section 57-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-06. Limitations on County Tax Levies.)** County tax levies shall be limited as follows:

1. The board of county commissioners shall not levy any taxes for general or special county purposes which will exceed the amount produced by a levy of twenty mills on the dollar of the net taxable valuation of the county;
2. The board of county commissioners annually shall levy taxes sufficient to meet the obligations of the county for the maintenance of its patients in the charitable institutions of the state, but such taxes shall not exceed the amount produced by a levy rate of one and one-quarter mills on the dollar of net taxable valuation. Such levy shall be within the amount produced by the twenty mill rate, and shall be a paramount charge, to the exclusion of all other budget items, upon the necessary part of the total tax levies; provided that any funds now on hand or hereinafter levied for the purpose of this subsection shall not, in the discretion of the board of county commissioners, be included in the budget of the county;
3. The twenty mill limitation shall apply to all tax levies which the county is authorized to levy for general and special county purposes, including taxes levied for road and bridge purposes. Any unexpended balance in the



county road fund at the end of the fiscal year may be transferred to a special road fund, except that such special fund shall never exceed the amount a ten mill levy on the assessed valuation of the county would yield, and the balance in said fund shall not be considered in determining the budget or the amount that may be levied. Such mill limitation shall not apply:

- a. To tax levies made for the purpose of paying the principal and interest on any obligations of the county evidenced by the issuance of bonds;
- b. To tax levies made to pay the county tuition provided for by section 57-15-24;
- c. To taxes levied for the purpose of combating gophers pursuant to section 4-16-02;
- d. To taxes levied pursuant to any statute which expressly provides that the taxes authorized to be levied therein shall not be subject to the twenty mill limitations for general and special county purposes;
- e. To the tax levied pursuant to the provisions of chapter 15-42 of the title Education, for support and maintenance of county agricultural and training schools, up to a maximum of two and one-half mills on the assessed value in the county for such purpose. Nothing herein contained shall be construed to prevent the appropriation of money from the county general fund for the support and maintenance of county agricultural and training schools; or
- f. To taxes levied for the purpose of establishing and maintaining a library fund for public library services.

Approved March 17, 1969.

## CHAPTER 478

H. B. No. 315  
(Rundle, K. Johnson)

## TAX LEVY FOR COUNTY EMERGENCY FUND

## AN ACT

To amend and reenact section 57-15-28 of the North Dakota Century Code, relating to the emergency fund of counties.

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

**Section 1. Amendment.)** Section 57-15-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-28. Emergency Fund—County.)** The governing body of any county may levy a tax for emergency purposes which shall not exceed the amount produced by the levy of one mill on the dollar of the net taxable valuation of the county. Such emergency fund and the sums therein shall not be considered in determining the budget or the amount to be levied for each fiscal year for normal tax purposes, but shall be shown in such budget as an "emergency fund" and shall not be deducted from the budget as otherwise provided by law. Each county may create an emergency fund, and all taxes levied for emergency purposes by any county, when collected, shall be covered into such emergency fund and shall be used only for emergency purposes caused by the destruction or impairment of any county property necessary for the conduct of the affairs of the county, emergencies caused by nature or by the entry by a court of competent jurisdiction of a judgment for damages against the county. The emergency fund shall not be used for any road construction or maintenance, except for repair of roads damaged by nature within sixty days preceding such determination to expend emergency funds, or for the purchase of road equipment. Any unexpended balance, remaining in the emergency fund at the end of any fiscal year, shall be kept in such fund. When the amount of money in the emergency fund, plus the amount of money due the fund from outstanding taxes, shall equal the amount produced by a levy of five mills on the net taxable valuation, the levy of one mill for emergency purposes shall be discontinued, and no further levy shall be made for this purpose until another levy of one mill is required to replenish the emergency fund.

Approved March 13, 1969.



## CHAPTER 479

S. B. No. 403  
(Holand, Litten)

COUNTY AND CITY AMBULANCE  
SERVICE

## AN ACT

To provide for county and city ambulance service, and permit a tax levy thereof.

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

**Section 1. 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 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.

**Section 2. 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 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.

Approved March 29, 1969.

## CHAPTER 480

H. B. No. 280  
(Powers, Miedema, E. Johnson)

## COMMUNICATIONS EQUIPMENT IN SCHOOL BUSES

## AN ACT

To provide that school districts may levy to equip school buses with two-way communications and central station equipment and to provide for the installation and maintenance of such equipment.

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

**Section 1. School District Levy to Equip and Maintain Two-Way Radios For School Buses.)** The school board of any school district, upon the passage of a proper resolution, may submit the question at the next regularly scheduled or special election in the school district of providing for an annual levy of not in excess of one mill to equip school buses with two-way communications and central station equipment and to provide for the installation and maintenance of such equipment. If the question submitted is approved by a majority of the electors voting thereon, the school board shall proceed to make such levy, which levy shall be over and above any mill levy limitations provided by law.

Approved March 17, 1969.

## CHAPTER 481

H.B. No. 412  
(Kelsch)

## TAX LEVY FOR POLICE STATIONS

## AN ACT

To provide for a tax levy for police department stations.

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

**Section 1.)** Upon approval of a majority of the electors voting thereon at any regular election or special election called for such purpose, the governing body of any city may levy taxes annually, not in excess of two mills on the net taxable assessed valuation, for the purpose of providing additional funds to meet the operational, maintenance, and construction costs of establishing stations for police protection services and correctional facilities. Such levy shall be in addition to and not restricted by the levy prescribed by law. The proceeds of such levy shall be placed in a separate fund known as the police station and correctional facility fund. No levy shall be made under this section during any period in which the moneys to the fund equal or exceed an amount equal to the sum that would be produced by a levy of ten mills upon the net taxable assessed valuation of the city making such a levy.

Approved March 25, 1969.



## CHAPTER 482

H. B. No. 467  
(Link, Davis, Connolly)

MILL LEVY FOR DESTRUCTION  
OF WEEDS ALONG ROADS

## AN ACT

To provide for a tax levy, upon approval of the electorate, for the destruction of weeds, plants, and grass along county or township roads in a county or county commissioner district.

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

**Section 1. Destruction of Weeds Along Highways—Election To Be Held on Question—Mill Levy.)** Upon resolution by the board of county commissioners, or upon petition by ten percent of the number of qualified electors residing in the county or a county commissioner district who voted for governor at the last general election, the board of county commissioners shall submit the question of a tax levy to cover all costs of cutting or otherwise destroying all weeds, plants, or grass growing along all county or township roads in the county or county commissioner district to the qualified electors of the county or county commissioner district at the next countywide general or special election. If a majority of the qualified electors voting thereon shall approve, a tax shall be levied not to exceed the amount produced by a levy of two mills on the dollar of the net assessed taxable valuation of the county or county commissioner district, as the case may be. The levy of two mills authorized by this section shall be over and above any levy limitations provided by law.

Approved March 25, 1969.

## CHAPTER 483

S. B. No. 187  
(Litten, Goldberg)

MILL LEVY FOR PUBLIC  
TRANSPORTATION SYSTEM

## AN ACT

Authorizing a mill levy to provide for payments under contract for the provision of a public transportation system.

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

**Section 1. Tax Levy for Public Transportation.)** The governing body of any city, upon approval by a majority vote of the electors of such city at any citywide election, may annually levy a tax not in excess of one mill on the net taxable assessed valuation of property within such city to provide payments under a contract approved by such governing body with a private contractor for the provision and operation of a public transportation system within such city, which mill levy shall be over and above any mill levy limitations prescribed by law. Such levy shall not be made during any year in which the amount of unexpended funds raised by such levy shall equal or exceed three dollars per capita according to the population of the city as determined at the last federal decennial census.

Approved March 5, 1969.



## CHAPTER 484

H. B. No. 202  
(Gackle, Mueller)

## SCHOOL DISTRICT EXCESS LEVIES

## AN ACT

To amend and reenact section 57-16-03 of the North Dakota Century Code, relating to school district elections to authorize excess levies.

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

**Section 1. Amendment.)** Section 57-16-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-16-03. Election to be held—Notice.)** The governing board of the school district thereupon shall have the power to call a special election for the purpose of voting upon the question of authorizing an excess levy. Such election shall be held not later than October first of the year in which the tax is to be levied and shall be conducted as other elections of such school district except as otherwise provided in this chapter. The notice of election, in addition to the usual requirements, shall contain a statement of the question to be voted upon pursuant to the terms of this chapter, and also shall show:

1. The total amount of income and expenditures of such school district for the fiscal year preceding;
2. The estimated expenditures for the year for which the taxes are to be levied;
3. The aggregate amount of the tax levy which the governing body seeks authority to make;
4. The aggregate amount of tax levy permissible without special authority from the electors; and
5. The amount of the tax levy in excess of the statutory limit which the board seeks authority to make.

A copy of the notice of election shall be mailed by the clerk of the school district to the tax commissioner at Bismarck, North Dakota, on or before the date of the first publication of the notice and shall be open to public inspection in his office.

Approved March 8, 1969.

---

CHAPTER 485

S. B. No. 113  
(Lips)

SCHOOL DISTRICT MILL LEVIES

ANACT

To amend and reenact sections 57-15-14, 57-16-04, and 57-16-05 of the North Dakota Century Code, relating to mill levy elections in school districts, and declaring an emergency.\*

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

**Section 1. Amendment.)** Section 57-15-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-15-14. Tax Levy Limitations in School Districts.)** The aggregate amount levied by any school district, except the Fargo school district, shall not exceed such amount as will be produced by a levy of nineteen mills on the dollar of the net assessed valuation of the district, except that:

1. Any school district giving two years of standard high school work may levy taxes not to exceed twenty-one mills;
2. Any school district giving three years of standard high school work may levy taxes not to exceed twenty-four mills;
3. Any school district giving four years of standard high school work may levy taxes not to exceed thirty-four



mills; provided that there shall be no limitation upon the taxes which may be levied by any school district having a total population in excess of four thousand according to the last federal decennial census if upon resolution of the school board of any such district the removal of the mill levy limitation has been submitted and approved by a majority of the electors voting at any regular or special election upon such question. In the event such election is held in a reorganized district it shall be conducted and approved or disapproved in the same manner and subject to the same conditions as provided in section 15-53-14 for elections for approval of school district reorganization plans. Thereafter, the question of authorizing or discontinuing such unlimited taxing authority in any school district shall be submitted to the electorate at the next regular election upon the filing with the school board of a petition containing the signatures of not less than ten percent of the electors of the district as determined by the county superintendent for such county in which such school is located provided, however, that the approval of discontinuing such unlimited taxing authority shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in this section for the first election upon the question of authorizing an unlimited mill levy;

4. Any school district maintaining an elementary school with two or more teachers may levy taxes not to exceed twenty-two mills on the dollar of its net taxable valuation, except that where high school work is offered by such school the limitations on the regular high school levy shall apply.

**Section 2. Amendment.)** Section 57-16-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-16-04. Increase May Be for Five Years—Extension—Discontinuance.)** The governing board of the school district may submit the question of authorizing an excess levy for the current year and not to exceed four succeeding years. The notice of election shall give the year or years for which authorization is sought for an excess levy as well as the percentage of excess which is to be voted upon. Prior to the termination of the ex-



cess levy, such levy may be extended for a term not to exceed the original term of the increase upon the unanimous approval by the governing board of the school district, and further extensions may be made for the same number of years prior to each termination date upon the unanimous approval of the governing board of the school district. The question of discontinuing such extended excess levy in any school district shall be submitted to the electorate at the next regular election upon the filing with the school board of a petition containing the signatures of not less than ten percent of the electors of the district as determined by the county superintendent for such county in which such school is located provided, however, that the approval of discontinuing such extended excess levy shall not affect the tax levy in the calendar year in which the election is held. The election shall be held in the same manner and subject to the same conditions as provided in section 15-53-14 for elections for approval of school district reorganization plans.

**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 29, 1969.

**\*Note:** The section of this bill which had amended section 57-16-05 of the North Dakota Century Code was defeated on the floor, but the title was not amended to conform to the defeat of that section.

H. B. No. 358  
(Wilkie, Boustead, Stone, Dornacker, Weber, Aas)

**REAL AND PERSONAL PROPERTY TAX DUE DATES**

**AN ACT**

To amend and reenact section 57-20-01 of the North Dakota Century Code relating to the due dates and delinquency of real and personal property taxes, and penalties thereon.

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

**Section 1. Amendment.)** Section 57-20-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-20-01. Real and Personal Property Taxes—When Due and Delinquent—Penalties.)** All real and personal property taxes, hail insurance taxes, and yearly installments of special assessment taxes shall become due on the first day of January following the year for which such taxes were levied. The first installment of real estate taxes, all personal property taxes, hail insurance taxes, and yearly installments of special taxes 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 May first following an additional penalty of two percent, and on July first following an additional two percent, and an additional penalty of two percent on October fifteenth following. From and after January first of the year following the year in which the taxes become due and payable, simple interest at the rate of seven percent per annum upon the principal of the unpaid taxes on personal property shall be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency. The second installment of real estate taxes shall become delinquent on October fifteenth, and, if not paid on or before that date shall become subject to a penalty of two percent.

Approved March 14, 1969.



## CHAPTER 487

H. B. No. 273  
(Wilkie, Goodman, Ganser, Gackle)

DELIVERY OF TAX LISTS TO  
COUNTY TREASURER

## AN ACT

To amend and reenact section 57-20-06 of the North Dakota Century Code, relating to the delivery of tax lists to county treasurers.

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

**Section 1. Amendment.)** Section 57-20-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-20-06. Tax Lists Delivered to Treasurer.)** On or before December fifteenth in each year, the county auditor shall deliver the tax lists of the several districts of the county to the county treasurer, taking his receipt therefor. Such lists shall be authority for the county treasurer to receive and collect taxes therein levied. The county auditor, immediately upon delivering such lists to the county treasurer, shall charge such treasurer with the amount of the lists delivered to him, as shown in the recapitulation thereof in a book prepared for that purpose, and he also shall charge the county treasurer in such tax list account with all additional assessments made after such lists are delivered, and shall credit him with all amounts collected thereon, and such other amounts as may be deducted lawfully from such lists.

Approved March 10, 1969.

## CHAPTER 488

S. B. No. 68  
(Holand)

PUBLICATION OF DELINQUENT  
PERSONAL PROPERTY TAX LISTS

## AN ACT

To amend and reenact section 57-22-02.1 of the North Dakota Century Code, relating to publication of delinquent personal property tax lists.

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

**Section 1. Amendment.)** Section 57-22-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-22-02.1. County Auditor to Publish List and Maintain Record of Delinquent Personal Property Taxes.)** The county auditor, upon receiving a list of the delinquent personal property taxes as required by law, shall cause the same to be published in the official newspaper of the county and entered in individual accounts by taxpayers in a record to be kept in his office. Such record shall show the names of delinquent taxpayers alphabetically arranged, the amount of the tax of each, for what year or years, and all other information as shown on the original tax list. Subsequent payments shall be posted from duplicate copies of tax receipts transmitted by the treasurer and sheriff. The list of the delinquent personal property taxes published in the official newspaper of the county may show the total due by each person, firm, or corporation, and need not list such delinquent personal property taxes by year.

Approved March 17, 1969.

S.B. No. 413  
(Chesrown, Freed)

## SHERIFF'S FEES FOR DISTRAINT

### AN ACT

To amend and reenact section 57-22-25 of the North Dakota Century Code, relating to travel fees for sheriffs for distraint.

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

**Section 1. Amendment.)** Section 57-22-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-22-25. Fees of Sheriff for Distraint.)** The sheriff or his deputy shall be allowed the same fees for making distraint and sale of goods and chattels for the payment of taxes as are allowed by law for making a levy and sale of personal property on execution, and travel fees shall be allowed as determined by law. Such fees and mileage shall be added to any tax and collected by the sheriff, and when presenting a statement and bill for such fees and mileage a full and complete description of the route traveled shall be given. In no case shall mileage be charged more than once from the county seat of the county in which the services required are performed.

Approved March 13, 1969.



S.B. No. 415  
(Decker, Trenbeath, Becker, Coughlin)

APPLICATION FOR ABATEMENT OR  
REFUND OF TAXES

AN ACT

To amend and reenact section 57-23-05 of the North Dakota Century Code, relating to the application for the abatement or refund of taxes and providing that the county auditor shall give notice of hearing.

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

**Section 1. Amendment.)** Section 57-23-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-23-05. Application for Abatement or Refund—Who May Make.)** An application for an abatement or refund shall be in writing and shall be filed in duplicate with the county auditor. It shall state the grounds relied upon for such abatement or refund, give the post-office address of the applicant, and shall be verified. The county auditor shall note the date of filing and shall file the same. He shall present the application to the board of county commissioners at its next regular meeting. The county auditor shall give the applicant notice by mail of the time and place of hearing on any abatement or refund not less than ten days prior to such hearing.

Any person having any estate, right, title or interest in or lien upon any real or personal property who claims that the assessment made or the tax levied against the same is excessive or illegal, in whole or in part, shall be entitled to make an application for abatement, refund, or compromise, as the case may be, and have such application granted if the facts upon which the application is based bring it within the provisions of this chapter for abatement, refund or compromise. In addition, if an abatement is based upon any of the grounds specified in section 57-23-04 and if the application for abatement will not result in a refund of tax or a compromise of a tax, the abatement application may be signed and submitted by either the county auditor or the assessor who made the assessment resulting in the tax specified in the abatement application.

Approved March 13, 1969.

## CHAPTER 491

H. B. No. 440  
(Dahl)

REFUND OF REAL OR PERSONAL  
PROPERTY TAXES

AN ACT

To amend and reenact section 57-23-08 of the North Dakota Century Code, relating to the approval by the state tax commissioner of application for abatement or refund of real or personal property taxes.

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

**Section 1. Amendment.)** Section 57-23-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-23-08. When Action Effective.)** Except as hereinafter provided the granting of any application for abatement or refund shall be effective then approved by the state tax commissioner, and when so approved the county auditor shall correct all tax lists in accordance with the order of abatement, and the applicant shall be relieved of further liability for the tax abated. If the tax commissioner disapproves any application for abatement or refund, in whole or in part, the applicant may appeal the rejection of the application for abatement or refund to the district court within thirty days from the date of the mailing of the notice of rejection or, in lieu thereof, the appellant, pursuant to chapter 28-32 of the North Dakota Century Code, shall have a right to a hearing before the tax commissioner as an administrative agency on such application for abatement or refund, provided that a hearing thereon is demanded by the applicant within thirty days from the date of the mailing of the notice of the rejection of the application for abatement or refund. All of the provisions of chapter 28-32 relating to proceedings before an administrative agency, including the right to appeal to the district court, shall be applicable to and shall govern the hearing. The following applications for abatement or refund, however, need not be approved by the tax commissioner and they shall become effective when approved by the board of county commissioners:



1. An abatement or refund of any special assessment;
2. An abatement or refund with respect to a reduction of not more than one hundred dollars of net assessed valuation.

With respect to any application for abatement that is not required to be submitted for approval to the state tax commissioner, as provided in this section, the county auditor at the close of each calendar year shall certify to the director of the state department of accounts and purchases the amount of state taxes canceled by such action of the board of county commissioners and same shall be credited to the county.

Approved March 18, 1969.

---

CHAPTER 492

H. B. No. 39

(Backes, Boustead, Dornacker, Gackle, K. Johnson)

(From Legislative Research Committee Study)

REMOVAL OF TAXES ON SALE OF  
TAX DELINQUENT LAND

AN ACT

To amend and reenact sections 57-28-17 and 57-28-21 of the North Dakota Century Code, relating to the removal of general taxes, hail indemnity taxes, and special assessments of record when tax delinquent land is sold by the county.

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

**Section 1. Amendment.)** Section 57-28-17 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-28-17. Sale Between Annual Sales.)** All parcels of real estate not sold at the annual November sale may be sold by the county auditor at private sale at any time before the next annual November sale, but no sale shall be made by the county auditor at a price less than the minimum sale price fixed prior to the

November sale. Provided, however, that a parcel of real estate against which one or more unpaid installments of any special assessment continue as a lien pursuant to section 57-28-09 may be sold by the county auditor free of any part or all of such lien if the governing body of the city in which the parcel is located finds that the minimum sale price fixed by law for the parcel together with the special assessment lien or liens against it exceed the market value of the parcel; in such a case the governing body of the city is hereby authorized to cancel all or such part of any special assessment lien against the parcel to an amount which, when added to the minimum sale price, will be equal to the market value of the parcel; the action of the governing body shall be certified by the city auditor or clerk to the county auditor, after which the county auditor may sell the parcel at private sale at any time before the next annual November sale for not less than the minimum sale price fixed by law; the parcel shall pass to the purchaser free from any encumbrance for that part of any lien for special assessment that was canceled by the governing body of the city, and the county auditor shall remove from the record those special assessments against the premises that have been so canceled.

Notwithstanding the provisions of this section or other provisions of law, any such parcel of real estate that is subject to a special assessment lien for improvements made by a city may be sold between annual sales by the county auditor for cash to the city at whatever price less than the minimum sales price that is agreed upon by the board of county commissioners and the governing body of the city.

**Section 2. Amendment.)** Section 57-28-21 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-28-21. Cancellations from Record.)** After any real estate has been sold for cash or upon a contract for deed which has been fully performed and a deed has been issued and delivered to the purchaser thereof, the board of county commissioners, by general resolution, shall provide for the cancellation and removal from the record of all general taxes, hail indemnity taxes, and special assessments remaining of record against the premises sold at the date of sale, except those installments of special assessments certified or to be certified to the county auditor which had not become due at the date of such sale. It shall be the duty of the county auditor immediately to send a



copy of said resolution to the state hail insurance department and the state department of accounts and purchases and to notify the county treasurer of the cancellation and removal thereof.

Approved March 10, 1969.

---

## CHAPTER 493

S. B. No. 437  
(Unruh)

### COMPUTATION OF AIRLINE PROPERTY TAX

#### AN ACT

To amend and reenact section 57-32-02 of the North Dakota Century Code, relating to assessment and computation of taxes relating to air transportation companies.

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

**Section 1. Amendment.)** Section 57-32-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-32-02. Assessment and Computation of Tax.)** The tax commissioner, after the provisions of chapter 57-06 have been complied with and final assessment has been made by the state board of equalization, shall compute a tax upon the valuation fixed as is provided by law for the assessment of other utilities. Such a tax shall be computed by applying to that portion of the valuation which by law is subject to tax the average millage rate, which is obtained by dividing the total taxable valuation of all property within this state for the current year, into the total of all state and local taxes assessed within the state on a millage basis for the current year, provided that such tax for air transportation companies shall be computed by applying to that portion of the valuation which by law is subject to the tax, the average millage rate which is obtained by dividing the total taxable valuation of all property for the current year, within all cities operating an airport served by scheduled airlines in North Dakota, into the total of all state and local taxes assessed within all such cities on a millage basis for the current year.

Approved March 12, 1969.



## CHAPTER 494

H. B. No. 134  
(Dornacker)

CERTIFICATION OF TAXES ASSESSED AGAINST  
TRANSPORTATION COMPANIES

AN ACT

To amend and reenact section 57-32-03 of the North Dakota Century Code, relating to the due date, delinquency, penalties and certification to state treasurer of taxes assessed against car line, express and air transportation companies.

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

**Section 1. Amendment.)** Section 57-32-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-32-03. Tax Certified to State Treasurer—When Due and Delinquent.)** On or before the thirty-first day of March in each year, the tax commissioner shall file with the state treasurer a certified list of all companies assessed under the provisions of this chapter for the preceding year, together with the valuations and taxes assessed in each case. Such taxes shall be due upon the fifteenth day of April next following the date of certification. The taxes shall become delinquent on the first day of May and, if not paid on or before said date, shall be subject to a penalty of two percent and, on June first following delinquency, an additional penalty of two percent and, on July first following delinquency, an additional penalty of two percent and, an additional penalty of two percent on October fifteenth following delinquency. From and after January first of the year following the year in which the taxes became due and payable, simple interest at the rate of seven percent per annum upon the principal of the unpaid taxes shall be charged until such taxes and penalties are paid, with such interest charges to be prorated to the nearest full month for a fractional year of delinquency. All the provisions of the law respecting delinquency of personal property assessments generally so far as may be consistent with the provisions of this chapter shall be applicable equally to the assessments and taxes provided for in this chapter.

Approved March 14, 1969.

## CHAPTER 495

S. B. No. 282

(Wenstrom, Melland, Wilhite, Litten, Lowe)

ALLOCATION OF TAXES OF  
TRANSPORTATION COMPANIES

## AN ACT

To amend and reenact section 57-32-04 of the North Dakota Century Code, relating to allocation of taxes of car line companies, express companies and air transportation companies.

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

**Section 1. Amendment.)** Section 57-32-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-32-04. Allocation of Tax.)** The taxes imposed by this chapter upon car line companies and express companies shall be collected by the state treasurer and deposited in the state general fund.

The taxes imposed by this chapter upon air transportation companies shall be deposited with the state treasurer, who shall credit the same to the air transportation fund, but within ninety days after receipt thereof, these funds shall be allocated and remitted as herein provided by the state treasurer to the cities or municipal airport authorities where such transportation companies make regularly scheduled landings. The taxes collected from each such company shall be allocated to each city or municipal airport authority where such company makes regularly scheduled landings according to the ratio that the annual gross landing weight of the company for such city or municipal airport authority bears to the total annual gross landing weight of the company for all cities or municipal airport authorities where it makes regularly scheduled landings. The annual gross landing weight of a company for a city or municipal airport authority shall be computed by (1) multiplying the certified landing weight for each plane of the company by the number of landings made by it during the preceding calendar year at the city or municipal airport authority and (2) adding together the amount so computed for each such plane. The annual gross



landing weight of a company for all cities and municipal airport authorities shall be the total of the annual gross landing weight of the company for each city or municipal airport authority in which it made regularly scheduled landings. The certified landing weight of a plane shall be the landing weight as certified by the federal aviation agency. It shall be the duty of the tax commissioner to certify to the state treasurer the names of such air transportation companies and the amount of tax of each company that shall be allocated by the state treasurer to each city or municipal airport authority.

Approved March 12, 1969.

---

## CHAPTER 496

S. B. No. 299  
(Wilhite)

### ANNUAL TAX REPORTS OF BANKS, TRUST COMPANIES, BUILDING AND LOAN ASSOCIATIONS

#### AN ACT

To amend and reenact sections 57-35-07 and 57-35.1-03 of the North Dakota Century Code, relating to the filing of annual tax reports by banks, trust companies, and building and loan associations.

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

**Section 1. Amendment.)** Section 57-35-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-35-07. Report.)** On or before the fifteenth day of March in each year, the managing officer of each bank or trust company located in this state shall file with the tax commissioner, on forms to be provided by him, a report in writing under oath showing the amount of the net income of said bank or trust company for the preceding calendar year, including the amount of its income from tax exempt securities for such year, and shall file with the county auditor of the county in which such bank or trust company is located, the amount of the tax due as certified to the tax commissioner.

**Section 2. Amendment.)** Section 57-35.1-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-35.1-03. Report of Income.)** On or before the fifteenth day of March in each year, each association shall file with the state tax commissioner, on forms to be provided by him, a report under oath showing the net income of the association for the preceding calendar year, including such information as the commissioner may require relating to the computation of such net income. The amount of the tax due will be certified to the county auditor of the county in which such association is located.

Approved March 17, 1969.

---

## CHAPTER 497

H. B. No. 310  
(Emerson, Register)

### DEFINITION OF CIGARETTE FOR TAX PURPOSES

#### AN ACT

To amend and reenact section 57-36-01 and subsection 1 of section 57-36-26 of the North Dakota Century Code, relating to the definition of a "cigarette" and to provide for authority for the annual and consolidated filing of tobacco products excise tax returns by dealers.

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

**Section 1. Amendment.)** Section 57-36-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-36-01. Definitions.)** As used in this chapter, unless the context or subject matter otherwise requires:

1. "Person" shall mean any individual, firm, fiduciary, partnership, corporation, trust, or association however formed;
2. "Distributor" shall include any person engaged in the



business of producing or manufacturing cigarettes, cigarette papers, cigars, snuff, or other tobacco products, or importing into this state cigarettes, cigarette papers, cigars, snuff, or other tobacco products, for the purpose of distribution and sale thereof to dealers and retailers;

3. "Licensed distributor" shall mean a distributor licensed under the provisions of this chapter;
4. "Dealer" shall include any person other than a distributor who is engaged in the business of selling cigarettes, cigarette papers, cigars, snuff, or other tobacco products;
5. "Licensed dealer" shall mean a dealer licensed under the provisions of this chapter;
6. "Sale" or "sell" shall apply to gifts, exchanges, and barter;
7. "Stamp" shall mean the stamps prepared by the tax commissioner as provided in section 57-36-08;
8. "Insignia" shall include or mean the impression or mark made on the cigarettes, or the package containing the same, approved by the tax commissioner, as provided in section 57-36-11;
9. "Cigar" means any roll of tobacco wrapped in tobacco;
10. "Other tobacco products" means any product except cigarettes, cigarette papers, cigars, or snuff which is made up or composed of tobacco, in whole or in part;
11. "Consumer" means any person who has title to or possession of cigarettes, snuff, cigars or other tobacco products in storage, for use or other consumption in this state;
12. "Storage" means any keeping or retention of cigarettes, snuff, cigars or other tobacco products for use or consumption in this state;
13. "Use" means the exercise of any right or power incidental to the ownership or possession of cigarettes, snuff,



cigars or other tobacco products; and

14. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and encased in any material except tobacco.

**Section 2. Amendment.)** Subsection 1 of section 57-36-26 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. There is hereby levied and assessed upon all cigars, snuff and other tobacco products, purchased in another state and brought into this state by a dealer for the purpose of sale at retail, an excise tax at the rate of eleven percent of the wholesale purchase price at the time such products were brought into this state. For the purposes of this section the term "wholesale purchase price" shall mean the established price for which a manufacturer sells cigars, snuff or other tobacco products to a distributor exclusive of any discount or other reduction, provided that the dealer may elect to report and remit the tax on his cost price of such products rather than on the wholesale purchase price. The proceeds of such tax, together with such forms of return and in accordance with such rules and regulations as the tax commissioner may prescribe, shall be remitted to the tax commissioner by the dealer on a calendar quarterly basis on or before the tenth day of the month following the quarterly period for which it is paid. The tax commissioner shall have the authority to place any dealer on an annual remittance basis when in the judgment of the tax commissioner the operations of the dealer merit such a remittance period. In addition, the tax commissioner shall have the authority to permit the consolidation of the filing of a dealer's return when the dealer has more than one location and thereby would be required to file more than one return.

Approved March 8, 1969.

## CHAPTER 498

S. B. No. 231  
(Nothing, Redlin, Unruh, Lowe)

INCREASE IN CIGARETTE TAX  
AND ALLOCATION TO CITIES

AN ACT

To amend and reenact sections 57-36-06 and 57-36-10, subsection 1 of section 57-36-27, and subsection 2 of section 57-36-31 of the North Dakota Century Code, providing for an increase in the cigarette tax, allocating proceeds to cities, and providing that stamps may be purchased at a discount of three percent.

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

**Section 1. Amendment.)** Section 57-36-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-36-06. Cigarettes—Amount of Tax.)** There are levied and assessed, and there shall be collected and paid to the state tax commissioner, upon all cigarettes sold in this state, the following excise taxes, payment thereof to be made prior to the time of the sale and delivery thereof:

1. Class A. On cigarettes weighing not more than three pounds per thousand, five mills on each such cigarette;
2. Class B. On cigarettes weighing more than three pounds per thousand, five and one-half mills on each such cigarette.

**Section 2. Amendment.)** Section 57-36-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-36-10. Stamps May Be Purchased at Discount.)** Any licensed distributor located within or without this state may purchase stamps at a discount of three percent of the face value thereof, and the tax commissioner may allow such discount in the settlement of the account of such wholesale distributor upon the payment to him of any moneys which may be or become

due to the state by reason of the sale, delivery, or consignment to such distributor of such stamps.

**Section 3. Amendment.)** Subsection 1 of section 57-36-27 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:
  - a. On cigarettes weighing not more than three pounds per thousand, five mills on each such cigarette.
  - b. On cigarettes weighing more than three pounds per thousand, five and one-half mills on each such cigarette.

**Section 4. Amendment.)** Subsection 2 of section 57-36-31 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. All moneys received from the levy and assessment of one and one-half mills on each of the classes of cigarettes provided in this chapter are hereby appropriated and shall be distributed on or before the thirtieth day of June and the thirty-first day of December of each year on a per capita basis to the incorporated cities for such purposes as are now or may be hereafter authorized by law, the allocation to be based upon the population of each incorporated city according to the last official federal census, or the census taken in accordance with the provisions of chapter 40-02 in the case of a city incorporated subsequent to the last federal census, and warrants shall be drawn payable to the treasurers of such cities.

Approved March 29, 1969.



## CHAPTER 499

S. B. No. 190  
(Chesrown, Freed, Holand, Ringsak)

## ESTATE TAX - POWERS OF APPOINTMENT

## AN ACT

To amend and reenact subsection 3 of section 57-37-02 and subsection 2 of section 57-37-07 of the 1967 Supplement to the North Dakota Century Code, relating to the adoption of the federal definition of powers of appointment and treatment of an annuity or other payment receivable by any beneficiary by reason of surviving the decedent and the effective date thereof for estate tax purposes, and declaring an emergency.

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

**Section 1. Amendment.)** Subsection 3 of section 57-37-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. All intangible personal property wherever located, except that the value of an annuity or other payment receivable by any beneficiary by reason of surviving the decedent under any form of contract or agreement other than as insurance under policies on the life of the decedent shall be included in the gross estate of any decedent dying after June 30, 1967, only to the extent that it is or would be includable for federal estate tax purposes pursuant to the provisions of section 2039 of the United States Internal Revenue Code of 1954, as amended, through December 31, 1968, effective for a decedent dying on or after January 1, 1969;

**Section 2. Amendment.)** Subsection 2 of section 57-37-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For the purposes of this section, the term "United States Internal Revenue Code of 1954, as amended" means the United States Internal Revenue Code of 1954 as amended to and including December 31, 1968, effective for a decedent dying on or after

January 1, 1969.

**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 10, 1969.

---

CHAPTER 500

S. B. No. 192  
(Meschke)

DEFINITION OF MINOR FOR ESTATE TAX  
EXEMPTION PURPOSES

AN ACT

To amend and reenact subsection 1 a of section 57-37-11 of the North Dakota Century Code, relating to the determination of a minor for exemption purposes pursuant to the provisions of the Estate Tax Act.

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

**Section 1. Amendment.)** Subsection 1 a of section 57-37-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. An exemption, not exceeding the amount specified in each case, of the value of the property passing to each of the following beneficiaries:
  - a. Lineal ancestor or descendant, adopted child, step-child or lineal descendant of an adopted child or step-child, not exceeding two thousand dollars, and if under the age of twenty-one years, not exceeding five thousand dollars;

Approved March 10, 1969.



## CHAPTER 501

H. B. No. 95  
(Aamoth)

SELECTION OF ASSETS TO SATISFY BEQUEST  
TO SURVIVING SPOUSE

AN ACT

To provide a method of valuation of assets distributed by a fiduciary to a surviving spouse in satisfaction of a bequest or transfer within the meaning of the marital deduction provision of the Federal Internal Revenue Code.

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

**Section 1. Valuation of Assets Distributed to Surviving Spouse by Fiduciary—Marital Deduction.)** Whenever a decedent leaves a surviving spouse, or by law the spouse is presumed to have survived, and the representative of the decedent's estate, the decedent's trustee, or any other fiduciary is authorized by a will or a trust agreement to satisfy wholly or partly in kind a pecuniary bequest or transfer in trust of a pecuniary amount to the surviving spouse, the representative, trustee, or other fiduciary shall select, unless the instrument expressly provides otherwise, assets having an aggregate fair market value at the date, or dates, of distribution amounting to no less than the amount of the pecuniary bequest or transfer in trust as stated in, or determined by the formula stated in, the instrument.

Approved March 5, 1969.

## CHAPTER 502

S. B. No. 195  
(Chesrown, Holand, Freed, Ringsak)

## FILING ESTATE TAX RETURNS

## AN ACT

To amend and reenact sections 57-37-15, 57-37-16 and 57-37-22 of the North Dakota Century Code, relating to the filing of a copy of the federal estate tax return, the payment of estate taxes in advance of final determination, in certain instances, to stop the accrual of interest and the requirement of filing estate tax returns and supplemental or amended inventories and estate tax returns.

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

**Section 1. Amendment.)** Section 57-37-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-37-15. Court To Furnish Report To Tax Commissioner and Give Notice of Assessment.)** The county court shall furnish to the tax commissioner:

1. An original and one copy of the application for determination of estate taxes in the gross estate of each decedent;
2. A copy of the inventory and appraisalment;
3. A statement of all taxable transfers made by the decedent that have come to the court's knowledge;
4. A copy of the order of the court assessing the tax;
5. A copy of the decedent's will, if any, in a probate proceeding;
6. Such other information contained in the records and files of the court as the tax commissioner shall require; and
7. A copy of the federal return when the gross estate of a decedent is such as to require the filing of an

estate tax return for the decedent's estate pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended.

The court at the same time, shall notify the executor, administrator, trustee or other person interested in the estate of the amount of such assessment, but failure to receive such notice from the county court shall not excuse the nonpayment of the tax nor invalidate the tax in any way.

**Section 2. Amendment.)** Section 57-37-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-37-16. Appraisals Made and Taxes Payable as of Date of Death and Procedure for Payment of Uncontested Portion of Estate Tax in Estate Where the Amount of Estate Tax Due is in Contention.)**

1. The tax imposed by this chapter shall be due and payable at the death of the decedent, and, if not paid within fifteen months after the date of death, shall bear interest at the rate of six percent per annum to be computed from the expiration of fifteen months after death until the amount is paid. The transfer shall be deemed to take place at the time of death, and all appraisals shall be as of that date, unless otherwise provided in this chapter. Wherever there has been a taxable transfer prior to death on which the tax has not been paid, the property transferred shall be considered a part of the estate and shall be appraised as of the date of death of the decedent and taxed according to the laws then in force.
2. In an estate tax determination where the amount of the estate tax due is in contention before the court or the tax commissioner the estate may petition the court or the tax commissioner, as the case may be, for an order allowing the payment of a portion of the tax so that the interest imposed by this section shall cease to accrue on that portion of the tax until the determination of the correct amount of tax has been made. The county treasurer or the state treasurer, as the case may be, shall deposit the tax paid into a separate account



established for payments made under this subsection, and the county treasurer or state treasurer, as the case may be, shall refrain from making any distribution of the tax until the records of the court or the tax commissioner reveal that the proper amount of estate tax due has been determined.

**Section 3. Amendment.)** Section 57-37-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-37-22. Reports, Inventories, Estate Tax Applications and Supplements.)** It shall be the duty of the executor, administrator, trustee or other interested person of competent legal capacity to file an estate tax return and, before the final settlement of an estate, to furnish a supplemental or amended inventory and amended estate tax return listing all property and taxable transfers or other events that have come to his knowledge since the first inventory or estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. He also shall furnish copies of any documents or records, and any other information pertaining to the estate, or the value thereof, upon request of the county court.

Approved March 12, 1969.

## CHAPTER 503

S. B. No. 189

(Ringsak, Chesrown, Holand, Freed)

## DETERMINING VALUE OF DECEDENT'S ESTATE

## AN ACT

To amend and reenact subsection 1 of section 57-37-21 of the North Dakota Century Code, relating to the definition of "value" for estate tax purposes.

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

**Section 1. Amendment.)** Subsection 1 of section 57-37-21 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The value of the gross estate of the decedent shall be determined by including to the extent provided in this chapter, the value at the time of the decedent's death of all property, real or personal, tangible or intangible. The term "value" shall mean, for the purposes of this chapter, the fair market value at date of death unless provided otherwise by the provisions of this section.

Approved March 10, 1969.



## CHAPTER 504

S. B. No. 200  
(Ringsak, Holand, Chesrown, Freed)

LIABILITY OF BENEFICIARIES FOR  
ESTATE TAX IMPOSED

AN ACT

To amend and reenact subsection 3 of section 57-37-23 of the North Dakota Century Code, relating to the liability of beneficiaries for the estate tax imposed and the limitation of the general statutes of limitation as a bar to the collection of estate taxes.

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

**Section 1. Amendment.)** Subsection 3 of section 57-37-23 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The beneficiaries shall be personally liable for their respective share of the tax imposed by this chapter, as well as the executor, administrator, or trustee, and if the executor, administrator, or trustee pays such tax, he shall have the right to recover the tax from the beneficiaries in accordance with the provisions of chapter 30-21.1. No general statutes of limitation shall be considered as a bar to the collection of the respective share of the estate tax from each beneficiary. For the purposes of this chapter, the term "beneficiaries" shall mean any persons receiving an interest in property of a decedent which is subject to inclusion in the decedent's gross estate for estate tax purposes pursuant to the provisions of this chapter.

Approved March 29, 1969.

## CHAPTER 505

S. B. No. 358  
(Holand, Freed)

## DISTRIBUTION OF ESTATE TAX

## AN ACT

To amend and reenact section 57-37-24 of the North Dakota Century Code, relating to the procedure for the computation of the distribution of the estate tax between the state, counties and cities of this state.

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

**Section 1. Amendment.)** Section 57-37-24 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-37-24. Collection and Distribution of Tax-Refunds.)**

1. The county treasurer in the county where the estate tax determination is had shall collect the tax levied under this chapter, and shall certify the same to the county auditor at the end of each calendar month.
2. The county treasurer shall pay over to the state treasurer thirty-five percent of such tax, and the balance of sixty-five percent of such tax is hereby appropriated and shall be distributed by the county treasurer collecting the same among the counties or cities in which any part of the decedent's property was located at the time of the decedent's death. If any part of decedent's property at the time of the decedent's death had a legal situs within the limits of a city the share of tax based on such property shall be divided between the city and the county in proportion to their respective total mill levies, except school levies. If any part of decedent's property had a legal situs outside the limits of a city, the share of tax based on said property shall go entirely to the county. If the tax determined to be due pursuant to this chapter is an amount which is one hundred dollars or less, after the deduction of the share payable to the state, no further



apportionment pursuant to this section shall be made and the entire amount due shall be retained by the county in which the county court therein had jurisdiction of the estate tax matter. The share of a city or county of the tax shall be deposited to the credit of its general fund.

3. In all cases wherein no county court has jurisdiction, the amount of the tax shall be determined and collected by the tax commissioner, and the state treasurer shall receive the amount collected from the tax commissioner, deposit thirty-five percent of the amount received to the credit of the general fund of the state and apportion the remaining sixty-five percent thereof to the respective county treasurers of the counties in which is located the legal situs of the property base of such tax, who in turn shall then distribute the tax received in the same manner and amounts as if the tax had been originally collected by said county treasurer, to the county or city, as the case may be. If the tax determined to be due pursuant to this chapter is in an amount which is one hundred dollars or less, after the deduction of the share payable to the state, no further apportionment pursuant to this section shall be made and the entire amount determined to be due shall be distributed to the county in which the legal situs of the property is located.
4. Real property and tangible personal property shall be deemed located where it has its legal situs at the time of the decedent's death, and all other property shall be deemed located at the decedent's residence.
5. No executor, administrator, or trustee shall be entitled to a final discharge in an estate in settlement of which taxes are due, unless he shall produce a receipt showing the payment of such tax.
6. In case an overpayment of such tax has been made, such overpayment shall be repaid out of any estate tax funds in the hands of the county treasurer, upon an order of the county court approved by the tax

commissioner. The county treasurer shall thereupon present and file with the state treasurer a verified claim for thirty-five percent of such overpayment of estate taxes accompanied by a certified copy of the order of the county court for such refund and the approval of the state tax commissioner and a copy of the receipt of such refund by the person or persons to whom such refund was paid. The state treasurer shall present such verified claim to the department of accounts and purchases and the same shall be paid upon approval by the state auditing board. In addition, if a portion of the tax has been distributed to another county or city, and a refund has been made, the county treasurer making the refund shall file with the treasurer of the county or city to which such distribution has been made a copy of the county court's order for such refund and a verified claim for such portion of the amount refunded as is attributable to property located in such other county or city.

7. In any case where the state tax commissioner has collected the entire estate tax, a refund of the whole overpayment shall be made by the state treasurer upon receipt of a verified claim by the party making such overpayment accompanied by a certified copy of the order of refund made by the state tax commissioner. The state treasurer thereupon shall file a certified copy of such order with the county treasurer of the county or city which had received any of said tax and the county or city treasurer, as the case may be, shall remit to the state treasurer the city's or the county's proportionate liability of such refund.

Approved March 12, 1969.



## CHAPTER 506

H. B. No. 60  
(Aamoth)

TRANSFER OF ESTATE SECURITIES TO  
TRUST COMPANY

AN ACT

To create and enact subsection 4 of section 57-37-29 of the North Dakota Century Code, relating to the transfer of securities to certain trust companies acting as an executor or administrator of an estate.

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

Section 1.) Subsection 4 of section 57-37-29 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

4. The provisions of subsection 1 of this section requiring the retention of assets by any of the individuals or entities as set forth therein shall not apply when a request for the transfer of securities has been made by any trust company acting as an executor or administrator of an estate, provided that the trust company is qualified to do business under the laws of the state of North Dakota. Any individual or entity as set forth in subsection 1 of this section who effects any transfer of securities to a trust company pursuant to the provisions of this subsection shall be subject to the provisions of section 57-37-30 and shall within thirty days from the date of the transfer thereof give notice of the transfer to the county court of the county in which the decedent resided at date of death, setting out the nature of the transfer with a specific description of the securities transferred.

Approved March 6, 1969.



## CHAPTER 507

S. B. No. 177  
(Meschke)

## DEFINITION OF FEDERAL INTERNAL REVENUE CODE

## AN ACT

To amend and reenact subsection 21 of section 57-38-01 of the North Dakota Century Code, relating to income tax definitions and declaring an emergency.

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

**Section 1. Amendment.)** Subsection 21 of section 57-38-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. a. "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, 1968.

b. Those provisions of the United States Internal Revenue Code of 1954, as amended, which are adopted for the purposes of this chapter and which apply to returns required to be filed under that Code for the calendar year 1968 and for fiscal years ended during 1968 shall also apply to returns required to be filed under the provisions of this chapter for the same periods.

**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 10, 1969.

## CHAPTER 508

S. B. No. 178  
(Meschke)

ADDITIONAL EXEMPTION FOR HUSBAND AND  
WIFE OR HEAD OF HOUSEHOLD

## AN ACT

To amend and reenact subdivision d of subsection 1 of section 57-38-01.2 of the North Dakota Century Code to provide for an additional exemption of three hundred dollars for a head of a household for income tax purposes.

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

**Section 1. Amendment.)** Subdivision d of subsection 1 of section 57-38-01.2 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. (1) Reduced by three hundred dollars if the return filed is a joint return by husband and wife. If separate returns are filed by husband and wife no deduction can be taken under this subdivision. This subdivision shall not be applicable to estates or trusts.
- (2) Reduced by three hundred dollars if the return filed is the return of a "head of household" as defined by the United States Internal Revenue Code of 1954, as amended, provided that the term "head of household" shall also include a "surviving spouse" as defined by said Code.

Approved March 29, 1969.

S. B. No. 269  
(Longmire, Lips)

ADJUSTMENT TO TAXABLE INCOME FOR  
FEDERAL RETIREMENT INCOME

AN ACT

To amend and reenact subsection 1 of section 57-38-01.2 of the North Dakota Century Code by creating a new subdivision thereto, relating to an adjustment to taxable income for income received under the United States Civil Service Retirement Act.

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

**Section 1. Amendment.)** Subsection 1 of section 57-38-01.2 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted by creating the following new subdivision:

Reduced by any amount, up to a maximum of fifteen hundred dollars, received pursuant to the United States Civil Service Retirement Act.

Approved March 14, 1969.



## CHAPTER 510

S. B. No. 329  
(Butler, Unruh, Wilhite)

## RECOGNIZING SUBCHAPTER S ELECTION

## AN ACT

To amend and reenact section 57-38-01.4 of the North Dakota Century Code, relating to the recognition of subchapter S election.

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

**Section 1. Amendment.)** Section 57-38-01.4 of the 1967 Supplement to 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 Act or 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 grain of the corporation received by the shareholder which was not 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.

Approved March 17, 1969.

---

## CHAPTER 511

S. B. No. 65

(Butler, Unruh, Lowe, Litten, Trenbeath, Goldberg)

### EXCLUSION OF NONRESIDENT'S PROFESSIONAL INCOME ON RECIPROCAL BASIS

#### AN ACT

To amend and reenact subsections 1 and 2 of section 57-38-04 of the North Dakota Century Code to provide for exclusion of income of a nonresident received from personal or professional services performed in this state if the state in which the nonresident resides grants reciprocal treatment to residents of this state, and providing an effective date.

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

**Section 1. Amendment.)** Subsections 1 and 2 of section 57-38-04 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:



1. Income from personal or professional services performed in this state by individuals shall be assigned to this state regardless of the residence of the recipients of such income, except that income from such services performed within this state by an individual who resides and has his place of abode in another state to which place of abode he customarily returns at least once a month shall be excluded from his income for the purposes of this chapter if such income is subject to an income tax imposed by the state in which he resides, provided that the state in which he resides allows a similar exclusion for income received from similar services performed in that state by residents of North Dakota;
2. Except as provided in subsection 1 of this section:
  - a. Income received from personal or professional services performed by residents of this state, regardless of where such services are performed, and income received by residents of this state from intangible personal property shall be assigned to this state. If a tax is paid to another state or territory of the United States or to the District of Columbia on any income assigned to this state under this subsection, a credit for any tax so paid may be deducted from the tax assessed under this chapter if written proof of such payment is furnished to the tax commissioner; provided, that this credit for such tax shall not exceed the difference between (a) the amount of tax that would be due under this chapter if all of the taxpayer's income had been derived from sources within North Dakota, and (b) the amount of tax that would be due under this chapter if the income from personal or professional services performed outside of North Dakota, together with any federal income taxes paid thereon, were excluded from the computation of the North Dakota income tax;
  - b. Notwithstanding any other provision of this chapter, the compensation received from services performed within this state by an indi-

vidual who (1) performs services for a common carrier engaged in interstate transportation and (2) who resides and has his place of abode to which he customarily returns at least once a month in another state shall be excluded from income to the extent that such income is subject to an income tax imposed by the state of his residence; provided that such state allows a similar exclusion of such compensation received by residents of North Dakota for similar services performed therein, or a credit against the tax imposed on the income of residents of this state that is substantially similar in effect. For the purposes of this subdivision the words "an individual who performs services for a common carrier engaged in interstate transportation" shall be limited to an individual who performs such services for a common carrier only during the course of making regular "runs" into North Dakota or from within North Dakota to outside North Dakota, or both, on the transportation system of the common carrier.

**Section 2. Effective Date.)** The provisions of this Act shall apply to taxable years beginning on or after January 1, 1969.

Approved March 13, 1969.



## CHAPTER 512

H.B. No. 464  
(Halcrow, Strinden, Hoghaug)

## TAX CREDIT FOR NEW CORPORATIONS

## AN ACT

To create and enact section 57-38-30.1 of the North Dakota Century Code, relating to a tax credit for new corporations.

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

**Section 1.)** Section 57-38-30.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**57-38-30.1. Corporate Tax Credit for New Industry.)** For the purpose of providing a tax incentive to new industry in this state, any domestic corporation that has been incorporated for the first time in this state after January 1, 1969, and which is not the result of a business reorganization or acquisition, or any foreign corporation that has received a certificate of authority to transact business in this state for the first time after January 1, 1969, shall be entitled to receive the corporate tax credit allowed by this section by complying with the provisions herein, provided that corporations organized under and receiving the tax credit allowed by chapter 40-57 of the North Dakota Century Code, or reorganized corporations that were in existence prior to January 1, 1969, shall not be allowed the credit. The credit shall consist of a deduction from the net tax as computed under section 57-38-30 of one percent of the annual gross amount expended by the corporation for salaries and wages within the state of North Dakota for each of the first three taxable years, and a deduction from the net tax as computed under section 57-38-30 of one-half of one percent of the annual gross amount expended by the corporation for salaries and wages within the state of North Dakota for each of the fourth and fifth taxable years. After the fifth taxable year, no further deduction shall be allowed, and the corporation shall be taxed in accordance with the schedule provided in section 57-38-30 without credit. For the purpose of this Act new industry shall be defined as a corporate enterprise engaged in assembling, fabricating, manufacturing, mixing or processing of any agricultural, mineral, or manufactured products or any combination thereof.

Approved March 29, 1969.

## CHAPTER 513

H. B. No. 339  
(Kelsch)

## INCOME TAX REFUND FOR DECEASED TAXPAYER

## AN ACT

To create and enact subsection 3 of section 57-38-40 of the North Dakota Century Code, relating to the approval of income tax refunds of a deceased taxpayer.

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

**Section 1.)** Subsection 3 of section 57-38-40 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

3. a. If a return is filed by an individual or an individual and spouse and, after the death of the individual, a refund claim is filed or becomes payable, the tax commissioner shall approve the refund for payment to the legal representative of the decedent upon application and presentation of certified copies of letters testamentary or letters of administration establishing the fiduciary relationship of the legal representative.

b. If the legal representative of the taxpayer has not made application for the refund of the deceased taxpayer within one year from the date of the taxpayer's death, the tax commissioner may approve the refund to any person within the classifications set out herein and with the following priority: surviving spouse, children, grandchildren, ancestors of the decedent and other relatives; upon proper application establishing the relationship of the claimant. Should an application be received from more than one individual in any of the classifications set out herein, the tax commissioner shall honor the earliest post-marked application which is properly filed pursuant to rules and regulations promulgated by him.

c. When the tax commissioner acting in good faith has approved a refund payment pursuant to the provisions of this subsection, the tax commissioner shall not be held responsible to any person or legal representative of the decedent who may have qualified to make a proper application but has failed to do



so within one year from the date of death of the deceased taxpayer.

Approved March 12, 1969.

---

CHAPTER 514

H. B. No. 490  
(Backes)

**INCOME TAX PAYMENT, INTEREST,  
AND PENALTIES**

**AN ACT**

To amend and reenact sections 57-38-35, 57-38-39 and 57-38-45 of the North Dakota Century Code, relating to income tax, interest and penalties and to repeal section 57-38-43 of the North Dakota Century Code.

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

**Section 1. Amendment.)** Section 57-38-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-38-35. Payment of Tax.)** Except as otherwise provided in section 57-38-36, every taxpayer shall compute the amount of tax due under the return and shall attach thereto a check, draft, or money order, payable to the state tax commissioner, Bismarck, North Dakota, for the amount of the tax computed.

**Section 2. Amendment.)** Section 57-38-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-38-39. Additional Tax.)** If upon audit, the tax commissioner finds additional tax due, as provided in section 57-38-38, the taxpayer shall be given thirty days from the date of the notice prescribed in section 57-38-38 to file objections to the additional tax and to apply for a hearing regarding the additional tax. Unless such objections are filed and a hearing requested, said tax shall become finally and irrevocably fixed.



If objections are filed, and a hearing requested, the tax commissioner shall give notice of the hearing date, by registered or certified mail and at such hearing evidence may be offered to support such additional tax or prove that it is not due. The provisions of chapter 28-32 shall apply to and govern the hearing procedure including appeals from any decision rendered by the tax commissioner.

**Section 3. Amendment.)** Section 57-38-45 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-38-45. Interest and Penalties.)** For failure to make a return or to pay any tax within the time required by this chapter, a taxpayer shall be subjected to penalties and interest as follows:

1. If any taxpayer, without intent to evade any tax imposed by this chapter, shall fail to file a return of income or pay a tax if one is due at the time required by or under the provisions of this chapter, but voluntarily shall file a correct return of income or pay the tax due within sixty days thereafter, there shall be added to the tax a penalty of five percent thereof, or one dollar whichever is greater, plus interest of one percent of such tax for each month or fraction of a month during which the tax remains unpaid, excepting the first month after such return was required to be filed or such tax became due;
2. If any taxpayer does not voluntarily file a return of income within sixty days after the time required by or under the provisions of this chapter, and after notice by the tax commissioner, he shall be subject to a fine of not less than ten dollars and not more than five hundred dollars, and shall pay interest at the rate of one percent for each month or fraction of a month from the time the tax originally was due until the date of payment;
3. Any person or any officer or employee of any partnership who, with intent to evade any requirement of this chapter, shall fail to pay any tax, or to make, sign, or verify any return, or to supply any information required by law, or under the provisions of this chapter, or who with like intent shall make, render, sign, or verify

- any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction. He also shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not more than one year, or by both such fine and imprisonment;
4. In case any person or any corporation fails to pay any tax or penalty imposed by this chapter within thirty days after notice of the amount of the tax or penalty which is due has been mailed from the office of the tax commissioner, the attorney general shall bring action for the recovery of the amount of the tax, penalty, and interest which may be due, in the name of the state, in any court of competent jurisdiction;
  5. The tax commissioner may for good cause shown waive all or any part of any civil penalty or interest that attached pursuant to the provisions of this chapter. The provisions of this subsection shall be effective for all returns filed prior to and after December 31, 1966;
  6. If any taxpayer who has failed to file a return or who has filed an incorrect or insufficient return and has been notified by the tax commissioner of his delinquency, refuses or neglects within thirty days after such notice to file a proper return, or files a fraudulent return, the tax commissioner shall determine the income of such taxpayer according to his best information and belief, and shall assess the same at not more than double the amount so determined.

**Section 4. Repeal.)** Section 57-38-43 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1969.



## CHAPTER 515

H. B. No. 344  
(Dornacker)

## INCOME TAX INSTALLMENT PAYMENTS

## AN ACT

To amend and reenact section 57-38-36 of the North Dakota Century Code, relating to installment payments of income tax.

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

**Section 1. Amendment.)** Section 57-38-36 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-38-36. When Payment of Tax May Be Made in Quarterly Installments.)** If the total tax exceeds one hundred dollars it may be paid in quarterly installments, and if paid in such installments, the first installment shall be paid at the time fixed by this chapter for filing the return, the second installment shall be paid on the fifteenth day of the third month, the third installment on the fifteenth day of the sixth month, and the fourth installment on the fifteenth day of the ninth month after the time fixed by law for filing the return. Interest at the rate of seven percent per annum shall be charged on all unpaid installment balances during the period from the date fixed by this chapter for filing the return and the date payment of the installment is due. If a taxpayer elects under the provisions of this section to pay the tax in installments, any installment may be paid prior to the date prescribed for its payment. If an installment is not paid in full on or before the date fixed for its payment the whole amount of the unpaid tax shall be paid upon notice and demand from the tax commissioner, and penalty and interest, as provided in sections 57-38-43 and 57-38-45, shall attach, from and after the time of the failure to make such timely payment, to the whole amount of the unpaid tax.

Approved March 12, 1969.

## CHAPTER 516

S.B. No. 154  
(Becker, Torgerson)

EXCHANGE OF INFORMATION BETWEEN  
CERTAIN STATE AGENCIES

## AN ACT

To amend and reenact sections 52-01-03, 57-38-57, 57-39.2-23, and 65-04-15 of the North Dakota Century Code, relating to the exchange of certain information by the unemployment compensation division of the employment security bureau, the tax commissioner and the workmen's compensation bureau.

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

**Section 1. Amendment.)** Section 52-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**52-01-03. Disclosure of Information.)** Except as otherwise provided in this section, information obtained from any employing unit or individual pursuant to the administration of this title and determinations as to the benefit rights of any individual shall be held confidential and shall not be disclosed or be open to public inspection in any manner revealing the individual's or employing unit's identity. Any claimant or his legal representative shall be supplied with information from the records of the division, to the extent necessary for the proper presentation of his claim in any proceeding under this title with respect to such claim. Subject to such restrictions as the bureau by regulations may prescribe, such information may be made available to any agency of this or any other state, or any federal agency, charged with the administration of any unemployment compensation law or the maintenance of a system of public employment offices, or the bureau of internal revenue of the United States department of the treasury, and information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Upon a request, the bureau shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged,



the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this title. The bureau may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association, rendered pursuant to the provisions of this title, and in connection with such request, may transmit any such report or return to the comptroller of the currency of the United States as provided in section 3305, subsection c of the Federal Internal Revenue Code.

The unemployment compensation division of the employment security bureau may upon request of the state tax commissioner or the workmen's compensation bureau furnish to such commissioner or bureau a list or lists of employers showing only the names, addresses and bureau file identification numbers of such employers, provided that any list so furnished shall be used by the tax commissioner or the workmen's compensation bureau only for the purpose of administering the duties of such commissioner or bureau.

**Section 2. Amendment.)** Section 57-38-57 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new subsection to read as follows:

The tax commissioner is hereby authorized to furnish to the workmen's compensation bureau or to the unemployment compensation division of the employment security bureau upon the request of either a list or lists of employers showing only the names, addresses and the tax department file identification numbers of such employers, provided that any such list shall be used by the bureau to which it is furnished only for the purpose of administering the duties of such bureau.

**Section 3. Amendment.)** Section 57-39.2-23 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-39.2-23. Information Deemed Confidential—Penalty.)** It shall be unlawful for the commissioner, or any person having an administrative duty under this chapter, to divulge or to make known in any manner whatever, the business affairs, operations, or information obtained by an investigation of records and equipment of any person or corporation visited or ex-



amined in the discharge of official duty, or the amount or sources of income, profits, losses, expenditures or any particulars thereof, set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract of particulars thereof to be seen or examined by any person except as provided by law. The commissioner may authorize examination of such returns by other state officers, or, if a reciprocal arrangement exists, by tax officers of another state, or the federal government. Any person violating the provisions of this section shall be guilty of a misdemeanor and punishable by a fine of not to exceed one thousand dollars.

The commissioner is hereby authorized to furnish to the workmen's compensation bureau or to the unemployment compensation division of the employment security bureau upon request of either a list or lists of holders of permits issued pursuant to the provisions of this chapter or chapter 57-40.2, together with the addresses and tax department file identification numbers of such permit holders, provided that any such list shall be used by the bureau to which it is furnished only for the purpose of administering the duties of such bureau.

**Section 4. Amendment.)** Section 65-04-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-04-15. Information in Employer's Reports Confidential—Penalty If Employee of Bureau Divulges Information.)** The information contained in an employer's report to the bureau shall be for the exclusive use and information of the bureau in the discharge of its official duties and shall not be open to the public nor used in any court in any action or proceeding pending therein unless the bureau is a party thereto. The information contained in such report, however, may be tabulated and published by the bureau in statistical form for the use and information of the state departments and of the public. Any person in the employ of the bureau who, while acting as an employee of the bureau, shall divulge to any person other than an officer or employee of the bureau any information secured by him in respect to the transactions, property, or business of any company, firm, corporation, person, association, copartnership, or public utility, shall be guilty of a misdemeanor and, upon conviction thereof, shall be disqualified from holding any appointment with the bureau.

The workmen's compensation bureau may upon request of the state tax commissioner or the unemployment compensation division of the employment security bureau furnish to such commissioner or bureau a list or lists of employers showing only the names, addresses and workmen's compensation bureau file identification numbers of such employers, provided that any such list so furnished shall be used by the tax commissioner or the employment security bureau only for the purpose of administering the duties of such commissioner or bureau.

Approved March 29, 1969.

---

CHAPTER 517

H. B. No. 287  
(Aamoth)

WITHHOLDING FROM WAGES OF  
NONRESIDENT EMPLOYEES

AN ACT

To amend and reenact section 57-38-59 of the North Dakota Century Code, relating to the withholding from wages of nonresident employees, and providing a penalty, and declaring an emergency.

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

**Section 1. Amendment.)** Section 57-38-59 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-38-59. Withholding from Wages of Nonresident Employees—Penalty.)**

1. Every employer making payment of wages to nonresident employees shall deduct and withhold from their wages such percentage or percentages, as determined by the tax commissioner, multiplied times the total amount required to be deducted by an employer from wages of an employee under the provisions of the Internal Revenue Code of 1954 as amended, as will approximate the income taxes due the state; provided that no employer shall be required to deduct and withhold any amount on the first



six hundred dollars of annual wages paid to a nonresident employee unless such employee is employed for a period of sixty days or more within any one year. The amount of tax withheld shall be computed without regard to any other amount required to be withheld thereunder, but the tax withheld shall as closely as possible pay any tax liability imposed by this chapter.

2. In the event that the tax deducted and withheld under the provisions of subsection 1 of this section should prove to be disproportionate to the tax liability, the tax commissioner may adjust the percentage which, when withheld, will, as closely as may be possible, pay the income tax liability imposed by this chapter.
3. The tax commissioner may, in lieu of the requirement above for deducting and withholding tax based upon a percentage of federal income tax withheld, adopt by regulation tax tables which, when the tax provided for in the tables is withheld, will, as closely as possible, pay the income tax liability imposed by this chapter. When adopted by the tax commissioner said tables shall be followed by every employer required to deduct and withhold any tax imposed by this chapter.
4. Every employer shall deduct and withhold from every nonresident employee's wages the amounts required to be deducted and withheld from a nonresident employee's wages until such time as the employee has filed with his employer a signed certificate, in such form as the tax commissioner shall provide, that such employee entitled to wages is a resident of the state of North Dakota as defined for withholding purposes. Such certificate shall contain a written declaration that it is made under the penalties of perjury. Once filed, a certificate shall remain in effect with the employer with which it is filed, until the employee's status shall have changed to that of a nonresident as defined in subsection 4 of section 57-38-58 of the North Dakota Century Code. The employee shall give written notice to his employer within fifteen days after such change in status. The employer upon receiving such written notice shall deduct and withhold from the employee's wages as provided in this section until the employee files with the employer the signed certificate referred to herein. Any employee will-

fully submitting a falsified statement shall be guilty of perjury and punished in accordance with chapter 12-14. Any employee willfully failing to give written notice to his employer of his change in status as required herein within the time prescribed shall be subject to the penalty provided for in subsection 3 of section 57-38-45 of the North Dakota Century Code. Employers shall be required to make the certificates of residence available to the tax commissioner upon request.

**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 14, 1969.

---

## CHAPTER 518

S. B. No. 328  
(Butler, Unruh, Becker)

### RECIPROCAL WITHHOLDING OF INCOME TAX

#### AN ACT

To amend chapter 57-38 of the North Dakota Century Code by creating and enacting thereto a new section relating to reciprocal arrangements between states for withholding of income taxes.

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

**Section 1. Amendment.)** Chapter 57-28 of the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

**Reciprocal Arrangement With Other States for Withholding Income Taxes.)** The tax commissioner may enter into an agreement with the tax commissioner or other taxing officials of another state for the interpretation and administration of the acts of their several states providing for the collection of income tax at source on wages for the purpose of promoting fair and equitable administration of such acts and to eliminate duplicate withholding. The tax



commissioner at his discretion may furnish information on a reciprocal basis to the taxing officials of another state in order to implement the purposes set forth above.

Approved March 12, 1969.

---

CHAPTER 519

S. B. No. 273

(Decker, Kelly, Meschke)

DEFINITION OF TERMS FOR SALES AND  
USE TAX PURPOSES

AN ACT

To amend and reenact subsection 3 of section 57-39.2-01 and subsection 3 of section 57-40.2-01 of the North Dakota Century Code, relating to the definition of the term "processing" for sales and use tax purposes.

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

**Section 1. Amendment.)** Subsection 3 of section 57-39.2-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Retail sale" or "sale at retail" means the sale, including the leasing or renting, to a consumer or to any person for any purpose, other than for processing or for resale, of tangible personal property; the sale of steam, gas, electricity, water, and communication service to retail consumers or users; the ordering, selecting or aiding a customer to select any goods, wares, or merchandise from any price list or catalog, which the customer might order, or be ordered for such customer to be shipped directly to such customer; the sale or furnishing of hotel, motel, or tourist court accommodations, tickets or admissions to any place of amusement, athletic event or place of entertainment including the playing of any machine for amusement or entertainment in response to the use of a coin; and the sales of magazines and other periodicals. By the term "processing" is meant any tangible personal property including containers which it is intended, by means of fabrication, com-



pounding, manufacturing, producing or germination shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The sale of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property shall be considered as a sale of tangible personal property for a purpose other than for processing; the delivery of possession within the state of North Dakota of tangible personal property by a wholesaler or distributor to an out-of-state retailer who does not hold a North Dakota retail sales tax permit or to a person who by contract incorporates such tangible personal property into, or attaches it to, real property situated outside of North Dakota shall not be considered a taxable sale. As used in this subsection the word "consumer" shall include any hospital, infirmary, sanatorium, nursing home, home for the aged or similar institution that furnishes services to any patient or occupant.

**Section 2. Amendment.)** Subsection 3 of section 57-40.2-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Property used in "processing", as that term is used in subsection 2, shall mean any tangible personal property including containers which is intended, by means of fabrication, compounding, manufacturing, producing or germination, shall become an integral or an ingredient or component part of other tangible personal property intended to be sold ultimately at retail. The purchase of an item of tangible personal property for the purpose of incorporating it in or attaching it to real property shall be considered as a purchase of tangible personal property for a purpose other than for processing.

Approved March 12, 1969.

## CHAPTER 520

S. B. No. 89  
(Nothing, Decker)

MIXED DRINKS EXEMPT FROM  
SALES AND USE TAX

## AN ACT

To create and enact subsection 18 of section 57-39.2-04 and subsection 7 of section 57-40.2-04 of the North Dakota Century Code, relating to exemptions from sales and use tax.

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

**Section 1.)** Subsection 18 of section 57-39.2-04 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

18. Gross receipts from the sale of mixed drinks which are composed of alcoholic beverages and non-alcoholic beverages, or ingredients such as sugar, ice, flavoring syrups, soda-water, pop, malt, and other commodities of a like nature, or any combination thereof when mixed with an alcoholic beverage.

**Section 2.)** Subsection 7 of section 57-40.2-04 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

7. Mixed drinks which are composed of alcoholic beverages and non-alcoholic beverages, or ingredients such as sugar, ice, flavoring syrups, soda-water, pop, malt, and other commodities of a like nature, or any combination thereof when mixed with an alcoholic beverage.

Approved March 13, 1969.

S.B. No. 161

(Berube, Rait, Van Horn, Nasset, Becker, L.Larson, Meschke)

**EXEMPTION FOR FOODS SOLD TO  
PUBLIC OR PRIVATE SCHOOLS FOR  
SCHOOL LUNCH PROGRAMS****AN ACT**

To create and enact a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to sales tax exemptions.

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

**Section 1.)** A new subsection to section 57-39.2-04 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the sale of food supplies to any public school, to any parochial or private nonprofit school conducting courses of study similar to those conducted by public schools in this state, or to any nonprofit organization, for use by the public, parochial, or private school or nonprofit organization in sponsoring or conducting a lunch program or programs in and for any such public, parochial, or private nonprofit school.

Approved March 29, 1969.



## CHAPTER 522

S. B. No. 86  
(Nothing)

**MOTION PICTURE RENTAL RECEIPTS EXEMPT FROM  
SALES AND USE TAX**

AN ACT

To create and enact a new subsection to sections 57-39.2-04 and 57-40.2-04 of the North Dakota Century Code, relating to sales and use tax exemptions.

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

**Section 1.)** A new subsection to section 57-39.2-04 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition if the sale of tickets or admissions to the exhibition of the film is subject to the sales tax imposed by this chapter.

**Section 2.)** A new subsection to section 57-40.2-04 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

Gross receipts from the leasing or renting of motion picture film to motion picture exhibitors for exhibition in this state if the sale of the tickets or admissions to the exhibition of the film is subject to the sales tax imposed by chapter 57-39.2 of the North Dakota Century Code.

Approved March 14, 1969.

## CHAPTER 523

H. B. No. 179  
(Jenkins, Reimers)

SALES AND USE TAX EXEMPTION FOR  
CERTAIN CHEMICALS AND FERTILIZER

AN ACT

To amend and reenact subsection 8 of section 57-39.2-04 of the North Dakota Century Code, and to amend and reenact section 57-40.2-04 (misnumbered as section 59-40.2-04) of the North Dakota Century Code by creating a new subsection thereto, relating to exemptions from sales and use tax.

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

**Section 1. Amendment.)** Subsection 8 of section 57-39.2-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. Gross receipts from sales of commercial fertilizers, fungicides, seed treatments, innoculents and fumigants, herbicides and insecticides to agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants to commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.

**Section 2. Amendment.)** Section 57-40.2-04 of the 1967 Supplement to the North Dakota Century Code (misnumbered as section 59-40.2-04) is hereby amended and reenacted by the creation of a new subsection to read as follows:

Commercial fertilizers, fungicides, seed treatments, innoculents and fumigants, herbicides and insecticides used by agricultural or commercial vegetable producers and commercial applicators; chemicals used to preserve agricultural crops being stored; and seeds, roots, bulbs, and small plants used by commercial users or consumers for planting or transplanting for commercial vegetable gardens or agricultural purposes.

Approved March 14, 1969.



## CHAPTER 524

S. B. No. 142  
(Meschke)

## SALES AND USE TAX RETURNS

## AN ACT

To amend and reenact section 57-39.2-11 and subsection 5 of section 57-40.2-07 of the North Dakota Century Code, relating to sales and use tax returns.

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

**Section 1. Amendment.)** Section 57-39.2-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-39.2-11. Return of Gross Receipts.)** 1. On or before the last day of the month following the close of the first quarterly period as defined in the following section, and on or before the last day of the month following each subsequent quarterly period of three months, the retailer shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the commissioner may require to enable him correctly to compute and collect the tax herein levied. The commissioner upon request by any retailer and a proper showing of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any such retailer, the time in which he is required to make payment as provided for in section 57-39.2-12 shall be extended for the same period;

2. The commissioner, if he deems it necessary or advisable in order to ensure the payment of the tax imposed by this chapter, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly periods, the provisions of this chapter to the contrary notwithstanding; and

3. Returns shall be signed by the retailer or his duly authorized agent and shall contain a written declaration that they are made and subscribed under the penalties of this chapter.

**Section 2. Amendment.)** Subsection 5 of section 57-40.2-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The retailer, on or before the last day of the month following the close of the first quarterly period as defined in subsection 4 of this section, and on or before the last day of the month following each subsequent quarterly period of three months, shall make out a return for the preceding quarterly period in such form and manner as may be prescribed by the commissioner, showing the gross receipts of the retailer, the amount of the tax for the period covered by such return, and such further information as the tax commissioner may require to enable him correctly to compute and collect such tax, but the tax commissioner, upon receipt of a proper showing by any retailer of the necessity therefor, may grant unto such retailer an extension of time not to exceed thirty days for making such return. If such extension is granted to any retailer, the time in which he is required to make payment shall be extended for the same period. The commissioner, if he deems it necessary or advisable in order to ensure the payment of the tax, or if he deems it practical, may require returns and payment of the tax to be made for annual periods or other than quarterly periods, the provisions of this chapter to the contrary notwithstanding. A return shall be signed by the taxpayer or his duly authorized agent and shall contain a written declaration that it is made and subscribed under penalties of this chapter.

Approved March 11, 1969.

## CHAPTER 525

S. B. No. 155  
(Becker, Torgerson)

## APPEALS FROM SALES TAX HEARINGS

## AN ACT

To amend and reenact section 57-39.2-15 and subsection 1 of section 57-39.2-16 of the North Dakota Century Code, relating to sales tax hearings and appeals therefrom, and to repeal subsections 2 and 3 of section 57-39.2-16 of the North Dakota Century Code, regarding appeals from decision of the tax commissioner relating to sales tax.

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

**Section 1. Amendment.)** Section 57-39.2-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-39.2-15. Failure to File Return—Incorrect Return.)** If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient the commissioner shall determine the amount of tax due from such information as he may be able to obtain, and, if necessary, may estimate the tax on the basis of external indices, such as number of employees of the person concerned, rentals paid by him, his stock on hand, and other factors. The commissioner shall give notice of such determination to the person liable for the tax. Such determination shall fix the tax finally and irrevocably unless the person against whom it is assessed, within fifteen days after the giving of notice of such determination, shall apply to the commissioner pursuant to chapter 28-32 of the North Dakota Century Code for a hearing or unless the commissioner of his own motion shall reduce the same. At such hearing evidence may be offered to support such determination or to prove that it is incorrect. After such hearing the commissioner shall give notice of his decision to the person liable for the tax pursuant to the provisions of chapter 28-32 of the North Dakota Century Code.

**Section 2. Amendment.)** Subsection 1 of section 57-39.2-16 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:



1. An appeal may be taken by the taxpayer to the district court of the county in which he resides, or in which his principal place of business is located, within thirty days after he shall have received notice from the commissioner of his determination as provided for in section 57-39.2-15. The appeal shall be taken pursuant to and in accordance with chapter 28-32 of the North Dakota Century Code.

**Section 3. Repeal.)** Subsections 2 and 3 of section 57-39.2-16 of the 1967 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 17, 1969.

---

## CHAPTER 526

S. B. No. 152  
(Becker, Torgerson)

### SALES AND USE TAX PENALTIES

#### AN ACT

To amend and reenact subsection 1 of section 57-39.2-18 and subsection 1 of section 57-40.2-15 of the North Dakota Century Code, relating to sales and use tax penalties.

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

**Section 1. Amendment.)** Subsection 1 of section 57-39.2-18 of the 1967 Supplement to 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 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. Such penalty shall be paid to the commissioner and disposed of in the same manner as other receipts under this chapter. Unpaid penalties may be enforced in the same manner as the tax imposed by this chapter.

**Section 2. Amendment.)** Subsection 1 of section 57-40.2-15 of the 1967 Supplement to 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 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. Such penalty 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 may be enforced in the same manner as is the tax.

Approved March 12, 1969.



## CHAPTER 527

S. B. No. 288  
(Decker)

REMITTANCE OF EXCESSIVE SALES  
OR USE TAX COLLECTED

AN ACT

To amend chapters 57-39.2 and 57-40.2 of the North Dakota Century Code by creating and enacting thereto new sections providing for the remittance of sales and use taxes to the state of North Dakota which were improperly collected by retailers and not refunded to customers.

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

**Section 1. Amendment.)** Chapter 57-39.2 of the 1967 Supplement to the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

Whenever a retailer has collected a sales tax from a customer in excess of the amount prescribed or due under this chapter, and if the retailer does not refund the excessive tax collected to the customer, the amount so collected by the retailer shall be paid by the retailer to the tax commissioner in the quarterly period in which the excessive collection occurred. If the excessive collection is subsequently refunded by the retailer to the customer, the retailer may deduct, as a credit against his sales tax liability on the next return that he is required to file, the amount of sales tax properly refunded to the customer. In the event such deduction exceeds the amount of sales tax due the state by the retailer in the next regular return, such excess shall be allowed as a credit against future sales tax due from the retailer. If the credit, or any part of it, cannot be utilized by the retailer because of a discontinuance of a business or for other valid reasons, the amount thereof may be refunded to the retailer.

**Section 2. Amendment.)** Chapter 57-40.2 of the 1967 Supplement to the North Dakota Century Code is hereby amended by creating and enacting thereto a new section to read as follows:

Whenever a retailer maintaining a place of business in this state has collected a use tax from a customer in excess of the amount prescribed or due under this chapter, and if the retailer does not refund the excessive tax collected to the customer, the amount so collected by the retailer shall be paid by the retailer to the tax commissioner in the quarterly period in which the excessive collection occurred. If the excessive collection is subsequently refunded by the retailer to the customer, the retailer may deduct, as a credit against his use tax liability on the next return that he is required to file, the amount of use tax properly refunded to the customer. In the event such deduction exceeds the amount of use tax due the state by the retailer in the next regular return, such excess shall be allowed as a credit against future use tax due from the retailer. If the credit, or any part of it cannot be utilized by the retailer because of a discontinuance of a business or for other valid reasons, the amount thereof may be refunded to the retailer.

Approved March 17, 1969.

## CHAPTER 528

S. B. No. 137

(Torgerson)

(From Personal Property Tax Commission Study)

**PERSONAL PROPERTY TAX REPEAL  
AND REVENUE REPLACEMENT**

## AN ACT

To provide for the levying and collection of a tax for the privilege of doing business in this state on businesses, corporations, and cooperative corporations; to provide for the imposition of a tax upon banks, trust companies, and building and loan associations for the privilege of transacting business in this state and providing penalties; to allocate moneys to counties and their political subdivisions; and to create and enact subsection 25 of section 57-02-08 and sections 57-39.2-03.1, 57-39.2-03.2, 57-39.2-08.1, 57-40.2-03.1, 57-40.2-03.2, and 57-40.3-03.1 of the North Dakota Century Code, relating to the elimination of personal property taxes on personal property not required to be assessed by the state board of equalization, and to provide for a separate and additional sales, use, and excise tax of one percent and to broaden the base of the sales and use taxes; to exempt certain food products from sales and use taxes; and to repeal sections 18-03-09 and 37-01-27, chapter 57-03, section 57-15-23, and subsection 14 of section 57-39.2-04 of the North Dakota Century Code, relating to the per capita school tax; exemption from the sales tax on sales made from vending machines; and the assessment and valuation of grain; declaring legislative intent; and providing an appropriation.

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

**Section 1.)** Subsection 25 of section 57-02-08 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

25. All personal property not required by section 179 of the Constitution of North Dakota to be assessed by the state board of equalization shall become exempt from assessment and taxation in the year 1970 and such property shall not be assessed or taxed for that year or for any year thereafter; provided that this provision shall not apply to any property that is either subjected to a tax which is imposed in lieu of ad valorem taxes or to any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law except as specifically provided in this Act. In



addition, this Act shall not exempt from taxation the personal property of any corporation organized pursuant to the North Dakota Nonprofit Corporation Act, which is not exempt from personal property taxation under any other statute nor shall it exempt from assessment and taxation fixtures, buildings, and improvements upon land which are now assessed as real estate. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

## **Section 2. Business and Corporation Privilege Tax.)**

1. Each individual, estate, or trust required to file an income tax return pursuant to chapter 57-38 and who derives income from the operation of a business, trade, or profession, other than as an employee, shall pay a tax for the privilege of doing business in this state of one percent of the net income derived from the operation of such business, trade, or profession, but the minimum tax assessable to any one taxpayer shall be twenty dollars, which tax shall be a separate tax that is levied in addition to the taxes provided for in chapter 57-38. For the purposes of this subsection, the term "net income" means the gross income derived from such business, trade, or profession less the expenses of carrying on such business, trade, or profession, as computed for federal income tax purposes pursuant to the provisions of the United States Internal Revenue Code of 1954, as amended. Provided, however, that the provisions of this subsection of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this subsection continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.
2. Each foreign and domestic corporation, the personal property of which is not assessed by the state board of

equalization, and which is not subject to a special tax in lieu of personal property taxes, required to file an income tax return pursuant to the provisions of chapter 57-38, in addition to any other taxes imposed by such chapter, shall pay a separate and additional tax, for the privilege of doing business in this state, of one percent of its taxable income computed as provided by section 57-38-01.3, except that federal income taxes paid or accrued shall not be deducted, and except as otherwise provided in this Act. Each cooperative corporation required to file an income tax return pursuant to the provisions of chapter 57-38, in addition to any other taxes imposed by such chapter, shall pay a separate and additional tax, for the privilege of doing business in this state, of one percent of its net income, except that this tax shall not apply to cooperative corporations taxed under the provisions of chapters 57-33, 57-33.1, and 57-34. For the purposes of this Act, net income of a cooperative corporation shall include distributed patronage dividends, amounts allocated but withheld, and amounts earned but not allocated by the cooperative corporation. Each corporation or cooperative corporation which does business in the state of North Dakota shall be required to report its full and true income resulting from transactions completed in the state of North Dakota or from income producing activity performed in North Dakota and shall pay the tax provided in this section on such actual North Dakota earned income. The minimum tax assessable to any one taxpayer subject to the provisions of this section shall be twenty dollars. Provided, however, that the provisions of this subsection of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this subsection continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

3. For the purposes of this section, the term "United States Internal Revenue Code of 1954, as amended" shall have the same meaning as provided in subdivision a of subsection 21 of section 57-38-01.
4. For the purposes of administering the provisions of this



section, the provisions of chapter 57-38, pertaining to the administration of the income tax law, not in conflict with the provisions of this section and including but not limited to the provisions relating to the filing of returns, the withholding of income taxes, the payment of income taxes and interest and penalties thereon, refunds, attachment of liens for failure to pay such taxes, and civil and criminal penalties for failure to comply with the provisions of that chapter, shall govern the administration of the taxes levied in this section.

5. The provisions of this section shall be effective for all taxable years beginning on or after January 1, 1970.

**Section 3. Definitions.)** As used in this Act, unless the context or the subject matter otherwise requires:

1. "Bank" means any banking association organized under the laws of the United States or of the state of North Dakota located in or having a place of business in this state.
2. "Trust company" means any trust company organized under the laws of this state, any other state, or of the United States, with a place of business in this state.
3. "Building and loan 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 or having a place of business in this state.
4. "Net income" for a bank or trust company means net income as computed pursuant to chapter 57-35 and "net income" for a building and loan association means net income as defined by section 57-35.1-01.

**Section 4. 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. 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 Act 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. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 5. Tax Return—Payment of Tax.)** On or before the fifteenth day of April in each year, each bank, trust company, and building and loan association shall file a return with the state tax commissioner, on forms to be provided by him and remit the tax imposed by this Act for the preceding calendar year. Taxes due and unpaid by the fifteenth day of April for the preceding calendar year shall be deemed delinquent, and a penalty of five percent shall attach and be charged on all such delinquent taxes, and thenceforth interest shall be charged at the rate of three-fourths of one percent per month of the original amount of delinquent taxes until such taxes are paid.

**Section 6. Disposition of Tax.)** Upon receipt by the tax commissioner of the tax payable under this Act, he shall deposit the same in the general fund of the state treasury.

**Section 7. Reassessment—Access to Records.)** If at any time the tax commissioner has reason to verify the correctness of the return made to him under this Act, he may investigate the books and records of the bank, trust company, or building and loan association in question. If any additional tax is due and unpaid, it shall be paid by such bank, trust company, or building and loan association within thirty days after it receives notice thereof from the tax commissioner. If such bank, trust company, or building and loan association is found to have overpaid its tax and to be entitled to a refund, such refund shall be made by the commissioner from the general fund of the state treasury. In enforcing this Act, the commissioner shall have access, upon demand, to all books and records of any bank, trust company, or building and loan association subject to the provisions of this Act, and shall also have access to all records, reports, and information in the office of the state examiner concerning any bank, trust company, or building and loan association. Information obtained from such sources shall



not be disclosed by the commissioner or any of his employees or agents, except as may be necessary in the enforcement of the law.

**Section 8. Lien.)** The amount of tax due, from the date of its assessment, shall constitute a prior lien upon the assets of the bank, trust company, or building and loan association, and no dividend shall be declared or distributed while any tax assessed under this Act remains delinquent and unpaid.

**Section 9. Penalties.)** If any bank, trust company, or building and loan association which has failed to file a return or which has filed an incorrect or insufficient return, and which has been notified by the tax commissioner of its delinquency, refuses or neglects within thirty days after the mailing of such notice to file a proper return, or if it files a fraudulent return, the commissioner shall determine the tax according to his best information and belief, and shall assess such tax at not more than double the amount so determined. The commissioner may allow further time for the filing of a return in such case.

Any bank, trust company, or building and loan association which, or any officer thereof who, with intent to violate the provisions of this Act, shall make, render, sign, or verify any false or fraudulent return, report, or statement required under this Act, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars, or by imprisonment for not to exceed one year, or by both such fine and imprisonment.

**Section 10. Tax Imposed By This Act To Be Separate and Additional.)** Notwithstanding sections 57-35-06 and 57-35.1-02 or any other provision of law, the tax imposed by section 4 of this Act shall be a separate and additional tax to the tax imposed by chapters 57-35 and 57-35.1 of this Code.

**Section 11.)** Section 57-39.2-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**57-39.2-03.1 Separate and Additional Tax on Retail Sales.)** There is hereby imposed effective January 1, 1970, a tax of one percent, which tax shall be separate and in addition to any other taxes provided for by law, upon the gross receipts of retailers from all sales at retail including the leasing or renting of tangible personal property as hereinafter provided in this section within the state of North Dakota of the following to consumers or users:

1. Tangible personal property, consisting of goods, wares, or merchandise.
2. The furnishing or service of steam, gas, electricity, water, or communication services.
3. Tickets or admissions to places of amusement or entertainment or athletic events, including amounts charged for participating in an amusement, entertainment, or athletic activity, and including the playing of any machine for amusement or entertainment in response to the use of a coin.
4. Magazines and other periodicals, including subscriptions thereto.
5. The leasing or renting of hotel, motel, or tourist court accommodations for periods of less than thirty consecutive calendar days or one month.
6. The leasing or renting of tangible personal property the transfer of title to which has not been subjected to a retail sales tax under this chapter or a use tax under the provisions of chapter 57-40.2.

In the case of any contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to January 1, 1970, the contractor receiving the award shall be liable only for the sales tax at the rate of tax in effect on the date of contract.

All definitions of terms, provisions for collection and delinquency, exemptions, assessments, penalties, refunds, notices and appeals, and all other provisions contained and provided for in this chapter, and any other provisions of law now in effect, or which may become effective relating to the retail sales tax, shall apply and are hereby made applicable to the tax imposed under the provisions of this section. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly that would cause it to become ineffective.

**Section 12.)** Section 57-39.2-03.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

**57-39.2-03.2. Sales Tax on Alcoholic Beverages, Tobacco Products, and Oleomargarine.)** Notwithstanding any other provision of law, the sales taxes imposed by this chapter shall apply to the gross receipts of retailers from all sales at retail beginning July 1, 1969, of alcoholic beverages as defined in section 5-01-01, whether mixed or unmixed at the time of sale or thereafter, and whether sold for consumption on the premises or through off sale outlets for consumption off the premises, and cigarettes, cigars, other tobacco products, and oleomargarine, provided that gross receipts from the sale thereof shall mean and include any other taxes imposed on such merchandise or its use or on the retail or other sale thereof. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 13.)** Section 57-39.2-08.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**57-39.2-08.1. Separate and Additional Tax on Retail Sales To Be Added to Purchase Price and be a Debt.)** Retailers shall add the tax imposed under section 57-39.2-03.1, or the average equivalent thereof, to the sale price or charge and when added such taxes shall constitute a part of such price or charge, shall be a debt from the consumer or user to the retailer until paid, and shall be recoverable at law in the same manner as other debts.

In adding such tax to the price or charge, and when such tax is applied and collected at the same time, in the same manner and in addition to but as a part of the sales taxes imposed by sections 57-39.2-02 and 57-39.2-03, retailers shall adopt the following bracket system for the application of the tax, which system shall supersede the bracket systems provided for in sections 57-39.2-07 and 57-39.2-08:



\$0.01 to \$0.15	no tax
.16 to .31	1c tax
.32 to .51	2c tax
.52 to .71	3c tax
.72 to 1.00	4c tax

Each additional \$1.00 ..... 4c additional tax or each additional 25c or fraction thereof over \$1.00 ..... 1c additional tax.

Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 14.)** Section 57-40.2-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**57-40.2-03.1. Separate and Additional Use Tax.)** An excise tax is imposed effective January 1, 1970, on the storage, use, or consumption in this state of tangible personal property purchased at retail for storage, use, or consumption in this state, at the rate of one percent of the purchase price of such property, which tax shall be in addition to any other taxes provided by law. An excise tax is imposed on the storage, use, or consumption in this state of tangible personal property not originally purchased for storage, use, or consumption in this state at the rate of one percent of the fair market value of such property at the time it was brought into this state. In the case of any contract awarded for the construction of highways, roads, streets, bridges, and buildings prior to January 1, 1970, the contractor receiving the award shall be liable only for the use tax at the rate of tax in effect on the date of the contract. All definitions of terms, provisions for collection and delinquency, exemptions, assessments, penalties, refunds, notices and appeals, and all other provisions contained and provided for in this chapter, and any other provisions of law now in effect or which may become effective relating to the use tax, shall apply and are

hereby made applicable to the tax imposed under the provisions of this section. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 15.)** Section 57-40.2-03.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

**57-40.2-03.2. Use Tax on Alcoholic Beverages, Tobacco Products, and Oleomargarine.)** Notwithstanding any other provision of law, the use taxes imposed by this chapter shall apply to the storage, use, or consumption in this state beginning July 1, 1969, of alcoholic beverages as defined in section 5-01-01, whether mixed or unmixed at the time of sale or thereafter, and whether sold for consumption on the premises or through off sale outlets for consumption off the premises, and cigarettes, cigars, other tobacco products, and oleomargarine, provided that gross receipts from the sale thereof shall mean and include any other taxes imposed on such merchandise or its use or on the retail or other sale thereof. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 16.)** Section 57-40.3-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

**57-40.3-03.1. Separate and Additional Tax Imposed.)** There is hereby imposed effective January 1, 1970, an excise tax at the rate of one percent on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and required to be registered under the laws of this state. The tax herein imposed shall be in addition to any other taxes provided for by law on the purchase price of any motor vehicle purchased or acquired either in or outside of the state of North Dakota for use on the streets and highways of this state and



required to be registered under the laws of this state. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provisions of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly that would cause it to become ineffective.

**Section 17. Sales Tax on Sales Through Vending Machines.)** Beginning July 1, 1969, gross receipts from the sale of tangible personal property costing sixteen cents or more sold through a coin-operated vending machine shall be subject to the sales tax imposed by chapter 57-39.2 and this Act, and gross receipts from the sale of tangible personal property costing fifteen cents or less sold through a coin-operated vending machine shall be specifically exempted from the provisions of that chapter.

**Section 18. Sales Tax Exemption for Certain Food Products.)** Beginning January 1, 1970, gross receipts from sales for human consumption of milk and milk products and of fresh and cured meat, including poultry and fish and other fresh and saltwater animal products when purchased by consumers for consumption off the premises where purchased, shall be exempt from the sales tax imposed by chapter 57-39.2 and this Act, except that fresh and cured meat, fish and other fresh and saltwater animal products shall not include such products if preserved by enclosure in an airtight container. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 19. Use Tax Exemption for Certain Food Products.)** Beginning January 1, 1970, gross receipts from sales for human consumption of milk and milk products and of fresh and cured meat, including poultry and fish and other fresh and saltwater animal products when purchased by consumers for consumption off the premises where purchased, shall be exempt from the use tax imposed by chapter 57-40.2 and this Act, except that fresh and cured meat, fish and other fresh and saltwater animal products shall not include such products

if preserved by enclosure in an airtight container. Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 20. 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 this Act. On or before March 15, 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 May 1, 1971, and each year thereafter, the state tax commissioner shall certify for payment to the state treasurer an amount for payment by the state treasurer to each county equal to fifty percent of the amount determined to be due such county based upon the personal property taxes levied in the year 1968 for the political subdivisions herein mentioned on the items of personal property exempt from the personal property tax under the provisions of section 57-02-08, the per capita school tax under the provisions of section 57-15-23, and the grain tax under the provisions of chapter 57-03, together with any adjustments to be made according to the manner hereinafter provided. The remaining fifty percent due each county shall be paid on or before June 1, 1971, and each year thereafter. Within sixty days after the receipt of the revenue as provided by this section, the county treasurer shall allocate and remit to the county, cities, park boards, school districts, airport authorities, townships, and all other units of government having the authority to levy taxes that amount of revenue which is received from

the state in the same ratio as he would have distributed the revenue from the personal property tax, adjusting such amount by any increase or decrease in real property taxes as levied by each taxing authority according to the formula hereinafter provided. Any amount that would be apportioned and credited to the retirement of a bonded indebtedness existing in 1970 for which a tax levy was made in 1970 and in any year thereafter, shall be credited to the general fund of the political subdivision. In the years after 1971, payments to the counties under this section shall be made based upon 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 four-dollar increase in real property taxation within a county, the state shall contribute an additional one dollar over that amount which was remitted in the base year. For each four-dollar decrease in real property taxation within a county, the state shall contribute one dollar less than that amount which was remitted in the base year.

On or before May 1, 1971, and each year thereafter, the state tax commissioner shall certify to the state treasurer the amount determined to be due to the state based upon the personal property taxes levied in the year 1968 for the North Dakota state medical center. In the years after 1971 the amount so certified shall be computed in accordance with the formula provided in this section for computing the amounts to be certified and paid to the counties. The state treasurer upon receiving the certification from the tax commissioner shall transfer from the general fund to the credit of the North Dakota state medical center the amount so certified.

Provided, however, that the provisions of this section of this Act shall not become effective if for any reason any other provision of this Act does not become effective, nor shall the provisions of this section continue in effect if this Act does become effective and any part of it is invalidated or disapproved in any way, other than by action of the legislative assembly, that would cause it to become ineffective.

**Section 21. Computation of Grants-In-Aid to County Equalization Funds.)** The superintendent of public instruction in determining the amount of a grant-in-aid from the state to the county equalization fund of each county shall reduce the amount of such payment by the amount that is equal to that part of



the distribution made pursuant to section 20 of this Act with respect to the county equalization fund levy, which amount shall be certified to the superintendent of public instruction by the state tax commissioner.

**Section 22. Declaration of Legislative Intent.)** It is the intent of the legislative assembly to remove from taxation all personal property, except as specifically provided in this Act, and to replace such taxes with a separate one percent sales tax and a broadened base on sales and use taxes. It is the further intent of the legislative assembly to apply a business privilege tax on all professional and business income earned, other than as an employee, in order to prevent an unreasonable shifting of the tax burden to salaried persons. In addition, it is the intent of the legislative assembly to impose business privilege taxes upon corporations or cooperative corporations, banks, trust companies, and building and loan associations, but to specifically exclude from the provisions of this Act, both as to the exemption of personal property taxation and as to the replacement income taxes, those nonprofit corporations which do not pay income taxes either because they are exempted from the provisions of the income tax by law or because of the peculiar nature of their status in relation to other corporations, in order to prevent injustice by granting relief to any class without providing for the sharing of the replacement tax burden.

**Section 23. Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, such amount as shall be necessary to carry out the provisions of this Act, including such additional data processing costs that may be incurred by the office of central data processing in excess of the data processing appropriation for the office of the state tax commissioner.

**Section 24. Repeal.)** Sections 18-03-09, 37-01-27, 57-15-23, and chapter 57-03 of the North Dakota Century Code and subsection 14 of section 57-39.2-04 of the 1967 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 29, 1969.

## CHAPTER 529

H. B. No. 184  
(Thompson, Anderson)

ACCEPTANCE OF MOTOR VEHICLE TRADE-INS  
FOR SALES AND EXCISE TAX PURPOSES

AN ACT

To amend and reenact subsection 6 of section 57-39.2-01, subsection 9 of section 57-40.3-01, and section 57-40.3-05 of the North Dakota Century Code, relating to the acceptance of trade-ins for sales tax and motor vehicle excise tax purposes.

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

**Section 1. Amendment.)** Subsection 6 of section 57-39.2-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Gross receipts" means the total amount of sales of retailers, valued in money, whether received in money or otherwise, provided, however, that discounts for any purposes allowed and taken on sales shall not be included, nor shall the sale price of property returned by customers when the full sale price thereof is refunded either in cash or by credit. Provided further, however, that when tangible personal property is taken in trade or in a series of trades as a credit or part payment of a retail sale taxable under this chapter, if the tangible personal property traded in will be subject to the sales tax imposed by this chapter when sold or will be subject to the motor vehicle excise tax imposed by chapter 57-40.3, the credit or trade-in value allowed by the retailer shall not be regarded as gross receipts. Provided further, however, that on all sales of retailers, valued in money, when such sales are made under conditional sales contract, or under other forms of sale wherein the payment of the principal sum thereunder be extended over a period longer than sixty days from the date of sale thereof that only such portion of the sale amount thereof shall be accounted for, for the purpose of imposition of tax imposed by this chapter, as has actually been received in cash by the retailer during each quar-



terly period as defined herein. "Gross receipts" shall also mean, with respect to the leasing or renting of tangible personal property, the amount of consideration, valued in money, whether received in money or otherwise, received from the leasing or renting of only such tangible personal property the transfer of title to which has not been subjected to a retail sales tax in this state. "Gross receipts" shall also mean, with respect to subscriptions to magazines and other periodicals, the amount of consideration, valued in money, whether received in money or otherwise, received from the sale of such subscriptions regardless of whether or not such magazines or periodicals are to be delivered in the future and regardless of whether or not they are in existence at the time of the sale of any subscription.

**Section 2. Amendment.)** Subsection 9 of section 57-40.3-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- \*9. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle or other tangible personal property that will be subject to a sales or use tax imposed by chapter 57-39.2 or chapter 57-40.2 when sold or used is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller on a motor vehicle accepted as a trade-in shall constitute the purchase price of the motor vehicle accepted as a trade-in. "Purchase price" in those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration, shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. "Purchase price" in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state, shall mean the manufactured cost of such motor vehicle and manufactured cost shall mean the amount

\*Note: Subsection 9 of section 57-40.3-01 was also amended by section 1 of chapter 530, 1969 S. L.

expended for materials, labor and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife or parent and child and shall not include the transfer of a motor vehicle between a lessee and lessor pursuant to the exercise of a right to purchase under a lease agreement, provided that the lessee has been in continuous possession of such vehicle for a period of one year or longer and further, provided, that the lessor has paid either the tax imposed under this chapter at the time of titling or licensing the vehicle in this state or the excise tax imposed by chapter 57-40.2 of the North Dakota Century Code.

**Section 3. Amendment.)** Section 57-40.3-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-40.3-05. Purchaser to Furnish "Motor Vehicle Purchaser's Certificate" to Motor Vehicle Registrar.)** Any person purchasing a motor vehicle and any person acquiring a motor vehicle by way of gift from a husband or wife or from a parent or child shall complete a "Motor Vehicle Purchaser's Certificate" in such form and manner as may be prescribed by the motor vehicle registrar, showing a complete description of the motor vehicle, the seller's name and address, the buyer's name and address, the full purchase price of the vehicle, trade-in allowance and description of the trade-in, if any, whether the vehicle was the subject of a gift, and any other information that the motor vehicle registrar may require.

Approved March 8, 1969.



## CHAPTER 530

H.B. No. 489

(Backes)

MOTOR VEHICLE EXCISE TAXES AND  
TREATMENT OF TRADE-INS

## AN ACT

To amend and reenact subsections 8 and 9 of section 57-40.3-01; amend section 57-40.3-04 by creating and enacting thereto a new subsection and amend and reenact sections 57-40.3-05, 57-40.3-06 and 57-40.3-07 of the North Dakota Century Code, relating to motor vehicle excise tax.

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

**Section 1. Amendment.)** Subsections 8 and 9 of section 57-40.3-01 of the 1967 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

8. "Sale", "sells", "selling", "purchase", "purchased" or "acquired" shall include any transfer of title or ownership of a motor vehicle by way of gift, exchange or barter, or by any other manner or by any other means whatsoever for or without consideration except that these terms shall not include acquisition by inheritance from, or by bequest of, a decedent who owned it, nor shall these terms include the transfer of a motor vehicle which was previously titled or licensed in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants, nor shall these terms include the transfer of a motor vehicle by way of gift between a husband and wife, parent and child or brothers and sisters.

- \*9. "Purchase price" means the total amount paid for the motor vehicle whether received in money or otherwise, provided, however, that when a motor vehicle is taken in trade as a credit or as part payment on a motor vehicle taxable under this chapter, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-



in allowance allowed by the seller shall constitute the purchase price of the motor vehicle accepted as a trade-in. "Purchase price" in those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration, shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. "Purchase price" in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state, shall mean the manufactured cost of such motor vehicle and manufactured cost shall mean the amount expended for materials, labor and other properly allocable costs of manufacture except that, in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife, parent and child or brothers and sisters and shall not include the transfer of a motor vehicle between a lessee and lessor pursuant to the exercise of a right to purchase under a lease agreement, provided that the lessee had been in continuous possession of such vehicle for a period of one year or longer and further, provided, that the lessor has paid either the tax imposed under this chapter at the time of titling or licensing the vehicle in this state or the excise tax imposed by chapter 57-40.2 of the North Dakota Century Code.

**\*Note:** Subsection 9 of section 57-40.3-01 was also amended by section 2 of chapter 529, 1969 S.L.

**Section 2. Amendment.)** Section 57-40.3-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended by creating and enacting thereto a new subsection to read as follows:

Any motor vehicle transferred without consideration to or from a person within thirty days prior to his entering into the armed services of the United States or within thirty days after discharge therefrom or while serving in the armed services of the United States, provided the person certifies to the motor vehicle registrar that the transfer is made only by reason of entering into, serving

in or being discharged from the armed services of the United States.

**Section 3. Amendment.)** Section 57-40.3-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**\*57-40.3-05. Purchaser to Furnish "Motor Vehicle Purchaser's Certificate" to Motor Vehicle Registrar.)** Any person purchasing a motor vehicle and any person acquiring a motor vehicle by way of gift from a husband or wife, parent or child or from a brother or sister shall complete a "Motor Vehicle Purchaser's Certificate" in such form and manner as may be prescribed by the motor vehicle registrar, showing a complete description of the motor vehicle, the seller's name and address, the buyer's name and address, the full purchase price of the vehicle, trade-in allowance, if any, whether the vehicle was the subject of a gift, and any other information that the motor vehicle registrar may require.

**\*Note:** Section 57-40.3-05 was also amended by section 3 of chapter 529, 1969 S.L.

**Section 4. Amendment.)** Section 57-40.3-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-40.3-06. Presentation of "Motor Vehicle Purchaser's Certificate" to Motor Vehicle Registrar.)** No title or license registration shall be issued by the motor vehicle registrar for a motor vehicle purchased or acquired by way of gift from a husband or wife, parent or child or from a brother or sister unless and until the applicant therefor shall attach a properly executed "Motor Vehicle Purchaser's Certificate" to the application for title or license registration. If a license application is made for a motor vehicle that has been previously licensed in this state and the applicant for license is the same person in whose name the license registration had previously been issued the "Motor Vehicle Purchaser's Certificate" need not be submitted to the motor vehicle registrar.

**Section 5. Amendment.)** Section 57-40.3-07 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:



**57-40.3-07. Title or License Registration Not To Be Issued Unless Tax Paid.)** No title or license registration shall be issued by the motor vehicle registrar for the ownership or operation of any motor vehicle to any applicant for title or license registration, other than for those vehicles which have been previously licensed and the applicant for license registration is the same person in whose name the license registration had previously been issued or other than for those vehicles transferred by way of gift between a husband and wife, parent and child or brothers and sisters, unless the tax imposed by this chapter shall be paid by the applicant to the motor vehicle registrar.

Approved March 12, 1969.

---

## CHAPTER 531

H. B. No. 109  
(Hoghaug)

### MOTOR VEHICLE EXCISE TAX REFUNDS

#### AN ACT

To provide for motor vehicle excise tax refunds, for a procedure for refunding, and making an appropriation.

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

**Section 1. Motor Vehicle Excise Tax Refunds—Three-Year Limitation.)** If it shall appear that any motor vehicle excise tax paid on or after July 1, 1967, was paid in error, or for any other reason the tax was not due under the provisions of chapter 57-40.3 of the North Dakota Century Code, the tax shall be refunded to the person who paid the same upon an application made and duly allowed in accordance with this Act, provided that the application is made within three years from the date of the payment of the tax.

**Section 2. Procedure for Refunding.)** Any person entitled to a refund of motor vehicle excise tax, may make application for such refund to the tax commissioner in the manner prescribed by the commissioner. Upon the presentation of proof

satisfactory to the commissioner, he shall authorize the refund to be made from moneys appropriated for that purpose. No refund shall be authorized by the commissioner until he is fully satisfied through the production of necessary purchase agreements, tax receipts, and other documents and information that the refund is warranted. Payment of the refund shall be made by warrant prepared by the department of accounts and purchases, after approval of the voucher by the state auditing board.

**Section 3. Appropriation.)** There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, as a standing and continuing appropriation, such sums as may be necessary to provide for motor vehicle excise tax refunds under this Act; and in addition thereto, there is hereby appropriated out of any moneys in the motor vehicle registration fund, not otherwise appropriated, as a standing and continuing appropriation, such sums as may be necessary to provide for motor vehicle excise tax refunds under this Act, such appropriations to be made from both such funds in equal amounts. Refunds shall be made from the moneys appropriated out of the general fund of the state treasury, and from the moneys appropriated out of the motor vehicle registration fund in the same proportion as the tax was allocated at the time it was collected.

Approved March 25, 1969.

## CHAPTER 532

S. B. No. 176  
(Meschke)

## EXTENSION OF INCOME TAX FILING TIME

## AN ACT

To amend and reenact section 57-46-01.1 of the North Dakota Century Code, relating to the extension of time for filing income tax returns and payment of income tax by members of the armed forces and merchant marine serving outside of the boundaries of the United States, providing a termination date and declaring an emergency.

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

**Section 1. Amendment.)** Section 57-46-01.1 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-46-01.1. Extension of Time for Filing Income Tax Returns and Payment of Income Tax.)** A taxpayer actively serving in the armed forces or merchant marine, outside the boundaries of the United States, may defer the filing of an income tax return and the payment of income tax until:

1. The fifteenth day of the third month after his return to the United States; or
2. The fifteenth day of the third month after his discharge from the military service or the United States merchant marine, if he remains, after discharge, outside the boundaries of the United States; or
3. The fifteenth day of the third month after an administrator or executor has been appointed for the estate of the taxpayer; or
4. December 31, 1972, whichever of said dates shall first occur.

**Section 2. Emergency.)** This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 29, 1969.



H. B. No. 309  
(Halcrow)

**MOTOR VEHICLE AND SPECIAL  
FUEL TAX REFUNDS**

**AN ACT**

To create and enact a new section to chapter 57-54 of the North Dakota Century Code; to amend and reenact sections 57-50-03 and 57-54.1-15 of the North Dakota Century Code and to amend and reenact sections 17, 34 and 48 of chapter 376 of the 1967 Session Laws of the state of North Dakota, relating to motor vehicle fuel and special fuel tax refunds, refunds for erroneously or illegally collected taxes, setting a limitation on the minimum dollar amount to be refunded, limiting the period of time refund checks must be retained and eliminating the statutory requirement requiring receipts to be issued upon payment of motor vehicle fuel taxes.

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

**Section 1.)** A new section to chapter 57-54 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Erroneously or Illegally Collected Taxes.)** In the event that any taxes, penalties or interest imposed by chapter 57-54 have been erroneously or illegally collected from any person, the state tax commissioner may permit such person to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment, or shall present a voucher to the department of accounts and purchases for payment of the amount erroneously or illegally collected and a warrant-check shall be prepared by that department drawn on the state treasurer payable to such person. Such refund shall be paid to said person from undistributed funds received from the tax imposed by chapter 57-54 and any such credit or refund shall not be approved or paid unless it is in an amount which is in excess of ten dollars.

**Section 2. Amendment.)** Section 57-50-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-50-03. Claim for Refund—Limitation on Filing.)** Such claim for refund must be filed for all purchases during a calendar year of such motor vehicle fuel on or before March thirty-first of the year next following, or the claim for refund shall be

barred. No claim for refund shall be made or approved unless the amount of the claim is in excess of ten dollars.

**Section 3. Amendment.)** Section 57-54.1-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-54.1-15. Administration, Records, Refunds, Penalties, and Disposition of Funds.)** Importer for use tax shall be reported, paid, collected, refunded, and administered and importers for use shall be subject to the same penal provisions, and importer for use tax collection shall be distributed all as provided in the fuels tax chapter, sections 57-52-09 to 57-52-20, inclusive, and motor vehicle fuel tax and refund motor fuel tax chapters, sections 57-50-03, 57-50-04, and 57-54-11 to 57-54-23.

**Section 4. Amendment.)** Section 17 of chapter 376 of the 1967 Session Laws of the state of North Dakota is hereby amended and reenacted to read as follows:

**57-50-04. Tax Commissioner to Audit and Approve Claim—Investigation of Doubtful Claims—Payment of Claims.)** The state tax commissioner, upon the presentation of such sworn claim, shall audit said claim for refund and prepare, in duplicate, an abstract showing the claim number, the name and address and the amount due each claimant, and shall approve and submit such claims for payment within thirty days of the receipt thereof in the state tax commissioner's office unless the tax commissioner shall be in doubt as to the validity of any claim, in which case the tax commissioner may withhold the approval thereof for a reasonable time for purposes of investigation. The state tax commissioner may authorize any employee or agent of his office to investigate doubtful claims and make a report of his findings to the tax commissioner who shall thereupon promptly approve or reject such claim as the facts may warrant. All claims approved by the tax commissioner shall be paid by warrant-checks prepared by the department of accounts and purchases. The state tax commissioner shall not be required to retain the canceled checks by which any refund may have been paid for a period of more than six years from the first day of July of the fiscal year in which the refund check is issued.

**Section 5. Amendment.)** Section 34 of chapter 376 of the 1967 Session Laws of the state of North Dakota is hereby amended and reenacted to read as follows:

**57-52-15. Erroneously or Illegally Collected Taxes.)** In the event that any taxes, penalties, or interest imposed by this chapter have been erroneously or illegally collected from a special fuel dealer, the state tax commissioner may permit such special fuel dealer to take credit against a subsequent tax return for the amount of the erroneous or illegal overpayment, or shall present a voucher to the department of accounts and purchases for payment of the amount erroneously or illegally collected and a warrant-check shall be prepared by that department drawn on the state treasurer payable to such special fuel dealer. Such refund shall be paid to the special fuel dealer from undistributed funds received from the tax imposed by this chapter and any such refund shall not be approved or paid unless it is in an amount which is in excess of ten dollars. The state tax commissioner shall not be required to retain the canceled checks by which any refund may have been paid for a period of more than six years from the first day of July of the fiscal year in which the refund check is issued.

**Section 6. Amendment.)** Section 48 of chapter 376 of the 1967 Session Laws of the state of North Dakota is hereby amended and reenacted to read as follows:

**57-54-13. Payment of Tax.)** The tax collected upon motor vehicle fuel in any calendar month shall be remitted by the dealer when the statement required in section 57-54-07 is rendered only on that fuel sold or used during such calendar month. The state tax commission shall forthwith pay over all of the money thus received to the state treasurer.

Approved March 8, 1969.

H. B. No. 391  
(Halcrow)

**BONDING OF SPECIAL FUEL AND  
PETROLEUM GAS DEALERS**

**AN ACT**

To amend and reenact sections 25 and 39 of chapter 376 of the 1967 Session Laws of the state of North Dakota, relating to bonding of special fuel dealers and liquefied petroleum gas dealers.

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

**Section 1. Amendment.)** Section 25 of chapter 376 of the 1967 Session Laws of the state of North Dakota is hereby amended and reenacted to read as follows:

**57-52-06. Special Fuel Dealer's Bond.)** Except as herein-after provided no special fuel dealer's license shall be issued to any person or continued in force unless such person has furnished a surety bond in such form and amount as the state tax commissioner shall require, but not less than the amount of five hundred dollars, to secure his compliance with this chapter and the payment of all taxes, interest, and penalties due or to become due hereunder. The state tax commissioner may, at his discretion, waive the filing of a bond if, upon investigation, he finds such bond may be waived without impairing or jeopardizing the revenue collections of this state.

**Section 2. Amendment.)** Section 39 of chapter 376 of the 1967 Session Laws of the state of North Dakota is hereby amended and reenacted to read as follows:

**57-53-10. Liquefied Petroleum Gas Dealers—License—Fee—Permits—Bond.)** It shall be unlawful for any person to act as a wholesale dealer in special fuel known as liquefied petroleum gas in this state unless such person is a holder of an uncanceled special liquefied petroleum gas dealer's license issued to him by the state tax commissioner, in addition to complying with all other provisions of this chapter. Application for such license shall be made to the state tax commissioner and a sep-



arate license shall be required for each separate place of business or location where such liquefied petroleum gas is regularly sold, delivered or placed into tanks of bulk supply vehicles for delivery into supply tanks of retail liquefied petroleum gas dealers or users. The cost of this license shall be ten dollars, which amount shall accompany each application, upon a form prepared and furnished by the state tax commissioner, containing such information as the state tax commissioner in his discretion shall deem necessary, together with a surety bond in such form and amount as the state tax commissioner shall require, but not less than the amount of five hundred dollars, except that the state tax commissioner may, at his discretion, waive the filing of a bond if, upon investigation, he finds such bond may be waived without impairing or jeopardizing the revenue collections of this state.

Whenever any person deals only in the retail selling of liquefied petroleum gas, the provisions of sections 57-53-04 and 57-53-05 shall not apply, but in lieu thereof each liquefied petroleum gas retail dealer shall be required to make application to the state tax commissioner for a liquefied petroleum gas retail dealer's permit. The cost of such permit issued by the state tax commissioner shall be one dollar and shall expire on June thirtieth of every odd-numbered year. Each liquefied petroleum gas retail dealer shall be required to make collections of the special fuels excise tax levied under the provisions of section 57-53-02, and shall transmit all taxes collected by him to the state tax commissioner quarterly. The state tax commissioner shall furnish report forms requiring such information as he deems necessary for the efficient administration of this section, such report to accompany the transmittal of all taxes collected by liquefied petroleum gas retail dealers.

Approved March 8, 1969.



H. B. No. 500  
(Hensrud, White, Goodman, Boustead)

REGISTRATION OF SOIL AND WATER  
CONSERVATION VEHICLES AND ON FUELS

AN ACT

To provide for registration of soil and water conservation vehicles, and levying additional highway users' taxes and related revenue to be used by the state, the counties, and the cities to alleviate severe transportation problems in urban and rural areas, and to assure that the state of North Dakota does not lose by default its share of federal highways users' revenue apportioned to it under existing and future Acts of Congress, by amending and reenacting sections 57-52-04, 57-54-08, and 57-54-10 of the North Dakota Century Code, relating to special fuels tax and motor vehicle fuels tax.

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

**Section 1. Registration of Soil and Water Conservation Vehicles.)** Trucks or combinations of trucks and trailers owned and operated by a bona fide resident of this state, but no more than one truck-tractor and lowboy trailer unit, of a gross weight of 24,001 pounds or more and used exclusively in soil and water conservation work or exclusively for township road construction work that results in direct benefits to agriculture, shall be furnished license plates upon the payment of one-half the annual fees for such corresponding weight as provided in subdivision b of subsection 2 of section 39-04-19.

This section shall not be applicable to any trucks and trailers used in road construction work, the contract for which is in excess of three thousand dollars.

**Section 2. Amendment.)** Section 57-52-04 of the 1967 Supplement to the North Dakota Century Code as amended by Chapter 376 of the 1967 Session Laws is hereby amended and reenacted to read as follows:

**57-52-04. Tax Imposed—Exemptions.)** There is hereby levied and imposed an excise tax of seven cents per gallon on the sale or delivery of special fuel to any special fuel user, except that special fuel to be used for heating, agricultural, industrial or railroad purposes shall be exempt from the tax im-

posed by this chapter. Said tax shall attach at the time of sale, delivery, or transfer of title of such special fuel to a special fuel user. Such tax shall be collected from the special fuel user by the special fuel dealer and paid over to the state tax commissioner as hereinafter provided. The tax imposed herein shall be refundable when used for nonhighway purposes, and the provisions and procedures of chapter 57-50 relating to the refund of motor fuel taxes shall apply to the tax imposed by this chapter.

**Section 3. Amendment.)** Section 57-54-08 of the 1967 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 seven cents per gallon on all motor vehicle fuel sold or used in this state. 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 4. Amendment.)** Section 57-54-10 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-54-10. Tax Chargeable to Consumer.)** Every dealer who is required to collect the motor vehicle fuel tax imposed by this chapter shall charge and collect the tax on all motor vehicle fuel sold by him, except as provided in section 57-54-09, as a part of the selling price thereof.

Approved March 29, 1969.

## CHAPTER 536

S. B. No. 243  
(Meschke, Decker)

INSPECTION OF TRAILER PARKS FOR  
ASSESSMENT PURPOSES

AN ACT

To amend and reenact section 57-55-08 of the 1967 Supplement to the North Dakota Century Code, relating to the duty of local law enforcement agency.

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

**Section 1. Amendment.)** Section 57-55-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-55-08. Duty of Trailer Park Operators—Duty of Local Law Enforcement Agency.)** It shall be the duty of the owner, operator, or manager of each trailer park, or trailer lot, or any person permitting a trailer to be parked on his property to inform each trailer owner applying for admission to such park, lot or property of the requirements of this chapter and the penalties for failure to comply. Such information shall also be posted in a conspicuous place on the premises of such lot or property. The county supervisor of assessments, if one has been appointed, otherwise the sheriff, shall make inspections at least quarterly of each trailer park, trailer lot, or place where trailers are known to be located, for the purpose of determining if 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 and inform him that if he fails to comply within ten days after issuance of such warning, civil action will be taken to collect the delinquent tax. The county supervisor of assessments, if one has been appointed, otherwise the sheriff, shall then notify the county auditor of such person's name and alleged violation. If the alleged violator does not present proof of his compliance to the county auditor within ten days after issuance of the warning the county auditor shall take the necessary action provided by law to collect the delinquent tax.

Approved March 17, 1969.



## CHAPTER 537

S. B. No. 96  
(Becker, Torgerson)

**MULTISTATE TAX COMPACT**

## AN ACT

To provide for the enactment of the Multistate Tax Compact to provide solutions and additional facilities for dealing with the tax problems precipitated by multistate business, and making an appropriation.

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

**Section 1. Multistate Tax Compact.)** The multistate tax compact is hereby entered into law and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

**MULTISTATE TAX COMPACT****ARTICLE I****Purposes**

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.

2. Promote uniformity or compatibility in significant components of tax systems.

3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

4. Avoid duplicative taxation.

**ARTICLE II****Definitions**

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States.

2. "Subdivision" means any governmental unit or special district of a state.

3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit, or agency or person acting as a business entity in more than one state.

4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from



another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of articles III, IV, and V of this compact shall apply only to the taxes specifically designated therein and the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.

### ARTICLE III

#### Elements of Income Tax Laws

##### Taxpayer Option, State and Local Taxes

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with article IV. This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

##### Taxpayer Option, Short Form

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities

within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of one hundred thousand dollars may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The multistate tax commission, not more than once in five years, may adjust the one hundred thousand dollar figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commission, shall replace the one hundred thousand dollar figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

#### Coverage

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

### ARTICLE IV

#### Division of Income

1. As used in this article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.



3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs 5 through 8 of this article.

5. (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state: (1) if and to the extent that the property is utilized in this state, or (2) in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

6. (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if (1) the

property had a situs in this state at the time of the sale, or (2) the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

7. Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state.

8. (a) Patent and copyright royalties are allocable to this state: (1) if and to the extent that the patent or copyright is utilized by the payer in this state, or (2) if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

9. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

10. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state dur-



ing the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

11. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

12. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

13. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

14. Compensation is paid in this state if:

(a) the individual's service is performed entirely within the state;

(b) the individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

15. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

16. Sales of tangible personal property are in this state if:

(a) the property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

17. Sales, other than sales of tangible personal property, are in this state if:

(a) the income-producing activity is performed in this state; or

(b) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

18. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) separate accounting;

(b) the exclusion of any one or more of the factors;

(c) the inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) the employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.



## ARTICLE V

### Elements of Sales and Use Tax Laws

#### Tax Credit

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

#### Exemption Certificates, Vendors May Rely

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

## ARTICLE VI

### The Commission

#### Organization and Management

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other coun-

sel shall receive all notices of meetings required under paragraph 1 (e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel, or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States,

or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(1) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount, and conditions, if any, of the donation, gift, grant, or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

#### Committees

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chairman, treasurer and four other members elected annually by the commission. The executive committee subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.



(c) The commission may establish such additional committees as its bylaws may provide.

#### Powers

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

#### Finance

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock taxes, gross receipts taxes, and sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated

expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1 (i) of this article: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1 (i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its by-laws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

## ARTICLE VII

### Uniform Regulations and Forms

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provi-

sions of law relating to an income tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. The commission may also act with respect to the provisions of article IV of this compact.

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

## ARTICLE VIII

### Interstate Audits

1. This article shall be in force only in those party states that specifically provide therefor by statute.

2. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records, or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local



government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

3. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident; provided, that such state has adopted this article.

4. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated. The provisions of this paragraph apply only to courts in a state that has adopted this article.

5. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

6. Information obtained by any audit pursuant to this

article shall be confidential and available only for tax purposes to party states, their subdivisions, or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

7. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

8. In no event shall the commission make any charge against a taxpayer for an audit.

9. As used in this article, "tax", in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

## ARTICLE IX

### Arbitration

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state or subdivision thereof are substantially identical with the relevant provisions of article IV, the taxpayer, by written notice to the commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision



with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or

in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceeding.

## ARTICLE X

### Entry Into Force and Withdrawal

1. This compact shall enter into force when enacted into law by any seven states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

## ARTICLE XI

### Effect on Other Laws and Jurisdiction

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation, except that a party state shall be obligated to implement article III 2 of this compact.

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax: provided that the definition of "tax" in article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or sub-



ject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

## ARTICLE XII

### Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the Constitution of any state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the Constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

**Section 2. Optional Computation.)** Any taxpayer whose income is subject to the apportionment and allocation provisions of chapter 57-38 or chapter 57-38.1 of the North Dakota Century Code shall have the option to elect, under the terms and conditions specified in article III 2 of this Act, to report and pay any income tax due under the provisions of chapter 57-38 of the North Dakota Century Code on the basis of the following rates applied to the taxpayer's gross sales in North Dakota rather than on the basis provided in said chapter 57-38:

On the first \$20,000 of the gross sales in North Dakota, a tax of six-tenths of one percent;

On all gross sales in North Dakota above \$20,000 and not in excess of \$55,000, a tax of eight-tenths of one percent; and

On all gross sales in North Dakota above \$55,000 and

not in excess of \$100,000, a tax of one percent.

**Section 3. Membership of Multistate Tax Commission.)**

The governor, with the consent of the senate, shall appoint the member of the multistate tax commission to represent the state of North Dakota, from among the persons made eligible by article VI 1 (a) of the compact, or the head of the state tax department shall represent the state of North Dakota on the multistate tax commission.

**Section 4. Designation of an Alternate.)** The member representing the state of North Dakota on the multistate tax commission may be represented thereon by an alternate designated by him. Any such alternate shall be a principal deputy or assistant of the member of the commission in the agency which the member heads.

**Section 5. Legal Counsel.)** The chief counsel of the legal and research division of the state tax department or his designee, shall attend the meetings of the multistate tax commission as the legal counsel representing the state of North Dakota as provided for by article VI 1 (a) of section 1 of this Act.

**Section 6. Selection of Representatives to Meet with Commission Member.)** The governor, after consultation with representatives of local governments, shall appoint three persons who are representatives of subdivisions affected or likely to be affected by the multistate tax compact, or the governor shall appoint three persons who are representatives of subdivisions affected or likely to be affected by the multistate tax compact, from among persons nominated by the county commissioners' association, county auditors' association, and league of municipalities. The member of the commission representing the state of North Dakota, and any alternate designated by him, shall consult regularly with these appointees, in accordance with article VI 1 (b) of this Act.

**Section 7. Multistate Tax Compact Advisory Committee.)** There is hereby established a multistate tax compact advisory committee composed of the member of the multistate tax commission representing the state of North Dakota, any alternate designated by him, the chief counsel of the legal and research division of the state tax department or



his designee, and two members of the senate, appointed by the president of the senate and two members of the house, appointed by the speaker thereof. The chairman shall be the member of the commission representing the state of North Dakota on the multistate tax commission. The committee shall meet on the call of its chairman or at the request of a majority of its members, but in any event it shall meet not less than three times in each year. The committee may consider any and all matters relating to recommendations of the multistate tax commission and the activities of the members in representing the state of North Dakota thereon.

**Section 8. Interaudits.)** Article VIII of the multistate tax compact relating to interaudits shall be in force in and with respect to the state of North Dakota.

**Section 9. Appropriation.)** There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$6,800.00 or so much thereof as may be necessary, to the North Dakota state tax department to pay the necessary expenses for North Dakota's cooperation and participation in the multistate tax commission for the biennium beginning July 1, 1969, and ending June 30, 1971.

Approved March 8, 1969.

# TOWNSHIPS

---

## CHAPTER 538

H.B. No. 106

(Giffey, Opedahl, Goodman, Ganser)

### TOWNSHIP MEETINGS AND ELECTIONS

#### AN ACT

To amend and reenact sections 58-02-14, 58-02-21, 58-04-01, and 58-04-19 of the North Dakota Century Code, relating to the places in which township meetings and elections may be held.

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

**Section 1. Amendment.)** Section 58-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-02-14. Consolidating Townships—Majority of Supervisors and Clerks of Townships Affected Determine Amount Due.)** When a township or a fraction of a township has been attached to another township, the several boards of township supervisors and the clerks of the townships affected by the change shall meet prior to the annual township meeting at the usual meeting place of the township to which the annexation has been made or at a location mutually agreed upon in the township to which the annexation has been made or in an adjacent township, and upon notice of such meeting given by the clerk thereof, for the purpose of determining the amount due to the township to which the annexation has been made. All questions arising at such meeting shall be determined by a majority vote of the members of the boards of township supervisors and the clerks present at such meeting.

**Section 2. Amendment.)** Section 58-02-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-02-21. Petition for and Notice of Application for Division—Publication.)** A petition for the division of a township as provided in section 58-02-19, addressed to the board of county com-



missioners and signed by a majority of the legal voters residing within the proposed township may be presented to the board at any regular meeting thereof. Notice of the time and place of the hearing on such petition shall be given at least thirty days prior to such hearing by the publication of such notice at least three times in the newspaper in which the proceedings of the board of county commissioners are published, or if there is no such newspaper, the notice shall be posted in at least three public places in the proposed new township and in at least three public places in the remainder of the township affected by the division. One of such notices shall be posted at the place where the last township election was held for the township from which the separation is sought.

**Section 3. Amendment.)** Section 58-04-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-04-01. Annual Township Meeting—When Held—Change in Meeting Place—Notice.)** The electors of each township annually shall assemble and hold a township meeting on the third Tuesday in March at such place in the township or in an adjacent township as the board of township supervisors thereof shall designate. Notice of the time and place of holding the meeting shall be given by the township clerk by posting written or printed notices in the three most public places in the township at least ten days prior to the meeting. Before a change in the place of holding the annual township meeting is made, notice of the contemplated change may be given by any member of the board of township supervisors to the township clerk, who shall incorporate in his regularly printed or written notices, the special notice of the contemplated change of the place of holding such meeting; provided, that where an incorporated city is wholly or partially within the boundaries of the township or an adjacent township, all township meetings may be held in such place within such incorporated city, as the board of township supervisors thereof may designate.

**Section 4. Amendment.)** Section 58-04-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-04-19. Special Meeting When Officers Not Elected at Annual Meeting.)** If a township meeting is not held for the purpose of organizing and electing its officers at the time fixed by law

for holding the annual township meeting, a special township meeting for that purpose shall be called by the township clerk. Such meeting shall be held within the township or in an adjacent township. If notice of such meeting is not given by the clerk within ten days, any three electors of the township may call such meeting. Notices setting forth the time, place, and object of the meeting shall be posted in the three most public places in the township, at least five days prior to the meeting. The electors, when assembled by virtue of such notice, shall possess all the powers conferred upon electors at the regular annual township meeting.

Approved March 28, 1969.



S. B. No. 332  
(L. Larson, Pyle)

## MERGING OF TOWNSHIP OFFICES

### AN ACT

To amend and reenact sections 58-04-05, 58-05-02, 58-07-01, 58-07-02, subsections 7, 9, and 10 of section 58-07-03, and section 58-08-05 of the North Dakota Century Code, relating to the merging of the offices of township clerk and treasurer upon a vote of a majority of electors in the township.

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

**Section 1. Amendment.)** Section 58-04-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-04-05. Organization of Annual or Special Meetings.)** The electors present at one o'clock p.m. on the day of the annual or special meeting shall be called to order by the township clerk, or if he is not present, the voters may elect by acclamation one of their number to act as chairman for the purpose of calling the meeting to order and to act as clerk after the selection of a moderator. The voters shall elect by acclamation three of their number as judges, and such judges shall be sworn and shall act as the judges of the qualifications of township electors. The electors shall proceed to choose one of their number to preside as moderator of the meeting. The clerk of the township if present, or in his absence, the clerk of the meeting, shall keep full minutes of its proceedings in which he shall enter at length every order, direction, rule, and regulation made by the meeting. The moderator shall close the meeting at five o'clock p.m. The positions of moderator, clerk, and the three judges shall be separate and distinct positions and no such positions shall be held by the same person. The moderator, clerk, and the three judges each shall be entitled to a salary of eight dollars per day for each day actually expended in the performance of their duties. Such salary shall be paid out of township funds made available for such purpose. However, in those townships in which the offices of township clerk and treasurer have been merged, the person holding such office shall receive compensation as provided by law as township treasurer only, and shall



not receive additional compensation for his duties as clerk.

**Section 2. Amendment.)** Section 58-05-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-05-02. Officers of a Township—Terms of Office.)** The elected officers of a civil township shall be:

1. Three supervisors;
2. One township clerk;
3. One assessor;
4. One treasurer; and
5. Two constables.

One supervisor shall be elected at each annual township meeting and shall hold his office for a term of three years. The other elective officers shall be elected every two years and shall hold their respective offices for a term of two years. Each officer shall serve until his successor is elected and qualified. The same person may hold the offices of township clerk and treasurer if a majority of the electors present vote in favor of the merging of such offices at the annual township meeting. The person elected to fill the merged office shall perform all of the duties required of both the township clerk and treasurer except as otherwise specifically provided by law.

**Section 3. Amendment.)** Section 58-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-07-01. Compensation and Fees of Clerk.)** The township clerk shall receive as compensation for his services six dollars a day for each day necessarily devoted to the work of his office. He shall receive as reimbursement for expenses eight and one-half cents per mile for each mile actually and necessarily traveled in the performance of his duties. He shall be paid fees and not per diem for the following services:

1. For serving notices of election upon township officers, twenty-five cents each;

2. For filing any papers required to be filed in this office, ten cents each;
3. For posting notices required by law, twenty-five cents each;
4. For recording any order, instrument, or writing authorized by law, ten cents for each one hundred words; and
5. For copying any record or instrument on file in his office and certifying the same, ten cents for each one hundred words to be paid by the person applying for the same.

In those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the new office shall receive compensation as township treasurer only.

**Section 4. Amendment.)** Section 58-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-07-02. Clerk May Appoint Deputy—Deputy To Take Oath.)**

The township clerk may appoint a deputy for whose acts he shall be responsible. Before a deputy clerk enters upon the duties of his office, he shall take and subscribe the oath required by the North Dakota Constitution and shall file the same in the office of the clerk of the district court. In those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the new office shall appoint a deputy only after receiving the approval of the board of township supervisors.

**Section 5. Amendment.)** Subsections 7, 9, and 10 of section 58-07-03 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

7. Preserve and record the annual statement of the treasurer, except that in those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the new office shall file a copy of the annual treasurer's statement with the chairman of the board of township supervisors;
9. Make a record of all statements of the remittances of



any township funds from the county treasurer to the township treasurer as such statements are mailed to him by the county treasurer, except that in those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the new office shall make a record of all statements of the remittances of any township funds from the county treasurer to the township treasurer and shall file such statements with the chairman of the board of township supervisors;

10. Keep an account of the township funds in the same manner as is required of the township treasurer, except that in those townships in which the offices of township clerk and treasurer have been merged, the person elected to fill the office shall keep an account of the township funds and shall report the balance of such funds to the chairman of the board of township supervisors no less frequently than every sixty days;

**Section 6. Amendment.)** Section 58-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**58-08-05. Treasurer To Make Annual Statement—Contents—Where Filed.)** Within five days preceding the annual township meeting, each township treasurer shall prepare a written statement of the moneys received from the county treasurer and other officers and persons and of all moneys paid out by him as treasurer. He shall set forth particularly from whom and on what account he received the moneys, with the amount received from each officer or person and the date of receiving the same, and to whom and for what purpose he paid out any moneys, with the amount and date of each payment. He shall state the amount of moneys remaining in his hands as treasurer. He shall file the statement in the office of the township clerk, except that if the offices of township clerk and treasurer have been merged, such statement shall be filed with the chairman of the board of township supervisors. A duplicate of the statement at the same time shall be filed by the township treasurer with the county auditor of his county.

Approved March 8, 1969.

H. B. No. 316  
(L. Larson)

## TAX LEVY FOR TOWNSHIP PARK

### AN ACT

To authorize townships to provide for and maintain parks and to authorize the levy of a tax for the support thereof.

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

**Section 1. Townships—Authority to Acquire, Operate, and Regulate Parks.)** Any township may acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police any park either within or without the geographic limits of such township, and may use for such purposes any available property owned or controlled, or occupied for the purpose or purposes enumerated in this Act. Any such park shall be declared to be acquired, owned, leased, controlled, or occupied for a public purpose in accordance with public need.

**Section 2. Townships—Parks—Tax Levy for Park Purposes.)** In townships supporting parks, a levy in addition to all other levies permitted by law, not to exceed two mills of the net taxable valuation of property in such township, may be made for such purposes, but such levies shall not apply to property in any city or park district which levies for park district purposes.

**Section 3. Townships—Parks—Tax Levy May Be Certified by Board of Supervisors.)** The board of township supervisors may certify annually to the county auditor the amount of tax to be levied by such township for park purposes in the same manner as provided by law for other township levies. The proceeds of such taxes shall be deposited in a special fund or account into which other park revenues of the township are deposited and may be expended by the township only for park purposes.

Approved March 10, 1969.



# TRUSTS, USES, AND POWERS

---

## CHAPTER 541

S.B. No. 392  
(Meschke)

### REVISED UNIFORM PRINCIPAL AND INCOME ACT

#### AN ACT

To adopt the Revised Uniform Principal and Income Act.

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

**Section 1. Definitions.)** As used in this Act:

1. "Income beneficiary" means the person to whom income is presently payable or for whom it is accumulated for distribution as income;
2. "Inventory value" means the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, but in the case of a testamentary trust the trustee may use any value finally determined for the purposes of an estate or inheritance tax;
3. "Remainderman" means the person entitled to principal, including income which has been accumulated and added to principal;
4. "Trustee" means an original trustee and any successor or added trustee.

**Section 2. Duty of Trustee as to Receipts and Expenditures.)**

1. A trust shall be administered with due regard to the respective interests of income beneficiaries and remainder-



men. A trust is so administered with respect to the allocation of receipts and expenditures if a receipt is credited or an expenditure is charged to income or principal or partly to each

- a. In accordance with the terms of the trust instrument, notwithstanding contrary provisions of this Act:
  - b. In the absence of any contrary terms of the trust instrument, in accordance with the provisions of this Act; or
  - c. If neither of the preceding rules of administration is applicable, in accordance with what is reasonable and equitable in view of the interests of those entitled to income as well as of those entitled to principal, and in view of the manner in which men of ordinary prudence, discretion and judgment would act in the management of their own affairs.
2. If the trust instrument gives the trustee discretion in crediting a receipt or charging an expenditure to income or principal or partly to each, no inference of imprudence or partiality arises from the fact that the trustee has made an allocation contrary to a provision of this Act.

### **Section 3. Income—Principal—Charges.)**

1. Income is the return in money or property derived from the use of principal, including return received as
  - a. Rent of real or personal property, including sums received for cancellation or renewal of a lease;
  - b. Interest on money lent, including sums received as consideration for the privilege of prepayment of principal except as provided in section 7 on bond premium and bond discount;
  - c. Income earned during administration of a decedent's estate as provided in section 5;
  - d. Corporate distributions as provided in section 6;
  - e. Accrued increment on bonds or other obligations issued at discount as provided in section 7;

- f. Receipts from business and farming operations as provided in section 8;
  - g. Receipts from disposition of natural resources as provided in sections 9 and 10;
  - h. Receipts from other principal subject to depletion as provided in section 11;
  - i. Receipts from disposition of underproductive property as provided in section 12.
2. Principal is the property which has been set aside by the owner or the person legally empowered so that it is held in trust eventually to be delivered to a remainderman while the return or use of the principal is in the meantime taken or received by or held for accumulation for an income beneficiary.

Principal includes

- a. Consideration received by the trustee on the sale or other transfer of principal or on repayment of a loan or as a refund or replacement or change in the form of principal;
- b. Proceeds of property taken on eminent domain proceedings;
- c. Proceeds of insurance upon property forming part of the principal except proceeds of insurance upon a separate interest of an income beneficiary;
- d. Stock dividends, receipts on liquidations of a corporation, and other corporate distributions as provided in section 6;
- e. Receipts from the disposition of corporate securities as provided in section 7;
- f. Royalties and other receipts from disposition of natural resources as provided in sections 9 and 10;
- g. Receipts from other principal subject to depletion as provided in section 11;



- h. Any profit resulting from any change in the form of principal except as provided in section 12 on underproductive property;
  - i. Receipts from disposition of underproductive property as provided in section 12;
  - j. Any allowance for depreciation established under sections 8 and 13, subsection 1, subdivision "b".
3. After determining income and principal in accordance with the terms of the trust instrument or of this Act, the trustee shall charge to income or principal expenses and other charges as provided in section 13.

**Section 4. When Right to Income Arises—Apportionment of Income.)**

1. An income beneficiary is entitled to income from the date specified in the trust instrument, or, if none is specified, from the date an asset becomes subject to the trust. In the case of an asset becoming subject to a trust by reason of a will, it becomes subject to the trust as of the date of the death of the testator even though there is an intervening period of administration of the testator's estate.
2. In the administration of a decedent's estate or an asset becoming subject to a trust by reason of a will
  - a. Receipts due but not paid at the date of death of the testator are principal;
  - b. Receipts in the form of periodic payments, other than corporate distributions to stockholders, including rent, interest, or annuities, not due at the date of the death of the testator shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal, and the balance is income.
3. In all other cases, any receipt from an income producing asset is income even though the receipt was earned or accrued in whole or in part before the date when the asset became subject to the trust.

4. On termination of an income interest, the income beneficiary whose interest is terminated, or his estate, is entitled to
  - a. Income undistributed on the date of termination;
  - b. Income due but not paid to the trustee on the date of termination;
  - c. Income in the form of periodic payments, other than corporate distribution to stockholders, including rent, interest, or annuities, not due on the date of termination, accrued from day to day.
5. Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

**Section 5. Income Earned During Administration of a Decedent's Estate.)**

1. Unless the will otherwise provides and subject to subsection 2, all expenses incurred in connection with the settlement of a decedent's estate, including debts, funeral expenses, estate taxes, interest and penalties concerning taxes, family allowances, fees of attorneys and personal representatives, and court costs shall be charged against the principal of the estate.
2. Unless the will otherwise provides, income from the assets of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be determined in accordance with the rules applicable to a trustee under this Act and distributed as follows:
  - a. To specific legatees and devisees, the income from the property bequeathed or devised to them respectively, less taxes, ordinary repairs, and other expenses of management and operation of the property, and an appropriate portion of interest accrued since the death of the testator and of taxes imposed on income excluding taxes on capi-



tal gains, which accrue during the period of administration;

- b. To all other legatees and devisees, except legatees of pecuniary bequests not in trust, the balance of the income, less the balance of taxes, ordinary repairs, and other expenses of management and operation of all property from which the estate is entitled to income, interest accrued since the death of the testator, and taxes imposed on income, excluding taxes on capital gains, which accrue during the period of administration, in proportion to their respective interests in the undistributed assets of the estate computed at times of distribution on the basis of inventory value.

- (1) Income received by a trustee under subsection 2 shall be treated as income of the trust.

#### **Section 6. Corporate Distribution.)**

1. Corporate distributions of shares of the distributing corporation, including distributions in the form of a stock split or stock dividend, are principal. A right to subscribe to shares or other securities issued by the distributing corporation accruing to stockholders on account of their stock ownership and the proceeds of any sale of the right are principal.
2. Except to the extent that the corporation indicates that some part of a corporate distribution is a settlement of preferred or guaranteed dividends accrued since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a corporate distribution is principal if the distribution is pursuant to
  - a. A call of shares;
  - b. A merger, consolidation, reorganization, or other plan by which assets of the corporation are acquired by another corporation; or
  - c. A total or partial liquidation of the corporation, including any distribution which the corporation indicates is a distribution in total or partial liquida-



tion or any distribution of assets, other than cash, pursuant to a court decree or final administrative order by a government agency ordering distribution of the particular assets.

3. Distribution made from ordinary income by a regulated investment company or by a trust qualifying and electing to be taxed under federal law as a real estate investment trust are income. All other distributions made by the company or trust, including distributions from capital gains, depreciation, or depletion, whether in the form of cash or an option to take new stock or cash or an option to purchase additional shares, are principal.
4. Except as provided in subsections 1, 2 and 3, all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subsections 2 and 3, if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.
5. The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this Act concerning the source or character of dividends or distributions of corporate assets.

#### **Section 7. Bond Premium and Discount.)**

1. Bonds or other obligations for the payment of money are principal at their inventory value, except as provided in subsection 2 for discount bonds. No provision shall be made for amortization of bond premiums or for accumulation for discount. The proceeds of sale, redemption, or other disposition of the bonds or obligations are principal.
2. The increment in value of a bond or other obligation for the payment of money payable at a future time in accordance with a fixed schedule of appreciation in excess of the price at which it was issued is distributable

as income. The increment in value is distributable to the beneficiary who was the income beneficiary at the time of the increment from the first principal cash available or, if none is available, when realized by sale, redemption, or other disposition. Whenever unrealized increment is distributed as income but out of principal, the principal shall be reimbursed for the increment when realized.

### **Section 8. Business and Farming Operations.)**

1. If a trustee uses any part of the principal in the continuance of a business of which the settlor was a sole proprietor or a partner, the net profits of the business, computed in accordance with generally accepted accounting principles for a comparable business, are income. If a loss results in any fiscal or calendar year, the loss falls on principal and shall not be carried into any other fiscal or calendar year for purposes of calculating net income.
2. Generally accepted accounting principles shall be used to determine income from an agricultural or farming operation, including the raising of animals or the operation of a nursery.

### **Section 9. Disposition of Natural Resources.)**

1. If any part of the principal consists of a right to receive royalties, overriding or limited royalties, working interests, production payments, net profit interests, or other interests in minerals or other natural resources in, on or under land, the receipts from taking the natural resources from the land shall be allocated as follows:
  - a. If received as rent on a lease or extension payments on a lease, the receipts are income.
  - b. If received from a production payment, the receipts are income to the extent of any factor for interest or its equivalent provided in the governing instrument. There shall be allocated to principal the fraction of the balance of the receipts which the unrecovered cost of the production payments bears to the balance owed on the production payment, exclusive of any factor



for interest or its equivalent. The receipts not allocated to principal are income.

- c. If received as a royalty, overriding or limited royalty, or bonus, or from a working, net profit, or any other interest in minerals or other natural resources, receipts not provided for in the preceding paragraphs of this section shall be apportioned on a yearly basis in accordance with this paragraph whether or not any natural resource was being taken from the land at the time the trust was established. Twenty-seven and one-half percent of the gross receipts, but not to exceed fifty percent of the net receipts remaining after payment of all expenses, direct and indirect, computed without allowance for depletion, shall be added to principal as an allowance for depletion. The balance of the gross receipts, after payment therefrom of all expenses, direct and indirect, is income.
2. If a trustee, on the effective date of this Act, held an item of depletable property of a type specified in this section he shall allocate receipts from the property in the manner used before the effective date of this Act, but as to all depletable property acquired after the effective date of this Act by an existing or new trust, the method of allocation provided herein shall be used.
3. This section does not apply to timber, water, soil, sod, dirt, turf, or mosses.

**Section 10. Timber.)** If any part of the principal consists of land from which merchantable timber may be removed, the receipts from taking the timber from the land shall be allocated in accordance with section 2, subsection 1, subdivision c.

**Section 11. Other Property Subject to Depletion.)** Except as provided in sections 9 and 10, if the principal consists of property subject to depletion, including leaseholds, patents, copyrights, royalty rights, and rights to receive payments on a contract for deferred compensation, receipts from the property, not in excess of five percent per year of its inventory value, are income, and the balance is principal.

**Section 12. Underproductive Property.)**

1. Except as otherwise provided in this section, a portion of the net proceeds of sale of any part of principal which has not produced an average net income of at least one percent per year of its inventory value for more than a year, including as income the value of any beneficial use of the property by the income beneficiary, shall be treated as delayed income to which the income beneficiary is entitled as provided in this section. The net proceeds of sale are the gross proceeds received, including the value of any property received in substitution for the property disposed of, less the expenses, including capital gains tax, if any, incurred in disposition and less any carrying charge paid while the property was underproductive.
3. The sum allocated as delayed income is the difference between the net proceeds and the amount which, had it been invested at simple interest at four percent per year while the property was underproductive, would have produced the net proceeds. This sum, plus any carrying charges and expenses previously charged against income while the property was underproductive, less any income received by the income beneficiary from the property and less the value of any beneficial use of the property by the income beneficiary, is income, and the balance is principal.
3. An income beneficiary or his estate is entitled to delayed income under this section as if it accrued from day to day during the time he was a beneficiary.
4. If the principal subject to this section is disposed of by conversion into property which cannot be apportioned easily, including land or mortgages, for example, realty acquired by or in lieu of foreclosure, the income beneficiary is entitled to the net income from any property or obligation into which the original principal is converted while the substituted property or obligation is held. If within five years after the conversion the substituted property has not been further converted into easily apportionable property, no allocation as provided in this section shall be made.

### **Section 13. Charges Against Income and Principal.)**

1. The following charges shall be made against income:



- a. Ordinary expenses incurred in connection with the administration, management, or preservation of the trust property, including regularly recurring taxes assessed against any portion of the principal, water rates, premiums on insurance taken upon the interests of the income beneficiary, remainderman, or trustees, interest paid by the trustee, and ordinary repairs;
  - b. A reasonable allowance for depreciation on property subject to depreciation under generally accepted accounting principles, but no allowance shall be made for depreciation of that portion of any real property used by a beneficiary as a residence or for depreciation of any property held by the trustee on the effective date of this Act for which the trustee is not then making an allowance for depreciation;
  - c. One-half of court costs, attorney's fees, and other fees on periodic judicial accounting, unless the court directs otherwise;
  - d. Court costs, attorney's fees, and other fees on other accountings or judicial proceedings if the matter primarily concerns the income interest, unless the court directs otherwise;
  - e. One-half of the trustee's regular compensation, whether based on a percentage of principal or income, and all expenses reasonably incurred for current management of principal and application of income;
  - f. Any tax levied upon receipts defined as income under this Act or the trust instrument and payable by the trustee.
2. If charges against income are of unusual amount, the trustee may by means of reserves or other reasonable means charge them over a reasonable period of time and withhold from distribution sufficient sums to regularize distributions.
  3. The following charges shall be made against principal:



- a. Trustee's compensation not chargeable to income under subsection 1, subdivisions d and e, special compensation of trustees, expenses reasonably incurred in connection with principal, court costs and attorney's fees primarily concerning matters of principal, and trustee's compensation computed on principal as an acceptance, distribution, or termination fee;
  - b. Charges not provided for in subsection 1, including the cost of investing and reinvesting principal, the payments on principal of an indebtedness, including a mortgage amortized by periodic payments of principal, expenses for preparation of property for rental or sale, and unless the court directs otherwise, expenses incurred in maintaining or defending any action to construe the trust or protect it or the property or assure the title of any trust property;
  - c. Extraordinary repairs or expenses incurred in making a capital improvement to principal, including special assessments, but, a trustee may establish an allowance for depreciation out of income to the extent permitted by subsection 1, subdivision b, and by section 8;
  - d. Any tax levied upon profit, gain, or other receipts allocated to principal notwithstanding denomination of the tax as an income tax by the taxing authority;
  - e. If an estate or inheritance tax is levied in respect of a trust in which both an income beneficiary and a remainderman have an interest, any amount apportioned to the trust, including interest and penalties, even though the income beneficiary also has rights in the principal.
4. Regularly recurring charges payable from income shall be apportioned to the same extent and in the same manner that income is apportioned under section 4.

**Section 14. Application of Act.)** Except as specifically provided in the trust instrument or the will or in this Act, this

Act shall apply to any receipt or expense received or incurred after the effective date of this Act by any trust or decedent's estate whether established before or after the effective date of this Act and whether the asset involved was acquired by the trustee before or after the effective date of this Act.

**Section 15. Uniformity of Interpretation.)** This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**Section 16. Short Title.)** This Act may be cited as the Revised Uniform Principal and Income Act.

**Section 17. Severability.)** If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are severable.

Approved March 25, 1969.



# WATERS

---

## CHAPTER 542

H.B. No. 457  
(Burke, Metzger)

### NOTICE OF WATER PERMIT APPLICATION

#### AN ACT

To amend and reenact section 61-04-05 of the 1967 Supplement to the North Dakota Century Code, relating to notices to be given by applicant and seeking water permits or appropriation of water rights.

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

**Section 1. Amendment.)** Section 61-04-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-04-05. Notice of Application—Contents—Proof—Failure to File Satisfactory Proof.)** Upon the filing of an application which complies with the provisions of this chapter and the rules and regulations established thereunder, the state engineer shall instruct the applicant to: (1) give notice thereof by certified mail in the form prescribed by him, to all record title owners of real estate within a radius of one mile from the location of the proposed water appropriation site, except where the one mile radius extends within the geographical boundary of a city the notice shall be given to the governing body of such city and no further notice need be given to the record title owners of real estate within the geographical boundary of said city; and (2) publish notice thereof, in a form prescribed by him, in some newspaper of general circulation in the stream system, once a week for two consecutive weeks. Such notice shall give all essential facts as to the proposed appropriation, among them the places of appropriation and of use, amount of water, the purpose for which it is to be used, the name and address of the applicant and the time when the application will be taken up by the state engineer for consideration. Proof of publication, as required,

shall be filed with the state engineer within sixty days from the date of his instructions to make publication. In case of failure within the time required to file satisfactory proof of publication in accordance with the rules and regulations applicable thereto, the application thereafter shall be treated as an original application filed on the date of receipt of proof of publication in proper form.

Approved March 29, 1969.

---

## CHAPTER 543

S.B. No. 418  
(Meschke, Decker, Coughlin)

### ASSIGNMENT OR TRANSFER OF WATER PERMITS

#### AN ACT

To amend section 61-04-15 of the 1967 Supplement to the North Dakota Century Code, relating to assignment or transfer of water permits to provide for assignment of water permits held by any state agency only upon approval of the state engineer.

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

**Section 1. Amendment.)** Section 61-04-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-04-15. Assignment or Transfer of Conditional or Perfected Water Permit—Regulations Governing.)** Any conditional or perfected water permit to appropriate water for irrigation purposes shall be assigned only upon approval by the state engineer of an application for such assignment. Any conditional or perfected water permit may also be transferred, with the approval of the state engineer, to any parcel of land owned by the holder of such water permit. Any conditional or perfected water permit held by any state agency, department, board, commission or institution, regardless of how acquired, may be temporarily assigned or transferred for any use for such term and upon such conditions as are approved by the state water commission upon



application for such assignment. Upon reasonable proof that such assignment or transfer can be made without detriment to existing rights, the state engineer shall cause the water permit involved to be simultaneously severed and assigned or transferred from such land without losing priority of any right previously established. The decision of the state engineer shall be final unless some party interested in the same source of water supply shall within sixty days bring appropriate action in the district court of the county in which the land is located appealing such decision. Applications for assignment and transfer shall be in the forms required by the state engineer. The transfer of title to land in any manner whatsoever shall carry with it all rights to the use of water appurtenant thereto for irrigation purposes unless such rights to use water have been severed as provided in this section.

Approved March 25, 1969.



## CHAPTER 544

S.B. No. 419  
(Meschke, Decker, Coughlin)

## FORFEITURE OF WATER RIGHTS

## AN ACT

To amend section 61-04-23 of the 1967 Supplement to the North Dakota Century Code, relating to forfeiture of water rights to provide that water rights held by any state agency may be forfeited only by the legislature.

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

**Section 1. Amendment.)** Section 61-04-23 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-04-23. Forfeiture of Water Rights—Inspection of Works.)** All appropriations of water must be for a beneficial or useful purpose, and when the appropriator or his successor in interest ceases to use it for such purpose for three successive years, unless such failure or cessation of use shall have been due to the unavailability of water, a justifiable inability to complete the works, or other good and sufficient cause, the state engineer may declare such water permit or right forfeited; provided however that any such water permit or right held by a state agency, department, board, commission or institution may be declared forfeited only by the North Dakota legislative assembly. The state engineer shall, as often as necessary, examine the condition of all works constructed or partially constructed within the state and compile information concerning the condition of every water permit or right, and all ditches and other works constructed or partially constructed thereunder.

Approved March 28, 1969.

## CHAPTER 545

S. B. No. 464  
(Trenbeath)

WATER MANAGEMENT DISTRICT BOARD  
OF COMMISSIONERS

## AN ACT

To create and enact subsection 5 of section 61-16-01; to amend and reenact sections 61-16-08, 61-16-12, and 61-16-19 of the North Dakota Century Code, relating to the definition of the word "board"; the removal of a member of a district's board of commissioners; the approval, disapproval or modification of a district's proposed budget; the authority of a district to contract with the Canadian government or any of its provinces or municipalities; and to repeal section 61-16-20 of the North Dakota Century Code, relating to the exemption of federal agencies from the provisions of the law governing water management districts.

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

**Section 1.)** Subsection 5 of section 61-16-01 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

5. "Board" shall mean the water management district's board of commissioners.

**Section 2. Amendment.)** Section 61-16-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-16-08. Eligibility for Appointment to Board—Term of Office—Removal—Filling Vacancies—Compensation of Commissioners.)** When a water management district has been created any resident freeholder in the district shall be eligible for appointment to the board of commissioners thereof. The terms of office of commissioners appointed to the first district board shall be determined by lot and shall be as herein provided. If such district board shall consist of three commissioners, one commissioner shall hold office for a term of two years, one shall serve for a term of three years, and one shall serve for a term of five years from the first day of January next following the date of their appointment. When a district board consists of five commissioners, two commissioners shall hold office for the term of two years,



one for three years, one for four years and one commissioner a term of five years from the first day of January next following the date of their appointment. When a board shall consist of seven commissioners, two commissioners shall hold office for two years, two for three years, two for four years and one for five years from the first day of January next following the date of their appointment. When the term of office of a district commissioner has expired, his successor shall hold office for five years from the first day of January next following the date of their appointment. The term of office of a commissioner shall not terminate until his successor in office is appointed and qualified. In case the office of any district commissioner shall become vacant, the commissioner appointed to fill the vacancy shall serve the unexpired term of the member of the board whose office became vacant. Members of the board of commissioners shall receive the same per diem as members of a board of county commissioners and shall be reimbursed for expenses incurred in the performance of their duties on a like basis. 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 3. Amendment.)** Section 61-16-12 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-16-12. District Budget—Tax Levy—Financing by Special Assessment.)** When a water management district has been created and the board of commissioners thereof has been organized, the board shall estimate the expenses of the district from the date of its establishment until the end of the ensuing fiscal year and before July first in each year thereafter shall estimate district expenses for the fiscal year ensuing. Estimates of district expenses may include costs of rights-of-way, easements or other interest in property deemed necessary for the construction, operation and maintenance of any water conservation or flood control projects therein. Upon completion and adoption of a budget covering necessary expenses, the board of commissioners shall send a copy of such budget or apportion-

ment thereof to the county auditor of each county in the district. If a district is situated in more than one county, the estimates shall be apportioned to counties affected. Such county auditor shall transmit the same to the board of county commissioners of his county. The board of county commissioners of each county in which the district is situated shall either disapprove the entire budget, amend and approve the budget as amended, or approve the budget as submitted and, if approved as amended or as submitted, by resolution levy, authorize and direct their county auditor to extend and spread upon the tax roll of his county a tax of not to exceed three mills on each dollar of taxable valuation in the district or part of district situated in the county in the same manner, and with the same effect, as general property taxes are extended and spread. Funds produced each year by such tax levy shall be available until expended, and if such tax levy in any year will not produce sufficient revenue to cover district expenses, a fund sufficient to pay the same may be accumulated. The acquisition of rights-of-way, easements, and the construction, operation and maintenance of a project in a district may, in the discretion of the board of commissioners, be financed in whole or in part by special assessments against property benefited by such project or the board may provide for the payment of such expenses from revenues realized in part from tax collections and in part from such special assessments.

If the project is one involving the maintenance of a drain, and it is desired to finance such project in whole or in part by means of special assessments, the levy in any year for such maintenance shall not exceed fifty cents per acre on any agricultural lands benefited by the drain. Agricultural lands which carried the highest assessment when the drain was originally established, or received the most benefits under a reassessment of benefits, may be assessed the maximum amount of fifty cents per acre. The assessment of other agricultural lands in the district shall be based upon the proportion that the assessment of benefits at the time of construction or at the time of any reassessment of benefits bears to the assessment of the benefits of the agricultural land assessed the full fifty cents per acre. Nonagricultural property shall be assessed such sum in any one year as the ratio of the benefits under the original assessments or any reassessment bears to the assessment of agricultural lands bearing the highest assessment. In case the maximum levy of fifty cents per acre for any year will not produce an amount sufficient to cover the cost of cleaning out and



repairing such drain, the board of commissioners may accumulate a fund in an amount not exceeding the sum produced by such maximum permissible levy for two years. In the event the water conservation and flood control district is dissolved all unexpended assessments collected for the maintenance of the drain shall be returned to the owners of the assessed property by the board of commissioners on a pro rata basis in proportion with the amount originally assessed.

**Section 4. Amendment.)** Section 61-16-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-16-19. May Contract with Federal and State Governments—Local Districts, Persons and Corporations—Canadian Government, Provinces and Municipalities—Acquire Property in Adjoining States and Provinces.)** The board of commissioners shall also have the right, power and authority to enter into contracts or other arrangements for water conservation or flood control works with the United States government or any department thereof, with the Canadian government or any department thereof or any of its provinces or municipalities, with persons, railroads or other corporations, with public corporations, and state governments of this or other states, with drainage, water management, conservation, conservancy, or improvement districts, in this or other states, for cooperation or assistance in planning, constructing, maintaining, and operating such works and in making investigations and reports thereon; and may purchase, lease or acquire land or other property in adjoining states or provinces in order to secure outlets to construct and maintain dikes or dams, or for other purposes authorized by this chapter and may let contracts or spend money for securing such outlets or works in adjoining states or provinces. Provided, that no board of commissioners of any water management district shall have the right, power or authority to connect by artificial means boundary waters having different natural outlets so that the waters of one may be discharged into the other.

**Section 5. Repeal.)** Section 61-16-20 of the North Dakota Century Code is hereby repealed.

Approved March 14, 1969.



## CHAPTER 546

H.B. No. 427  
(Goodman, Reimers, Jones)

BOARD OF COMMISSIONERS OF  
WATER MANAGEMENT DISTRICTS

AN ACT

To create and enact subsection 17 of section 61-16-11 of the North Dakota Century Code, relating to the powers and duties of the board of commissioners of water management districts.

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

**Section 1.)** Subsection 17 of section 61-16-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

17. To order or initiate appropriate legal action to compel the entity responsible for the maintenance and repair of any bridge or culvert, to remove from under, within and around such bridge or culvert all dirt, rocks, weeds, brush, shrubbery, and other debris which hinders or decreases the maximum flow of water through such bridge or culvert.

Approved March 29, 1969.

## CHAPTER 547

S. B. No. 452  
(Trenbeath, Becker, Morgan)

CESSATION OF DESTRUCTION OF NATIVE  
WOODLANDS

AN ACT

To amend and reenact section 61-16-11 of the North Dakota Century Code, by creating a new subsection thereto, relating to the powers and duties of the board of commissioners of a water conservation and flood control district, and providing that such board shall have the power to order the cessation of destruction of native woodland.

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

**Section 1. Amendment.)** Section 61-16-11 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted by creating the following new subsection:

To order or initiate appropriate legal action to compel the cessation of the destruction of native woodland bordering within two hundred feet of that portion of a riverbank subject to overflow flooding that will cause extensive property damage or, in the alternative, to order that if such destruction is permitted, the party or parties responsible for the destruction must plant a shelterbelt which meets the specifications of the board, when the board has determined that such destruction will cause excessive property damage from the overflow flooding, due to the erosion or blocking of such river channel. In the event the native woodland within such area has already been destroyed, the board may, in its discretion, order the planting of a shelterbelt which, in the judgment of the board, will curtail the erosion or blocking of such river channel where overflow flooding has caused extensive property damage. For purposes of this section, the words "riverbank" and "river channel" relate to rivers as defined in the United States geological survey base map of North Dakota, edition of 1963. The provisions of this subsection shall not be construed to in any manner limit, impair or abrogate the rights, powers, duties, or functions of any federal, state, or local entity to construct and maintain any flood control, irrigation, recreational or municipal or industrial water supply project.

Approved March 29, 1969.

## CHAPTER 548

S.B. No. 250  
(Trenbeath)

ESTABLISHMENT OF FLOOD  
PLAIN ZONES

AN ACT

To amend and reenact section 61-16-11 of the North Dakota Century Code, by creating a new subsection thereto, relating to the authority of a water management district to establish flood plain zones.

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

**Section 1. Amendment.)** Section 61-16-11 of the North Dakota Century Code is hereby amended and reenacted by creating a new subsection to read as follows:

To petition any zoning authority established pursuant to chapters 11-33, 11-35 or 40-47 or section 58-03-13 to assume jurisdiction over a flood plain for zoning purposes when such zoning is required to regulate and enforce the placement, erection, construction, reconstruction, repair, and use of buildings and structures in order to protect and promote the health, safety, and general welfare of the public lying within a flood plain area. In the event such zoning authority fails to act or does not exist the board may request the state water commission to assist it in a study to determine and delineate the flood plain area. Upon completion of such study the board shall make suitable recommendations for the establishment of a flood plain zone to all zoning authorities and the governing bodies of all political subdivisions having jurisdiction within the flood plain area.

Approved March 25, 1969.



## CHAPTER 549

S. B. No. 79  
(Longmire)

## COMPENSATION OF DRAINAGE COMMISSIONERS

## AN ACT

To amend and reenact section 61-21-03 of the North Dakota Century Code, relating to the compensation of members of boards of drainage commissioners.

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

**Section 1. Amendment.)** Section 61-21-03 of 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 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 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 drain commissioners and shall appoint successors to fill any vacancies that occur. Each member of the board may be allowed the sum of fifteen 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.

Approved March 12, 1969.

## CHAPTER 550

S. B. No. 247  
(Morgan)

## CONSOLIDATION OF DRAINAGE DISTRICTS

## AN ACT

To amend and reenact section 61-21-65 of the North Dakota Century Code, relating to the consolidation of drainage districts into water management districts.

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

**Section 1. Amendment.)** Section 61-21-65 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-21-65. Consolidation of Drainage District or Districts Into Water Management Districts.)** Upon resolution of the board of county commissioners or the board of drainage commissioners, or upon the filing with the board of county commissioners of a petition containing the signatures of landowners possessing at least fifteen percent of the voting rights in one or more drainage districts, computed in accordance with section 61-21-16, the board of county commissioners shall set a date for hearing upon the establishment or expansion of a water management district to include the property contained within such drainage district or districts. The board of county commissioners shall publish notice of the time, place, and purpose of such hearing once each week for two consecutive weeks, in a newspaper of general circulation in the county, the second publication to be not less than ten nor more than twenty days before the date set for hearing. In the event special assessments remain outstanding upon any property within a drainage district to be affected by a hearing as provided in this section, the board of county commissioners shall notify by ordinary mail at least ten days before the date set for such hearing, all landowners of record subject to such special assessments in accordance with the provisions of section 61-21-66. If, at the time and place set for hearing, a majority of affected landowners computed in accordance with section 61-21-16 shall file written objections, further proceedings shall be discontinued. If such majority does not object, the board of county commissioners shall file with the state water commission the petition provided for



in section 61-16-02 and all further proceedings shall thereafter be governed by chapter 61-16. Upon the establishment or expansion of a water management district to include one or more drainage districts the board of county commissioners shall, by resolution, dissolve the drainage districts and transfer all property of the dissolved districts to the water management district.

Approved March 10, 1969.

---

CHAPTER 551

S. B. No. 439  
(Holand, Robinson, Morgan)

BOARD OF DIRECTORS OF GARRISON  
DIVERSION CONSERVANCY DISTRICT

AN ACT

To amend and reenact subsections 4 and 6 of section 61-24-08 of the North Dakota Century Code, relating to the powers and duties of the board of directors of the Garrison diversion conservancy district.

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

**Section 1. Amendment.)** Subsection 4 of section 61-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. To cooperate and contract with the state, its agencies, or its political subdivisions, or any agency of the United States, in research and investigation or other activities promoting the establishment, construction, development or operation of the Garrison diversion unit, or any part thereof;

**Section 2. Amendment.)** Subsection 6 of section 61-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. To construct separately or in cooperation with agencies of the United States, or the state of North Dakota, its

agencies or political subdivision, and to equip, maintain and operate an office and principal place of business for the district, or other buildings or facilities to carry out activities authorized by this chapter.

Approved March 19, 1969.

---

CHAPTER 552

H. B. No. 311

(Dick, Linderman, Strinden, J. Peterson, Mueller)  
(Boyum, Haugland, Bullis)

HEARING ON CONTRACTS FOR  
WORK ON GARRISON DIVERSION

AN ACT

To amend and reenact section 61-24-13 of the North Dakota Century Code, relating to hearings conducted by the Garrison diversion conservancy district on contracts.

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

**Section 1. Amendment.)** Section 61-24-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-24-13. District May Enter into Contract for the Construction, Operation and Maintenance of Works.)** 1. When the board of directors of Garrison diversion conservancy district is notified by the United States, or by any department or agency thereof, that it is necessary for the district to enter into a contract as principal and guarantor or either, for the repayment of any part of the cost incurred, or to be incurred in the construction, operation and maintenance of works of the Garrison diversion unit of the Missouri River basin project, the board shall give notice of hearing on such proposed contract as herein provided. Hearings on such contract shall be conducted in at least three places in the district by a contract hearing committee composed of at least three director members of the board as designated by the board. Notice of the time and place of such hearings shall be published at least ten days before such hearing in not less than three newspapers of general circulation in the district.

Anyone interested in, or affected by such contract if entered into, may appear at any such hearing and show cause, if any, why such proposed contract should or should not be approved. The contract hearing committee shall submit its report, including support and objections to the contract, and its recommendations to the board for final action. After considering the terms and conditions of such proposed contract and the report and recommendations of the contract hearing committee, the board shall adopt a resolution approving or disapproving such contract. If disapproved, the board may enter into further negotiations with the United States concerning terms for a new or amended contract. At least thirty days before any hearing is held on such contract for construction of facilities or works, plans therefor shall be filed with the secretary of the district and shall be open to public inspection.

Approved March 14, 1969.

---

## CHAPTER 553

S. B. No. 150  
(Lips, Kautzmann, Becker)

### VESSEL EQUIPMENT REQUIREMENTS

#### AN ACT

To amend and reenact section 61-27-04 of the North Dakota Century Code, relating to equipment requirements on vessels.

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

**Section 1. Amendment.)** Section 61-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**61-27-04. Equipment.)** Every vessel shall have aboard:

1. One life preserver, buoyant vest, ring buoy or buoyant cushion of the type approved by the department in good and serviceable condition for each person on board.
2. When in operation during hours of darkness, a light sufficient to make the motorboat's presence and location

known to any and all other vessels within a reasonable distance.

3. If carrying or using any inflammable or toxic fluid in any enclosure for any purpose, and if not an entirely open motorboat, an efficient natural or mechanical ventilation system which shall be capable of removing resulting gases prior to, and during, the time such motorboat is occupied by any person.
4. If equipped with a marine toilet or other similar device for the disposition of sewage or other wastes, only that type of marine toilet that is equipped with a treatment device meeting standards established by the water pollution control board of the state of North Dakota. The water pollution control board shall furnish a list of the types of treatment devices currently available and considered acceptable for use with marine toilets under this subsection. No person owning or operating a vessel upon the waters of this state shall use, operate, or permit the use or operation of any marine toilet or similar device for the disposition of sewage or other wastes unless it is approved under this subsection, and no person shall discharge into the waters of this state, directly or indirectly from a vessel, any untreated sewage or other wastes, nor shall any container of untreated sewage or other wastes, be placed, left, discharged, or caused to be placed, left, or discharged in or near any waters of this state from a vessel in such a manner or quantity as to create a nuisance or health hazard or the pollution of such waters.
5. Such additional equipment designed to promote the safety of navigation and of persons as the department may find to be appropriate and for which it has provided in its rules and regulations.
6. No person shall operate or give permission for the operation of a vessel which is not equipped as required by this section or modification thereof.

Approved March 29, 1969.

## CHAPTER 554

S. B. No. 441

(Ringsak, Trenbeath, Meschke, Van Horn)

DEFINITION OF WATERS OF THE  
STATE

## AN ACT

To amend and reenact subsection 6 of section 61-28-02 of the North Dakota Century Code, relating to the definition of "Waters of the state."

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

**Section 1. Amendment.)** Subsection 6 of section 61-28-02 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. "Waters of the state" means all waters within the jurisdiction of this state including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters which do not combine or effect a junction with natural surface or underground waters just defined.

Approved March 13, 1969.



# WEEDS

---

## CHAPTER 557

H. B. No. 79  
(Weber)

### FAILURE BY LANDOWNER TO DESTROY WEEDS

#### AN ACT

To amend and reenact section 63-03-06 of the North Dakota Century Code, relating to the amount charged for failure to destroy weeds.

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

**Section 1. Amendment.)** Section 63-03-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**63-03-06. Failure To Destroy Weeds—Expense Certified as Tax Against Land.)** If any landowner or his tenant shall fail to cut the weeds and grasses along township highways, as provided in section 63-03-05, between September fifteenth and October first, unless by special permission from the township board of supervisors or board of county commissioners, it shall be the duty of the township board or board of county commissioners, as the case may be, to cause such weeds and grasses to be cut between October first and November first of each year, and the expense of cutting such weeds and grasses in each organized township or county shall be certified to the county auditor by the clerk thereof, and such charges in organized and unorganized townships or counties shall be charged against the land of the landowner thus failing to cut such weeds and grasses and shall become a part of the taxes to be levied against such 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. Sections 63-03-05 and 63-03-06 shall not apply to any state or federal highways. The amount charged against the adjoining owner shall be determined by the township board or board of county commissioners, as the case may be,

but shall not exceed the sum of twenty-five dollars per running mile, a running mile being defined as one side of such highway for a distance of one mile.

Approved February 7, 1969.

# WEAPONS

---

## CHAPTER 555

H. B. No. 351  
(Bunker)

### POSSESSION OF PISTOLS AND ISSUANCE OF PISTOL LICENSES

#### AN ACT

To amend and reenact sections 62-01-04, 62-01-06, and 62-01-07 of the North Dakota Century Code, relating to the possession of pistols and the issuance of pistol licenses.

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

**Section 1. Amendment.)** Section 62-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**62-01-04. Who Not to Possess Pistols.)** The following persons shall not own a pistol or have one in their possession or under their control:

1. A person who has been convicted anywhere within the last ten years of any of the crimes of murder, manslaughter, robbery, burglary, kidnapping, arson, extortion, mayhem, forcible rape, unlawful entry, and any assault except simple assault and battery or any other crime involving the use of or possession of a pistol.
2. A person who is under the age of seventeen years or who is a drug addict, an alcoholic, or who is emotionally unstable.

**Section 2. Amendment.)** Section 62-01-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**62-01-06. License to Carry Weapon—Who May Issue.)** A license to carry a pistol within this state may be issued by a sheriff upon application submitted to the sheriff of the county wherein the applicant has residence. If the applicant is a resident of a city within such county, the sheriff shall immediately notify in writing the chief of police of that city regarding the application. The chief of police of that city shall inform the sheriff in writing of his rejection or approval of the application.

**Section 3. Amendment.)** Section 62-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**62-01-07. License to Carry Weapon—To Whom Issued.)** A license to carry a pistol in this state may be issued to:

1. Any person having a bona fide residence or place of business within the jurisdiction of the county; or
2. Any person having a bona fide residence or place of business within the United States of America and a license to carry a pistol issued by a competent authority of any state or subdivision of the United States of America,

if it appears that the applicant therefor has good reason to fear an injury to his person or property or that there is another proper purpose for the carrying of such weapon and that the applicant is a proper person to be so licensed and does not fall into any of the categories specified in section 62-01-04 as being a person not legally entitled to own or have in his possession a pistol.

Approved March 29, 1969.

## CHAPTER 556

S. B. No. 479  
(Committee on Delayed Bills)

PURCHASE OF RIFLES AND  
SHOTGUNS IN CONTIGUOUS STATES

## AN ACT

To authorize residents of the state of North Dakota to purchase rifles and shotguns in states contiguous to this state.

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

**Section 1. Declaration of Policy.)** The legislative assembly finds that it is in the public interest to authorize residents of this state to purchase or otherwise obtain rifles and shotguns in states contiguous to this state in compliance with such other laws of this state as may be applicable, and in compliance with section 102 of the Gun Control Act of 1968, Public Law 90-618, 18 U. S. C. section 921 et seq.

**Section 2. Resident May Purchase Rifle or Shotgun in Contiguous State.)** It shall be lawful for a person residing in this state, including a corporation or other business entity maintaining a place of business in this state, to purchase or otherwise obtain a rifle or shotgun in a state contiguous to this state, and to receive or transport such rifle or shotgun into this state.

**Section 3. Federal Firearms Licensees—Not Applicable To.)** This Act shall not apply or be construed to affect in any way the purchase, receipt, or transportation of rifles and shotguns by federally licensed firearms manufacturers, importers, dealers, or collectors.

**Section 4. Definitions.)**

1. As used in this Act, the term "a state contiguous to this state" shall mean any state having a common border with this state.
2. As used in this Act, all other terms shall be given the meaning prescribed in 18 U. S. C. section 921, Gun Con-



---

trol Act of 1968, Public Law 90-618, and the regulations promulgated thereunder as presently enacted or promulgated and as hereafter modified.

Approved March 28, 1969.

# WORKMEN'S COMPENSATION

---

## CHAPTER 558

S. B. No. 225

(Lowe, Forkner, Unruh)

### WEEKLY COMPENSATION FOR INJURED WORKERS

#### AN ACT

To create and enact subsection 21 of section 65-01-02 of the North Dakota Century Code, relating to the definition of average weekly wages; to amend and reenact sections 65-04-04.1, 65-05-09, 65-06-03 and 65-07-03 of the North Dakota Century Code, relating to weekly compensation for injured workers; and to repeal sections 65-01-04 and 65-05-11 of the North Dakota Century Code, relating to computation of weekly compensation.

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

**Section 1.)** Subsection 21 of section 65-01-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

21. "Average weekly wage in the state" shall mean the determination made of the average weekly wage in the state by the unemployment compensation division of the North Dakota employment security bureau on July 1 of each year.

**Section 2. Amendment.)** Section 65-04-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-04-04.1. Determination of Weekly Wage for Premium Purposes to Veteran-on-the-Job Trainee.)** Whenever an employer employs a person known as a veteran-on-the-job trainee, as defined under Public Laws 16 and 346 of the United States Congress, the premium for workmen's compensation coverage shall be based on a minimum weekly wage of thirty dollars per week.

**Section 3. Amendment.)** Section 65-05-09 of the 1967

Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-05-09. Temporary or Permanent Disability—Weekly and Aggregate Compensation.)** If an injury causes temporary, or permanent total disability, the fund shall pay to the disabled employee during such disability a weekly compensation equal to fifty-five percent of the average weekly wage in this state, computed to the next highest dollar, as shall be determined on July 1 of each year by the unemployment compensation division of the North Dakota employment security bureau. In case of temporary 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 direct to either parent at the discretion of the bureau. In no case shall the combined compensation and dependency award exceed the net wage, after deductions for taxes, earned by the claimant at the time of the injury, except in the case of volunteer firemen and volunteer civil defense 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 4. Amendment.)** Section 65-06-03 of 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 trainees under the terms of this chapter shall be fifty-five percent of the average weekly wage paid in the state, computed to the next highest dollar.

**Section 5. Amendment.)** Section 65-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-07-03. Determination of "Weekly Wage" for Premium Purposes.)** If the bureau enters into a contract for employer's insurance, the premium for such protection shall be based on a reasonable weekly wage for employees in the same class of industry. Such reasonable weekly wage shall not amount to less than one thousand eight hundred twenty dollars per annum nor more than two thousand five hundred dollars per annum and shall be determined by the bureau.

**Section 6. Repeal.)** Section 65-01-04 of the North Dakota Century Code, and section 65-05-11 of the 1967 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 14, 1969.

---

## CHAPTER 559

H. B. No. 265  
(Kuehn, Metzger, Kelsch)

### ATTORNEY'S FEES IN WORKMEN'S COMPENSATION PROCEEDINGS

#### AN ACT

To amend and reenact section 65-02-08 of the North Dakota Century Code, relating to attorney's fees in proceedings before the workmen's compensation bureau, and to amend and reenact section 65-10-03 of the North Dakota Century Code, relating to attorney's fees in appeals from the bureau, and declaring an emergency.

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

**Section 1. Amendment.)** Section 65-02-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-02-08. Rule-Making Power of the Bureau—Fees Prescribed by Bureau.)** The bureau shall make, promulgate, and enforce such rules, not inconsistent with the provisions of this title, as may be necessary to carry out the provisions of this title. All fees on claims for legal, medical, and hospital services



rendered under this title to any claimant shall be in accordance with schedules of fees adopted or to be adopted by the bureau. The bureau, by rule, shall specify the amount allowable for attorney's fees in proceedings before the bureau and shall pay the same from the bureau general fund. Such attorney's fees shall constitute the entire remuneration for the claimant's attorney for all services before the bureau. Nothing provided herein shall be construed to prevent a claimant or employer from hiring or paying his or her own attorney.

**Section 2. Amendment.)** Section 65-10-03 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-10-03. Costs of Appeal Including Attorney's Fees Fixed by the Court.)** The cost of the appeal, including an attorney's fee for the appellant's attorney, shall be set by the trial judge and taxed against the bureau. 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 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 29, 1969.



## CHAPTER 560

S. B. No. 224

(Lowe, Forkner, Freed, Unruh, Sands, Nething)

## VOCATIONAL REHABILITATION FOR INJURED PERSONS

## AN ACT

To amend and reenact section 65-02-14 of the North Dakota Century Code, relating to aid in rehabilitating persons injured in employment.

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

**Section 1. Amendment.)** Section 65-02-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-02-14. Bureau To Aid in Rehabilitating Persons Injured in Employment.)** The bureau shall cooperate with such federal or state agency as shall be charged with vocational education and vocational rehabilitation to the ends that persons injured in the course of employment may be restored to industry and that they may obtain training, education, and employment. An allowance for dependents of not to exceed twenty-five dollars per week may be paid from the fund during the rehabilitation period. Any claimant engaged in a program of rehabilitation, and for whom an allowance for dependents may be paid on the effective date of this Act shall be entitled to continue to receive such allowance for dependents for the remainder of his rehabilitation period.

Approved March 13, 1969.

## CHAPTER 561

S. B. No. 281  
(Kelly, Morgan, Van Horn)

COMPENSATION FOR SUBSEQUENT OR  
AGGRAVATED INJURY

AN ACT

To amend and reenact section 65-04-18 of the North Dakota Century Code, relating to charges of certain workmen's compensation injuries to the subsequent injury fund.

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

**Section 1. Amendment.)** Section 65-04-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-04-18. Subsequent Injury or Aggravation of Previous Injury or Condition to Employee—Charge to Employer's Risk—Charge of Part of Claim to Subsequent Injury Fund.)** Whenever a subsequent injury or aggravation of a previous injury or pre-existing condition occurs to an employee, the risk of the employer for whom such person was working at the time of such subsequent injury or aggravation shall be charged only with the amount of the awards resulting from such subsequent injury or aggravation. Whenever such subsequent injury or aggravation results in further disability or an aggravation of a pre-existing injury or condition, the compensation which is in excess of the amount to which the injured employee would have been entitled solely by reason of the subsequent injury or aggravation shall be charged to the subsequent injury fund and not to the classification or the risk to which the subsequent injury or aggravation is charged.

Approved March 4, 1969.

CHAPTER 562

H. B. No. 213  
(W. Erickson, Grant, Wilkie, Aas, Anderson)

COMPENSATION FOR PERMANENT  
PARTIAL DISABILITY

AN ACT

To amend and reenact section 65-05-12 of the North Dakota Century Code, relating to compensation for permanent partial disability.

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

**Section 1. Amendment.)** Section 65-05-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-05-12. Permanent Partial Disability—Weekly Compensation—Time Paid.)** If the injury causes permanent partial disability, other than scheduled injuries, as elsewhere provided in this chapter, the percentage which such disability bears to total disability shall be determined, and the fund shall pay to the disabled employee a weekly compensation in the sum of thirty-one dollars and fifty cents per week for the following periods:

- For a one percent disability - - - - - 5 weeks;
- For a ten percent disability - - - - - 50 weeks;
- For a twenty percent disability - - - - - 100 weeks;
- For a thirty percent disability - - - - - 150 weeks;
- For a forty percent disability - - - - - 200 weeks;
- For a fifty percent disability - - - - - 250 weeks;
- For a sixty percent disability - - - - - 300 weeks;
- For a seventy percent disability - - - - - 350 weeks;
- For an eighty percent disability - - - - - 400 weeks;
- For a ninety percent disability - - - - - 450 weeks;

However, where an injured employee is earning a salary which at sixty-six and two-thirds percent of said salary did not produce an award of thirty-one dollars and fifty cents per week the difference between thirty-one dollars and fifty cents per week and sixty-six and two-thirds percent of the actual salary be charged to the fund, and not to the risk of the employer. This proviso shall also apply to payments made under 65-05-13.

Approved March 25, 1969.

---

CHAPTER 563

H. B. No. 212

(W. Erickson, Grant, Wilkie, Aas, Anderson)

WORKMEN'S COMPENSATION PAYMENT  
SCHEDULE

AN ACT

To amend and reenact section 65-05-13 of the North Dakota Century Code, as amended, relating to compensation for scheduled injuries.

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

**Section 1. Amendment.)** Section 65-05-13 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-05-13. Scheduled Injuries—Permanent Loss of Member—Weekly Compensation—Time Compensation Payable.)** If the injury causes the loss of a member, the fund shall pay to the disabled employee a weekly compensation equal to thirty-one dollars and fifty cents per week for the following periods:

1. For loss of arm at shoulder- - - - - 250 weeks;
2. For loss of arm at or above elbow- - - - -220 weeks;
3. For loss of hand at or above wrist- - - - -200 weeks;
4. For loss of thumb - - - - - 65 weeks;



5. For loss of second or distal phalange of thumb - - - - - 28 weeks;
6. For loss of first finger - - - - - 40 weeks;
7. For loss of middle or second phalange of first finger - - - - - 28 weeks;
8. For loss of third or distal phalange of first finger - - - - - 22 weeks;
9. For loss of second finger - - - - - 30 weeks;
10. For loss of middle or second phalange of second finger - - - - - 22 weeks;
11. For loss of third or distal phalange of second finger - - - - - 14 weeks;
12. For loss of third finger - - - - - 20 weeks;
13. For loss of middle or second phalange of third finger - - - - - 16 weeks;
14. For loss of third or distal phalange of third finger - - - - - 10 weeks;
15. For loss of fourth finger - - - - - 16 weeks;
16. For loss of middle or second phalange of fourth finger - - - - - 12 weeks;
17. For loss of third or distal phalange of fourth finger - - - - - 6 weeks;
18. For loss of leg at hip - - - - - 234 weeks;
19. For loss of leg at or above knee - - - - - 195 weeks;
20. For loss of foot at or above ankle - - - - - 150 weeks;
21. For loss of great toe - - - - - 30 weeks;
22. For loss of second or distal phalange of great toe - - - - - 18 weeks;



- 23. For loss of any other toe - - - - - 12 weeks;
- 24. For loss of middle or second phalange of  
any other toe - - - - - 10 weeks;
- 25. For loss of third or distal phalange of any  
other toe - - - - - 7 weeks;
- 26. For loss of an eye - - - - - 150 weeks;
- 27. For loss of hearing in one ear - - - - - 50 weeks;
- 28. For loss of hearing in both ears - - - - - 200 weeks;

The amount paid for the loss of more than one finger of one hand shall not exceed the amount provided in this schedule for the loss of a hand. For the loss of the metacarpal bone, of the palm, together with the corresponding thumb or finger ten weeks shall be added to the number of weeks of payment. The permanent loss of use of a thumb, finger, toe, arm, hand, foot, leg, or eye shall be considered as the equivalent of the loss of such thumb, finger, toe, arm, hand, foot, leg, or eye, and compensation for partial loss of use of said parts shall be allowed on a percentage basis. Twenty-five percent additional shall be allowed as compensation for the loss of use of the master hand or any member or members thereof. The loss of any part of a phalange shall be considered equal to the loss of the entire phalange. If any employee dies from some independent cause, the right of any compensation payable under section 65-05-12 or this section, unpaid at the date of his death shall survive and pass to his dependent spouse, minor children, parents, or his estate and in that order named.

Recovery under this section shall bar an additional award of permanent partial disability for the same injury, as elsewhere provided in this chapter.

Approved March 13, 1969.

## CHAPTER 564

H. B. No. 214  
(Erickson, W. Grant, Wilkie, Aas, Anderson)

COMPENSATION PAYMENT FOR PERMANENT  
PARTIAL LOSS OF MEMBERS

## AN ACT

To amend and reenact section 65-05-14 of the North Dakota Century Code, as amended, relating to compensation for permanent partial loss of use of members.

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

**Section 1. Amendment.)** Section 65-05-14 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-05-14. Scheduled Injuries—Permanent Partial Loss of Use of Member—Weekly Compensation Time—Compensation Payable.)** If an injury causes the permanent partial loss of the use of a member or of the sight of an eye, the fund shall pay to the disabled employee a weekly compensation for that proportion of the number of weeks specified in the schedule in section 65-05-13 for the loss of such member or of the sight of an eye, which the partial loss of the use thereof bears to the total loss of the use of such member or eye.

Recovery under this section shall bar an additional award of permanent partial disability for the same injury, as elsewhere provided in this chapter.

Approved March 13, 1969.

## CHAPTER 565

H. B. No. 269  
(Metzger, Kuehn, Burke, Sanstead)

WORKMEN'S COMPENSATION NONDEPENDENCY  
PAYMENTS

AN ACT

To amend and reenact section 65-05-19 of the North Dakota Century Code, relating to payment of nondependency payments in certain workmen's compensation claims; and to repeal section 65-05-20 of the North Dakota Century Code, relating to nondependency payments in lieu of dependency compensation.

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

**Section 1. Amendment.)** Section 65-05-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-05-19. Providing Nondependency Payments in Certain Cases.)** If the death of an employee with no surviving spouse or children results from an injury within the time limited in section 65-05-16, the bureau shall pay:

1. A lump sum of one thousand dollars to the surviving parent, or in equal shares to the surviving parents. In the event that neither parent is living, the sum provided herein shall be paid in equal shares to the deceased employee's living brothers and sisters. Where there are no living brothers or sisters, the sum herein shall be paid in equal shares to the surviving grandparents, if any, of the deceased employee.

**Section 2. Repeal.)** Section 65-05-20 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1969.

## CHAPTER 566

H. B. No. 240

(Opedahl, Halcrow, Giffey, Metzger, Sanstead)

## LUMP SUM WORKMEN'S COMPENSATION PAYMENTS

## AN ACT

To amend and reenact section 65-05-25 of the North Dakota Century Code, as amended, relating to the payment of lump sums in certain workmen's compensation claims.

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

**Section 1. Amendment.)** Section 65-05-25 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-05-25. Lump Sum Settlement—Granted in Discretion of Bureau—How Computed.)** In case of death, permanent total, or permanent partial disability, the bureau, if it determines it is in the best interest of the claimant, may pay a lump sum equal to the present value of all future payments of compensation computed at two and one-half percent discount compounded annually. The probability of the beneficiary's or claimant's death before the expiration of the period during which he is entitled to compensation shall be determined by reference to generally accepted mortality studies. In case of the widow or widower of a deceased employee, the lump sum shall not exceed compensation for four hundred sixteen weeks and the probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded. If at the expiration of a period for which lump sum settlement was made hereunder, the claimant is still alive and has not remarried, the bureau, in its discretion, may again assume liability and resume pension payments. The bureau may also grant a partial lump sum settlement, based upon the same computations as the complete lump sum. Any decision of the bureau rendered under this section may be appealed to the district court as provided for in chapter 65-10, and the district court shall render its decision sustaining the decision of the

bureau, reversing it, or remanding it back to the bureau with instructions.

Approved March 13, 1969.

---

CHAPTER 567

H. B. No. 233

(Opedahl, I. Solberg, Hickle, Gackle)

ASSESSMENT OF PREMIUMS AGAINST  
MUNICIPALITIES

AN ACT

To amend and reenact section 65-06-04 of the North Dakota Century Code, relating to the assessment of workmen's compensation premiums against municipalities with volunteer firemen and volunteer civil defense trainees.

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

**Section 1. Amendment.)** Section 65-06-04 of 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 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 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.

Approved March 25, 1969.

---

CHAPTER 568

H. B. No. 241

(Opedahl, Halcrow, Giffey, Metzger, Sanstead)

APPLICATION FOR WORKMEN'S COMPENSATION IN  
LIEU OF CIVIL ACTION AGAINST EMPLOYER

AN ACT

To amend and reenact section 65-09-02 of the North Dakota Century Code, relating to application for compensation in lieu of civil action against an employer.

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

**Section 1. Amendment.)** Section 65-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**65-09-02. Application for Compensation—Hearing.)** Any employee whose employer has failed to comply with the provisions of chapter 65-04, who has been injured in the course of his employment, wheresoever such injury has occurred, or his dependents, in case death has ensued, in lieu of proceedings against his employer by civil action in court, may file his application with the bureau for an award of compensation in accordance with the terms of this title. The bureau shall hear and determine such application for compensation in like manner as in other claims before the bureau. After the filing of such claim by said injured employee, or his dependents, in case of death, unless waived by the claimant and employer, the bureau shall set a date for a hearing on said claim and notice of said hearing shall be served by registered or certified mail on all interested parties, except that the service on the employer shall be made in the manner now provided for the service of a summons in a civil action

and said hearing shall be held upon at least ten days' notice. At such hearing witnesses shall be heard for and in behalf of the claimant and employer and any interested party.

Approved March 12, 1969.

---

CHAPTER 569

H. B. No. 167  
(Kuehn, Simonson)

INSPECTION OF EXEMPT BOILERS UPON REQUEST

AN ACT

To provide for the inspection of certain boilers.

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

**Section 1. Inspection of Exempt Boilers.)** Any boiler exempt from the provisions of section 65-12-04 may be inspected by the boiler inspector when the owner, his agent, or the user of such boiler makes written request for inspection to the North Dakota workmen's compensation bureau.

Fees shall be imposed as provided in section 65-12-11 for inspections done pursuant to this Act.

Approved March 13, 1969.

## CHAPTER 570

S. B. No. 482  
(Committee on Delayed Bills)

FEE FOR INSPECTING CERTAIN  
BOILERS

## AN ACT

To create and enact subsection 4 of section 65-12-11 of the North Dakota Century Code, relating to the fee for inspection of certain boilers.

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

Section 1.) Subsection 4 of section 65-12-11 of the 1967 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

4. Boilers used exclusively for exhibition purposes-----five dollars.

Approved March 28, 1969.

# VETOED MEASURES

---

## CHAPTER 571

S.B. No. 51

(Christensen, Sorlie)

(Legislative Audit and Fiscal Review Committee)

### SALARIES OF ASSISTANT AND SPECIAL ASSISTANT ATTORNEYS GENERAL

#### AN ACT

To amend and reenact sections 54-12-07 and 54-12-08 of the North Dakota Century Code, relating to salaries of assistant and special assistant attorneys general, and providing an effective date.

#### Veto

March 26, 1969

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

Senate Bill 51 provides that the Attorney General shall pay the salaries of all Assistant and Special Assistant Attorneys General, and that a special fund be established from which the Attorney General would pay these attorneys, even though they were providing a service to departments, agencies, or institutions financed from sources other than the General Fund.

Agencies financed from other than the General Fund would pay to the Attorney General on a quarterly basis for such services, and such amounts would be deposited in a special fund.

This bill is to be effective July 1, 1971. This delay was designed to give all departments time to adjust their budgets for legal services prior to the next session of the legislature.

Perhaps this bill seeks to obtain uniformity in salaries of Assistant Attorneys General. Perhaps the bill seeks to have Attorneys General paid from only one agency, and that agency would be the Attorney General's Office.

Under our present system, many agencies are able to hire an Assistant Attorney General on a part-time basis with other departments contributing to his salary for part-time legal work done for them. Every Assistant Attorney General, because of his talent, experience, or interest, has a unique value to the department which seeks his service. Therefore, I think it is not advantageous to bring about any strict uniformity in the salaries of Assistant Attorneys General as would be the case under Senate Bill 51.

Under Senate Bill 51, many departments would find themselves paying into the Attorney General's special fund for legal services that they did not get, thus subsidizing those agencies receiving more legal service than they were paying for.

Senate Bill 51 was not requested by the Attorney General's Office, nor is it regarded with favor by that office. Senate Bill 51 would greatly increase the work of the Attorney General's Office and would diminish the administrative control that department heads need to have for efficient and effective operations of their units within State Government.

Because there is no demonstrated need for a change in the procedure now being followed in hiring and paying Assistant Attorneys General, and because the Attorney General's Office does not look with favor on this legislation, and because it would weaken the prerogatives of department heads within the Executive Branch of State Government, I therefore veto Senate Bill 51.

Sincerely yours,  
WILLIAM L. GUY  
Governor



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

**Section 1. Amendment.)** Section 54-12-07 of the North Dakota Century Code, is hereby amended and reenacted to read as follows:

**54-12-07. Salary of Assistant Attorneys General.)** The annual salary of the assistant attorneys general shall be as provided by the legislative assembly, and such assistant attorneys general shall be compensated for all services performed by them from funds available to the attorney general. Departments, agencies, and institutions financed from other than the general fund and requiring services from assistant attorneys general shall pay to the attorney general on a quarterly basis the salary costs of the office of attorney general in providing such services unless an assistant attorney general is assigned only on a special assignment for a limited time or in instances of other unusual circumstances, in which case a waiver of such payment may be granted by the attorney general after proper application has been received and approved by him. Upon receipt of such payments, the attorney general shall deposit the payments in a fund in the state treasury from which within the limits of legislative appropriation the necessary salaries and related fringe benefits of the assistant attorneys general shall be paid.

**Section 2. Amendment.)** Section 54-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-12-08. Special Assistant Attorneys General—Appointment—Revocation—Compensation.)** The attorney general also, when he deems it necessary, may after consultation with the head of the state department or institution affected appoint special assistant attorneys general, and no state officer, head of any state department, whether elected or appointed, or state department shall employ legal counsel, and no person shall act as legal counsel, in any matter, action or proceeding in which the state or any state department is interested or is a party, except upon appointment by the attorney general. The appointment shall be in writing. The powers conferred upon such special assistant attorneys general shall be the same as are exercised by the regular assistant attorneys general, when such powers are not limited specifically by the terms of such appointment. Any such appointment shall be revocable at the

pleasure of the attorney general. The attorney general shall request on a quarterly basis from each department, agency, or institution financed from other than the general fund a payment for the costs which he has incurred in providing the services of special assistant attorneys general to the various departments, agencies, and institutions, and such payment shall be waived only in the event that a special assistant attorney general is assigned on a special assignment for a limited time or in instances of other unusual circumstances and a proper application for such waiver has been received and approved by him. Upon receipt of such payments the attorney general shall deposit the payments in a fund in the state treasury from which within the limits of legislative appropriation the necessary salaries and related fringe benefits of the special assistant attorneys general shall be paid.

**Section 3. Effective Date.)** The provisions of this Act shall be in full force and effect on and after July 1, 1971.

Disapproved March 26, 1969.

Filed March 26, 1969.



## CHAPTER 572

S. B. No. 199

(Hernett, Sorlie, Chesrown, Melland, Luick)

PAYMENT OF DELEGATES' EXPENSES TO  
NATIONAL POLITICAL CONVENTION

## AN ACT

To repeal section 16-17-18.1 of the North Dakota Century Code, relating to expenses of delegates to national political conventions.

## Veto

March 4, 1969

The Honorable Richard Larsen  
President of the Senate  
North Dakota State Senate  
Bismarck, North Dakota

Dear Mr. President:

Senate Bill 199 repeals Section 16-17-18.1 of the North Dakota Century Code relating to expenses of delegates to national political conventions. I cannot in good conscience sign this bill into law.

Our system of democratically elected, representative national government rests squarely on the selection of Presidential and Vice Presidential candidates, as well as the adoption of political action platforms, by the legally recognized national political conventions. The repeal of the statute which has traditionally helped to defray some of the expenses of delegates to national political conventions seems to minimize the importance of these conventions within our system of government.

To repeal state support of legally selected delegates sent to the national conventions in these times of high cost could place an unhealthy importance on a delegate's being independently wealthy in order to be considered a delegate. There might even be instances where delegates would be tempted to accept sponsor-

ship by special interests. This would be undesirable. I would much prefer to see state financial support of national political convention delegates strengthened rather than eliminated.

If there are any shortcomings in the present law which provides partial state financing of delegate expenses to a national political convention, there is yet time in the legislative session of 1971 to make changes effective in the political conventions of 1972, rather than repeal entirely the present law. I think we need to consider this matter more thoroughly.

I have talked with the chairmen of both the Democratic-Non-Partisan League Party and the Republican Party, and they concur that the repeal contained in this bill is unwise.

Personal wealth or sponsorship should never become factors in delegate selection to a national political convention.

I therefore veto Senate Bill 199.

Sincerely yours,  
WILLIAM L. GUY  
Governor

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

**Section 1. Repeal.)** Section 16-17-18.1 of the 1967 Supplement to the North Dakota Century Code is hereby repealed.

Disapproved March 4, 1969.

Filed March 20, 1969.

S.B. No. 294  
(G. Larson, Butler, Lips)

DEFINITION OF EMPLOYER UNDER LABOR  
MANAGEMENT RELATIONS ACT

AN ACT

To amend and reenact subsection 2 of section 34-12-01 of the North Dakota Century Code, relating to definition of employer.

Veto

February 25, 1969

The Honorable Richard Larsen  
President of the Senate  
North Dakota State Senate  
Bismarck, North Dakota

Dear Mr. President:

Section 34-08-02 of the North Dakota Century Code clearly sets forth our state's declaration of public policy regarding the freedom to organize for working people.

The policy states, "For the purpose of the interpretation of the provisions of this chapter, the public policy of this state is declared to be that a worker of this state shall be free to decline to associate with his fellows, but that he also shall have full freedom of association, self-organization, and designation of representatives of his own choosing to negotiate the terms and conditions of his employment, and that he shall be free in such matters, as well as in other concerted activities for the purpose of collective bargaining or other mutual aid or protection from interference, restraint, or coercion by employers of labor or their agent."

Section 34-09-01 of the North Dakota Century Code amplifies, through a declaration of public policy, the freedom that shall be granted workers in North Dakota.



It states, "The public policy of this state is declared to be that a worker shall be free to decline to associate with his fellows and shall be free to obtain employment wherever possible without interference or being hindered in any way, but that he shall also have the right to association and organization with his fellow employees and designation of representatives of his own choosing."

Senate Bill 294 would amend Subsection 2, Section 34-12-01, of the 1967 Supplement to the North Dakota Century Code by including "any nursing home licensed by the State Health Department" as being among the employers who shall not be included under the rules and regulations set forth in Chapter 34-12 of the North Dakota Century Code titled North Dakota Labor Management Relations Act.

The North Dakota Labor Management Relations Act sets forth rules of procedure to protect both the workers and the employers. I am sure there are many legislators who voted for Senate Bill 294 thinking that this amendment would prevent the workers in a nursing home from legally organizing a labor union. This is not true, as has been pointed out early in this letter. Sections 34-08-02 and 34-09-01 of the North Dakota Century Code make it possible for any group of workers to organize a union, including the organization of a union among workers in a nursing home.

What Senate Bill 294 does is exempt the workers of a nursing home or any labor union that might be formed from having to follow the rules and procedures as set forth in the North Dakota Labor Management Relations Act. Since the North Dakota Labor Management Relations Act was enacted to protect the workers and the employers, and since it brings orderly procedure out of what could otherwise be chaos, I see nothing to be gained from passing Senate Bill 294, and I can see a retreat from the orderly relationship between workers and employers in nursing homes if Senate Bill 294 is passed.

To those who believe that Senate Bill 294 will in some way hold down the high costs already experienced in nursing home care, I believe that an examination of the makeup of these costs will reveal that workers or work rules are not excessive.

Since Senate Bill 294 does not prevent the organization of a la-

bor union among workers in a nursing home and thus does not prevent the possibility of strike, but does prevent the use of the orderly procedure between workers and nursing home employers as set forth in the North Dakota Labor Management Relations Act, I believe it in the best interest of our state that Senate Bill 294 not become law.

I therefore veto Senate Bill 294.

Sincerely yours,  
WILLIAM L. GUY  
Governor

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

**Section 1. Amendment.)** Subsection 2 of section 34-12-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Employer" includes any person acting as an agent of an employer, directly or indirectly, but shall not include the United States or any wholly-owned government corporation, or any federal reserve bank, or any state or political subdivision thereof, or any corporation or association operating a hospital and any nursing home licensed by the state health department, if no part of the net earnings inures to the benefit of any private shareholder or individual, or any person subject to the Railway Labor Act, as amended from time to time, or any labor organization (other than when acting as an employer), or anyone acting in the capacity of officer or agent of such labor organization, or any farmer;

Disapproved February 25, 1969.

Filed March 20, 1969.

## CHAPTER 574

S.B. No. 389  
(Nething, Kautzmann)

## COMPOSITION OF HIGHWAY CORRIDOR BOARD

## AN ACT

To amend and reenact section 24-17-06 of the North Dakota Century Code, relating to the composition of the highway corridor board.

Veto

March 13, 1969

The Honorable Richard Larsen  
President of the Senate  
North Dakota State Senate  
Bismarck, North Dakota

Dear Mr. President:

Senate Bill 389 increases the membership of the Highway Corridor Board from five to seven members and specifies the method by which its membership shall be selected. The reasoning behind this bill is that the Highway Corridor Board would be benefited by representatives of industries which are most directly involved in highway advertising and beautification of our highways.

I think the Corridor Board is a very essential agency that can be of great value in the enhancement and maintenance of the natural beauty adjacent to our highways. I do, however, see a very serious departure from responsible government in this bill.

The executive branch of state government, in order to be strong and responsible, must have authority to go with its responsibility. This bill takes a state government agency that is an integral part of the executive branch of government and places the power of appointment to the board directly in the hands of



the presidents of non-governmental trade associations. In so doing, this bill removes the governor or any state department heads from participating in the selection of a state government board which is an integral part of the executive branch of state government.

I have seen far too many examples of the dilution of authority within the executive branch of government through inadvertent legislation adopted in past years. Senate Bill 389 unwisely and unnecessarily restricts the authority of the executive branch of government without diminishing the responsibility that rests with the executive branch of government.

While I understand and agree with the objective sought in enlarging the Highway Corridor Board, I am so completely opposed to the removal of the authority of the executive branch of government in this bill that I therefore veto Senate Bill 389.

Sincerely yours,  
WILLIAM L. GUY  
Governor

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

**Section 1. Amendment.)** Section 24-17-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**24-17-06. Highway Corridor Board—Members.)** There is hereby established, to serve as an agency of the state and to perform the functions, conferred upon it in this chapter, the highway corridor board, hereinafter referred to as the board. The board shall be composed of the following seven members: the North Dakota state highway commissioner or his authorized agent; the lieutenant governor of the state of North Dakota; two representatives of the North Dakota outdoor advertising association to be designated by its president and to serve terms of two and four years; one representative of the North Dakota restaurant association to be designated by its president and to

serve a term of two years; a representative of the North Dakota motel association designated by its president to serve a term of two years; a representative of the petroleum council to be designated by its chairman to serve a term of two years. At the expiration of the term of any member appointed to the board, his successor shall be appointed for a term of four years.

Disapproved March 13, 1969.

Filed March 20, 1969.

---

## CHAPTER 575

S. B. No. 459

(Trenbeath, Luick, Nasset, Robinson, Sorlie, Jacobson)

### DETERMINATION OF SUMS DUE COUNTY EQUALIZATION FUNDS

#### AN ACT

To amend and reenact sections 15-40-18 and 57-01-05 of the North Dakota Century Code, relating to the determination of sums due county equalization funds, and relating to the duties of the state supervisor of assessments.

#### Veto

March 28, 1969

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

It has been the stated policy of the present administration to work for equalization and fairness between all taxpayers in North Dakota. One of the tools that we must use in seeking equalization between taxpayers is the sales ratio study.

There are those who have obtained tax relief through the inequities disclosed by the sales ratio study, and conversely there



are those who have to pay higher taxes because of a favored position that they have held for many years as disclosed by the sales ratio study.

There is a determined effort among some interests in this state to abolish the sales ratio study because of the tax advantage that would accrue to those interests if less information is known concerning tax equalization.

Senate Bill 459 contains two features which are very objectionable. It writes into law a restriction that tax inequities can be corrected only by a one-half correction of their variation from the state average. Even more crucial, however, is the language in Senate Bill 459 which provides that no adjustment in the 21 mill school equalization levy shall be made if any provision of Section 15-40-18 of the North Dakota Century Code is rendered inoperative by judicial action.

It is my judgment that the equalization feature of our state law as now guided by sales ratio studies could be completely halted by the simple expedient of an individual taxpayer's obtaining a restraining order or an injunction with respect to the 21 mill levy on his property. Such judicial action which would render Section 15-40-18 inoperative would be a very serious matter.

The Tax Department, in 1968, employed the expert service of the tax consulting firm of Touche, Ross, Baily & Smart to study our sales ratio system. This study by the consulting firm made several recommendations to refine our sales ratio study procedure.

None of these proposed recommendations is embodied in Senate Bill 459.

Because Senate Bill 459 does not add anything to tax equalization, but opens up a very serious possibility of making tax equalization inoperative, I veto Senate Bill 459.

Sincerely yours,  
WILLIAM L. GUY  
Governor

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

**Section 1. Amendment.)** Section 15-40-18 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**15-40-18. Determination of Sums Due County Equalization Funds.)** For purposes of this section:

1. "County average" means the countywide average percentage of market value at which taxable property in a county has been assessed after final equalization; and
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.

At the close of each school year the county superintendent of schools of each county shall submit to the superintendent of public instruction a request for a grant-in-aid from the state for the county equalization fund. The request shall be filed on forms furnished by the superintendent of public instruction and shall state the full amount of the payments from the county equalization fund to be made to each school or school district that has complied with the provisions of law relating to such fund. 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 is entitled. Any county which, according to the certificate of the tax commissioner, has a county average that is equal to the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county, the product of the taxable assessed valuation of property in the county multiplied by twenty and five-tenths mills, and the balance will be the amount of aid to which the county is entitled.



Any county which, according to the certificate of the tax commissioner, has a county average that is less than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county the product of the taxable assessed valuation of the property in the county after adjusting such valuation upwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

Any county which, according to the certificate of the tax commissioner, has a county average that is more than the state average, shall be entitled to a sum determined by subtracting from the full amount of the payments to be made in the county the product of the taxable assessed valuation of the property in the county after adjusting such valuation downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty and five-tenths mills. The balance will be the amount of aid to which the county is entitled for such fund.

The superintendent of public instruction shall determine the product of the taxable valuation of property in the county, after adjusting such valuation upwards or downwards to equal the taxable valuation of property that would have existed for such county had the property in such county been assessed at the state average, by twenty-one mills. The superintendent of public instruction shall certify such amount to the county auditor of each county, that has a county average that is less than or more than the state average, which shall be converted to mills and levied by the county auditor upon all taxable property in the county in lieu of the twenty-one mill levy specified in section 57-15-24.

In the event any provision of this section is rendered inoperative by judicial action, the tax levy provided for in section 57-15-24 shall not be affected, except that the adjustments required by this section shall not be made.

**Section 2. Amendment.)** Section 57-01-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-01-05. State Supervisor of Assessments.) The state tax commissioner shall appoint from a list of qualified applicants forwarded to him by the North Dakota merit system council a supervisor of assessments who shall be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. If the tax commissioner does not desire to appoint a supervisor of assessments from the list of candidates forwarded to him by the merit system council he may request additional lists of qualified applicants from the council. The supervisor of assessments shall serve at the pleasure of the state tax commissioner and office space shall be furnished him by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. He shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. He shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. He shall have authority to require the attendance of groups of assessors at meetings called by him for the purpose of giving them further assistance and instruction as to their duties.
4. He shall make sales ratio and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors in the state, and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any county or city, or any part thereof where the number of sales of properties is insufficient for making a sales ratio study, the supervisor of assessments



or his assistants shall make appraisals of properties in order to determine the ratio of market value to assessment value.

5. He shall cooperate with the North Dakota state university of agriculture and applied science in the development of a soil mapping program, a land classification system, valuation studies and other matters relating to the assessment of property, and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. He shall have general supervision of assessors and county supervisors of assessment pertaining to methods and procedures of assessment of all property and shall have authority to require all county supervisors of assessment to do any act necessary to obtain uniform methods and procedures of assessment.
7. He shall perform such other duties relating to assessment and taxation of property as the tax commissioner shall direct.
8. For the purpose of equalizing assessments on a statewide and countywide basis as it affects section 15-40-18, he shall make studies of property assessments, and shall recommend changes to the tax commissioner to be made by the state board of equalization in the performance of the equalization powers and duties prescribed by section 57-13-04. In the event sales-assessment ratio studies shall be used in making such recommended changes, not more than fifty percent of the variation between market value indicated by such studies and the assessed value shall be taken into account as a basis for adjustments under the provisions of section 15-40-18.

Disapproved March 28, 1969.

Filed March 28, 1969.



## CHAPTER 576

H. B. No. 160  
(Bunker, Bier, Davis, Mueller, Aamoth, Strinden)  
(Metzger, Aas)

## INSURANCE ON PUBLIC BUILDINGS

## AN ACT

To amend and reenact section 26-24-09 of the North Dakota Century Code, relating to insurance on public buildings.

## Veto

March 12, 1969

The Honorable Ernest N. Johnson  
Speaker of the House  
North Dakota House of Representatives  
State Capitol  
Bismarck, North Dakota

Dear Mr. Speaker:

In 1967, the Legislature passed legislation which would permit political subdivisions to insure government buildings with private insurance companies rather than the State Fire and Tornado Fund. I stated then that to do so would mark the beginning of the end of the State Fire and Tornado Fund in favor of the private insurance companies. The phasing out of the State Fire and Tornado Fund would mark the beginning of higher appropriations for state insurance and more taxes from taxpayers.

The State Fire and Tornado Fund has been of tremendous benefit to the taxpayers of North Dakota who support school districts, cities, and villages, as well as the state government. The fund has always charged a lower premium for comparable protection than could be obtained from private sources.

**The State Fire and Tornado Fund could not be construed as a state business as it was never in competition with private insurance companies in insuring risks in the private sector. The fund insures only government buildings.**

State and local government has no obligation to generate business or provide profit for private enterprise. **State and local government, however, does have a deep and abiding obligation to each and every taxpayer to operate all levels of government as efficiently and economically as is possible.** I do not believe then that state or local government is obligated to the insurance industry to generate business for them, nor do I believe that the special interest of the insurance industry in conducting part of the business of government for a profit should supersede the interest of all taxpayers who seek economy in government. Government must be run as a business.

In the depths of the depression in the early 1930's, the Fire and Tornado Fund accepted school warrants at full value at a time when private insurers would have had to have cash.

The fund was so successful that for a period of years from 1935 to 1943, there were no annual premiums charged on buildings which had been insured for five years or more. No private insurance company could have come to the rescue of hard pressed state and local government in this manner. During this eight-year period, \$1,686,000 in premiums was not charged by the fund and, in effect, provided this additional financial support to government.

The rate charged to local political subdivisions since 1943 has remained at 50% of the rates established by the Fire Underwriters Inspection Bureau, except for one term of two years when the rate was set at 60%.

When the law was changed on July 1, 1967, to permit private insurance companies to obtain insurance contracts on government buildings, there were approximately 5,500 buildings insured by the Fire and Tornado Fund in all counties in North Dakota. After 18 months of operation, we find that today the number of buildings insured by the fund has been reduced to 4,717. This is a 14% reduction in a little over one and one-half years.

On July 1, 1967, the Fire and Tornado Fund insured buildings with an approximate value of \$350 million. Today that value has dropped to \$318 million. Premiums charged by the Fire and Tornado Fund have dropped in the last 18 months from \$1.2 million to \$1.1 million.

Since the Fire and Tornado Fund was established in 1919, there have been total loss claims paid of \$6,593,395.77. The present reserve in the fund for payment of losses to government buildings is now \$7,974,201.99. **The reserve on hand then at the present time far exceeds the total of all the losses to the fund since its beginning 40 years ago.**

House Bill 160 seeks to make it optional for state agencies and state industries as well as political subdivisions to insure buildings, their fixtures and permanent contents, with private insurance companies if they wish. We have in this bill a very profound and basic concept which must be decided. That concept is, should state government have an obligation to the taxpayer which supersedes an obligation to any particular segment of the private business sector. In my judgment, government was created not to feed the private business sector, but to conduct the affairs under law of all citizens and taxpayers at the least possible economic cost to them.

**There is no proof that optional coverage by private insurance companies can result in year-in and year-out savings to taxpayers.**

**State government, with its far flung building locations, does not have the concentrated risk for insurance consideration as do many risks in private business or, for that matter, in local government.**

The theory of insurance is to protect the ability to restore a building that has been lost. In the case of state buildings, there is a question in my mind that there is any need to provide insurance at all because of the ability of taxpayers to spread the risk of a state building loss over thousands of other taxpayers.

Only in a few instances where state industries are involved, such as the State Mill or the Bank of North Dakota, are we insuring a productive capacity. And so any loss in state buildings, except for these few state industries, does not impair our taxpayers' productive capacity to generate income for replacement of loss. This is not true with private business whose productive capacity probably would be severely impaired or destroyed if they were to suffer a building loss.

In my judgment then, the state can more effectively serve the

taxpayer by carrying a minimum of insurance at minimum cost to the taxpayer on state buildings. To open the door making it possible for private insurance companies to insure state buildings could not do other than raise the cost of government to the taxpayer.

**The law does not require competitive bidding.** The law permits officials to make a selection of insurance coverage unrelated to premium cost or adequate coverage. Already, in 18 months of operation, there is evidence that low bids are not being accepted in all cases by officials in local government.

Already, there is evidence of favoritism being granted to certain private insurance agencies. Already, there is evidence that Fire and Tornado Fund bids, even though the lowest, are being rejected. This kind of operation in government does not protect the interest of the taxpayers and is the type of operation that will sooner or later result in those types of scandals that reduce the confidence of the public in their public officials and government.

I have recommended in the past and I recommend now that **the interest of our citizens and taxpayers would be best served if we were to strengthen the reserves of the Fire and Tornado Fund and to make adjustments in Fire and Tornado Fund coverage.**

We see evidence that pressures are being brought to bear upon local government officials to grant insurance contracts to selected companies.

At this time, the 1967 law permits governing bodies to grant contracts without competitive sealed bids. The principle of open competitive bidding has been abolished under the 1967 law. House Bill 160 seeks to bring the insurance of state industries and state government under the weaknesses that were built into the 1967 law which permitted optional coverage by private insurance companies or the Fire and Tornado Fund.

There is no question that this bill would permit private insurance companies to pick and choose the low risk buildings and that the Fire and Tornado Fund would be used as a catch-all for the high risk buildings. It should be obvious to all what would be necessary in the competitive rates charged by the Fire



and Tornado Fund when it would be required to carry the high risk buildings.

As the number of risks insured by the Fire and Tornado Fund shrinks, as the private insurance companies take over, there would undoubtedly be a rising loss history to the Fire and Tornado Fund because the remaining buildings would carry a higher risk. As the more hazardous risks left with the Fire and Tornado Fund caused losses to go up, insurance rates by the fund would have to increase. This would then provoke the cry that Fire and Tornado Fund rates had been forced up to comparable rates with private insurance and therefore this would prove that the Fire and Tornado Fund was not needed and should be phased out completely.

When the Fire and Tornado Fund has been phased out or effectively crippled, we can expect the rates of private insurance companies to rise on state buildings with no concern for competition.

As I said in 1967 in my message vetoing House Bill 714 of that year, I can see no legitimate philosophical, political, or economical reason why the private insurance industry should lay claim to the insurance of state buildings, particularly when such a claim will eventually result in a cost of at least one-half million dollars more annually to North Dakota taxpayers. **If large sums of tax money were not involved, the insurance companies would not be interested in moving in.**

I have seen much debate and concern in this session on various measures asking that savings of \$10,000 here and \$85,000 there be made. **It does not seem to me to be consistent that the Legislature can be so concerned about relatively small but easily seen state appropriation expenses, and then totally ignore the substantially increased costs that are built into House Bill 160.**

House Bill 160 is not a taxpayers' bill. It is an insurance industry bill. My obligation as Governor is to all of our citizens and taxpayers, and not just a special interest view.

I therefore veto House Bill 160.

Sincerely yours,  
WILLIAM L. GUY  
Governor



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

**Section 1. Amendment.)** Section 26-24-09 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**26-24-09. Commissioner to Provide Insurance on All Public Buildings.)** Upon application the commissioner shall provide for insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosions, riot attending a strike, aircraft, smoke, vehicles, or any other risks of direct physical loss, all in the manner and subject to the restrictions of the standard fire insurance policy and standard endorsement, and no other hazards, in the fund, on all buildings owned by the state, state industries, and political subdivisions of the state, and the fixtures and permanent contents in such buildings, to the extent of not to exceed the insurable value of such property, as such value is determined by the commissioner and approved by the officer or board having control of such property, or, in case of disagreement, by approval through arbitration as hereinafter provided.

All public buildings owned by the state, state industries and political subdivisions of the state, and the fixtures and permanent contents in such buildings, in lieu of coverage provided for in this section, may at the option of the officer, board or governing body having control of such property be insured on the basis of competitive sealed bids, through the fire and tornado fund which shall be invited to submit a sealed bid or private insurance companies licensed to do business in this state, against damage resulting from hazards, which hazards shall include but shall not be limited to those types of hazards that may be insured against by the fund. The officer, board or governing body may reject any or all such bids. A private insurance company writing insurance on public property under this chapter shall notify its agent, the insured, and the fire and tornado fund of the expiration of such insurance at least thirty days before the expiration date of such insurance.

All public libraries owned by the state or the political subdivisions of the state may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If such coverage cannot be extended to the public libraries

situated within this state, such libraries may contract for such coverage with private insurance companies, provided that such coverage meets the recommendations of the insurance code of the American library association.

Disapproved March 12, 1969.

Filed March 21, 1969.

---

## CHAPTER 577

H. B. No. 283

(Moquist, Hensrud)

### EXAMINATION OF APPLICANTS FOR MOTOR VEHICLE OPERATOR'S LICENSE

#### AN ACT

To amend and reenact section 39-06-13 of the North Dakota Century Code, relating to drivers' license examinations.

**Veto**

March 26, 1969

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 283 seeks to relieve the Highway Patrol of some of its duties in examining applicants for an operator's license. The motive behind this legislation is good in that there is an attempt here to save our Highway Patrolmen from doing work that others could possibly do.

I see, however, in House Bill 283, some very serious de-

iciencies. It divides the responsibility for conducting operator license examinations between the Highway Patrol and more than 150 driver education instructors. It would permit the development of varying driver license examination standards which would not be in the best interest of the state. It would bring about some unfairness and inequity in driver license examinations because of a failure of standardized examinations by driver education instructors.

This bill would still require the Highway Patrol to travel to locations where examinations were given in order for the Highway Patrol to give eye examinations. Thus, much of the time which this bill attempts to save for Highway Patrolmen would still be consumed.

This bill makes no provision for the supply of forms, nor does it make provision for the keeping of records, nor the reporting of examination activities of driver education instructors. It would throw an unmanageable responsibility on the Highway Patrol.

This bill makes no provision for compensation to driver education teachers for giving driver education examinations. This bill assumes that all driver education teachers are qualified to conduct driver license examinations. Perhaps, under proper conditions, driver education teachers could become qualified, but there is no provision in the bill for training people in the techniques of driver license examination.

Driver education instructors are not necessarily qualified to give operator examinations.

Because this bill would create far more problems and inequities than it would cure, I therefore veto House Bill 283.

Sincerely yours,  
WILLIAM L. GUY  
Governor



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

**Section 1. Amendment.)** Section 39-06-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**39-06-13. Examination of Applicants.)** The highway patrol shall examine every applicant for an operator's license, except as otherwise provided in this chapter. Such examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning, and directing traffic, his knowledge of the traffic laws of this state, and shall include an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle. The highway patrol shall make provision for giving an examination either in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant within not more than thirty days from the date the application is received. The commissioner may require such other physical or mental examination as may be deemed advisable.

An instructor of driver education duly certified by the superintendent of public instruction and actively engaged in the instruction of driver education in a high school of this state may examine applicants for a motor vehicle operator's license who have successfully completed the prescribed high school course in behind-the-wheel and classroom training in driver education. Such examination shall be in lieu of the highway patrol examination of applicants for operators' licenses prescribed in this section but such examination shall be substantially the same as the highway patrol examination.

Disapproved March 26, 1969.

Filed March 27, 1969.

## CHAPTER 578

H.B. No. 450  
(Appropriations Committee)

MEMBERSHIP AND QUORUM OF EMERGENCY  
COMMISSION

## AN ACT

To amend and reenact section 54-16-01 of the North Dakota Century Code, relating to the membership and defining a quorum of the emergency commission.

## Veto

March 26, 1969

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

House Bill 450 would require the full Emergency Commission, which includes the Chairmen of the Senate and House Appropriations Committees in addition to the Commissioner of Agriculture, the Secretary of State, and the Governor, to meet on every application that comes before the Emergency Commission according to the process established by law.

Under the present law, the legislative members of the Emergency Commission are called in only to pass on transfers from the State Contingency Fund in excess of \$10,000 or for approval of the acceptance and expenditure of very large federal grants. The present law, which allows the small Emergency Commission made up of the Governor, Secretary of State, and Commissioner of Agriculture to act on small and routine matters, has worked very efficiently.

House Bill 450 would require many trips to the State Capitol by



the legislative members of the full Emergency Commission. In my judgment, these many trips are unnecessary, and the additional control by the legislative members in routine and small applications to the Emergency Commission is cumbersome.

House Bill 450 also provides that the Emergency Commission quorum shall consist of three members, but all actions of the Commission must be concurred in by a least three members of the Commission in attendance at the meeting during which action was taken.

Since it would be highly unlikely that the two legislative members of the Emergency Commission would want to make the many trips required by routine Commission business, many of the Commission meetings would be attended by only the constitutional officers on the Commission. The requirement that all three of these constitutional members must agree is an unnecessary encumbrance on the process of government, since the present law permits a majority of a quorum of three to take action.

Because I can see no benefit from this legislation, and because it unnecessarily encumbers the working of the Executive Branch of State Government, I veto House Bill 450.

Sincerely yours,  
WILLIAM L. GUY  
Governor

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

**Section 1. Amendment.)** Section 54-16-01 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-16-01. Emergency Commission—Members—Organization—Meetings—Quorum—Duties.)** The emergency commission shall consist of the governor, the commissioner of agriculture,

the secretary of state, the chairman of the senate appropriations committee, and the chairman of the house of representatives appropriations committee. The governor shall be chairman of the commission, and the secretary of state, the secretary. The emergency commission shall meet upon the call of the chairman, and three members of the commission shall constitute a quorum, but all actions of the commission shall be concurred in by three members of the commission in attendance at the meeting during which such action was taken. The commission shall exercise the powers and perform the duties imposed upon it by law.

Disapproved March 26, 1969.

Filed March 26, 1969.

## CHAPTER 579

H. B. No. 453  
(Dornacker)

EXCLUSION OF CERTAIN SALES FROM  
SALES ASSESSMENT RATIO STUDY

## AN ACT

To amend and reenact section 57-01-06 of the North Dakota Century Code, relating to the exclusion of certain sales from sales assessment ratio studies.

Veto

March 28, 1969

The Honorable Ben Meier  
Secretary of State  
State Capitol  
Bismarck, North Dakota

Dear Mr. Meier:

The sales ratio study principle has been applied in North Dakota and in many other states to strive toward fairness between taxpayers based on equitably assessed real estate. The sales ratio study is a tool whereby equalization of real estate valuation can be pursued, no matter whether that property is located in rural or urban areas, or whether it be business or residential property, or whether it is located in one part of the state or in another.

The North Dakota Tax Department employed a professional consulting firm, Touche, Ross, Baily & Smart, to review North Dakota's sales ratio study in 1968. They made several recommendations for refinement of our sales ratio procedure. None of these recommendations appears in House Bill 453.

House Bill 453 makes no contribution to improving our sales ratio procedure. Existing law eliminates property which is not

assessable from the sales ratio study without the passage of House Bill 453. Existing law prohibits the use of transactions involving less than 80 acres. House Bill 453 raises the limitation to 150 acres, which eliminates too many valid sales and would thus weaken the sales ratio study.

Almost all sales of land in North Dakota include unsevered mineral rights, except in certain western areas of the state. It would be virtually impossible in most cases to determine what portion of a sale reflects unsevered mineral rights. Thus, House Bill 453 would effectively eliminate too many valid rural sales from the sales ratio study.

We must always be seeking legislative and administrative ways of refining our sales ratio study. House Bill 453 does not contribute to such refinement. In fact, it reduces the accuracy and fairness of the sales ratio study.

I therefore veto House Bill 453.

Sincerely yours,  
WILLIAM L. GUY  
Governor

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

**Section 1. Amendment.)** Section 57-01-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**57-01-06. Sales Assessment Ratio Study—Contents Not To Be Included.)** Any sales assessment ratio study which may be made by the state tax commissioner shall not include the following:

1. Property owned or used by public utilities;
2. Property classified as personal property;
3. A sale where the grantor and the grantee are of the same family or corporate affiliate (if known);

4. A sale which resulted as a settlement of an estate;
5. All sales to or from a government or governmental agency;
6. All forced sales, mortgage foreclosures, and tax sales;
7. All sales to or from religious, charitable, or nonprofit organizations;
8. All sales where there is an indicated change of use by the new owner;
9. All transfer of ownership of property for which is given a quitclaim deed;
10. That portion of a sale of property not assessable by law which includes churches; farm buildings and improvements; business franchises; good will; grazing rights; and irrigation rights;
11. Agricultural lands of less than one hundred fifty acres; and
12. That portion of a sale which reflects unsevered mineral rights.

Disapproved March 28, 1969.

Filed March 28, 1969.



# REFERRED MEASURES, DISAPPROVED

---

## CHAPTER 580

### CORPORATIONS ALLOWED TO CARRY ON FARMING OPERATIONS

Disapproval and repeal by referendum of House Bill No. 782 of the fortieth legislative assembly, which would have created and enacted section 10-06-07 of the North Dakota Century Code, authorizing small corporations to engage in farming and ranching operations, providing limitations thereon, and which would have repealed sections 10-06-01, 10-06-02, 10-06-03, and 10-06-05 of the North Dakota Century Code, relating to the prohibition of corporate farming. See chapter 97 of the 1967 Session Laws.

Disapproved November 5, 1968.

171,321 to 53,938

**Note:** This was referred measure No. 1 on the general election ballot.

# CONSTITUTIONAL AMENDMENTS, APPROVED

---

## CHAPTER 581

### UNIFORM SYSTEM OF FREE PUBLIC SCHOOLS

Senate Concurrent Resolution "J", chapter 514, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota, providing for the amendment of section 148 of the Constitution of the state of North Dakota, relating to a uniform system of free public schools, by adding after the words "up to and including" the words "schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education" and to delete, after the words "up to and including" the words "the normal and collegiate course" so as to read as follows:

#### **Be It Enacted by the People of the State of North Dakota:**

**Section 1. Amendment.)** Section 148 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 148.** The legislative assembly shall provide for a uniform system of free public schools throughout the state, beginning with the primary and extending through all grades up to and including schools of higher education, except that the legislative assembly may authorize tuition, fees and service charges to assist in the financing of public schools of higher education.

Approved September 3, 1968.

59,675 to 52,449

**Note:** This was constitutional measure No. 1 on the primary election ballot.

## CHAPTER 582

TERMS OF LEGISLATORS AND MEETING  
OF LEGISLATIVE ASSEMBLY

House Concurrent Resolution "O", chapter 519, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota, providing for the amendment of sections 41, 53, and 56 of the Constitution of the state of North Dakota, relating to commencement of the term of the members of the legislative assembly; meeting times of the legislative assembly; and providing for an orientation session, by adding after the words "shall begin on the" in section 41 the words "first day of December following their election, or at such other time as may be prescribed by law" and by deleting after the words "shall begin on the" in section 41 the words "first Tuesday in January, next after their election"; and by adding after the words "seat of government" in section 53 the words "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" and by deleting after the words "seat of government" in section 53 the word "at", and by adding after the words "Monday in January" in section 53 the words "or at such other time as may be prescribed by law but not later than the eighth day of January"; and by deleting the words "No regular sessions" in section 56 and substituting therefor the words "Each session", and by adding after the words "assembly shall" in section 56 the word "not", and by adding after the words "exceed sixty" in section 56 the word "legislative", and by deleting after the word "impeachment" in section 56 the words "but the first session of the legislative assembly may continue for a period of one hundred and twenty days", and by adding as a second sentence to section 56 the words "The organizational meeting of the legislative assembly as provided in section 53 shall not be counted as part of such sixty legislative days," thus causing sections 41, 53, and 56 to read as follows:

**Be It Enacted by the People of the State of North Dakota:**

**Section 1. Amendment.)** Section 41 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 41.** The term of service of the members of the legislative assembly shall begin on the first day of December following their election, or at such other time as may be prescribed by law.

**Section 2. Amendment.)** Section 53 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 53.** 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 o'clock noon on the first Tuesday after the first Monday in January or at such other time as may be prescribed by law but not later than the eighth day of January.

**Section 3. Amendment.)** Section 56 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 56.** Each session of the legislative assembly shall not exceed sixty legislative days, except in the case of impeachment. The organizational meeting of the legislative assembly as provided in section 53 shall not be counted as part of such sixty legislative days.

Approved September 3, 1968.

64,727 to 41,675

**Note:** This was constitutional measure No. 3 on the primary election ballot.



# CONSTITUTIONAL AMENDMENTS, DISAPPROVED

---

## CHAPTER 583

### POLITICAL SUBDIVISION DEDICATED REVENUE BONDS

Senate Concurrent Resolution "PP", chapter 516, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota for an amendment to the Constitution of the state of North Dakota, relating to the issuance of dedicated revenue bonds by the political subdivisions of the state, and providing for the methods of repayment thereof.

#### **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 section:

Notwithstanding sections 175, 176, 179, 183, 184, and 185, or other provisions of this Constitution, political subdivisions of the state of North Dakota may incur indebtedness by the issuance of dedicated bonds for such purposes, amounts, manner, and subject to such limitations as shall be prescribed by law.

A dedicated bond as used in this section means an instrument of indebtedness, either incurred or to be incurred, for which certain taxes, moneys, income or revenue, except ad valorem taxes on either personal or real property, or special assessments on personal or real property, are irrevocably pledged and dedicated for the retirement of said indebtedness. The legislature shall prescribe the manner and conditions under which payments from any fund may be made in the event the dedicated funds are inadequate to pay principal or interest when due, or when default is imminent, and the manner and conditions in which repayments shall be made to the funds drawn upon. The legislature may substitute other funds for dedicated funds but it shall not destroy the effect of the pledged or dedicated revenues, moneys or income for any bond issue.

Nothing herein shall affect the obligations of municipal bonds payable in whole or in part from special assessments, or other taxes levied on all taxable property for the payment of any deficiency in special assessment bonds, or other funds pledged to payment of such bonds.

Disapproved September 3, 1968. 39,892 to 61,940

**Note:** This was constitutional measure No. 2 on the primary election ballot.

---

## CHAPTER 584

### LOWERING OF VOTING AGE

Senate Concurrent Resolution "00", chapter 515, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota to provide for amendment of section 121 of the Constitution of the state of North Dakota, relating to the elective franchise and lowering of the voting age from twenty-one to nineteen years of age.

**Be It Enacted by the People of the State of North Dakota:**

**Section 1. Amendment.)** Section 121 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 121.** Every person of the age of nineteen or upwards who is a citizen of the United States and who shall have resided in the state one year and in the county ninety days and in the precinct thirty days next preceding any election shall be a qualified elector at such election. Provided, that where a qualified elector moves from one precinct to another within the state, he shall be entitled to vote in the precinct from which he moves until he establishes his residence in the precinct to which he moves.

Disapproved September 3, 1968. 59,034 to 61,813

**Note:** This was constitutional measure No. 4 on the primary election ballot.

## CHAPTER 585

## SELECTION OF JUDGES

Senate Concurrent Resolution "UU" chapter 517, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota to provide for the amendment of sections 85, 90, 94, and 100 of the Constitution of the state of North Dakota, relating to the powers of the judiciary, changing the selection of judges from an elective to an appointive-elective system, preserving the tenure of judges presently in office and of those who would take office prior to the effective date of these amendments; to provide for the retirement, discipline, and removal of supreme and district court judges; and to provide for requirements to declare a law unconstitutional; providing for judicial districts, the judicial council, and to repeal sections 88, 89, 92, 93, 95, 97, 98, 102, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, and 118, relating to the procedures of state courts, all of such sections amended and repealed being a part of the Constitution of the state of North Dakota.

**Be It Enacted by the People of the State of North Dakota:**

**Section 1. Amendment.)** Section 85 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 85.** The judicial power of the state shall be vested in a supreme court, district courts and divisions thereof, county courts and other courts as provided by law.

The supreme court shall consist of five justices, one of whom shall be chief justice; a majority of whom shall be necessary to form a quorum or pronounce a decision, provided that in no case shall any law be declared unconstitutional unless at least four of the justices shall so decide.

The chief justice of the supreme court shall be selected by the supreme and district court judges as provided by law.

The chief justice shall be the chief administrative officer of the judicial system with supervisory administrative authority over the operation of all courts and assignment of justices and judges.

**Section 2. Amendment.)** Section 90 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:



SECTION 90. A vacancy occurring in the office of a justice of the supreme court or judge of the district court shall be filled by the governor from a list of three nominees presented to him by the judicial nominating committee. If the governor should fail to make an appointment from such list within thirty days from the date it is presented to him, the appointment shall be made by the chief justice of the supreme court from the same list within fifteen days. At the next general election after the expiration of three years from the date of appointment and every ten years thereafter, justices of the supreme court shall be subject to approval by a majority vote of the electorate voting upon the question. At the next general election after the expiration of three years from the date of appointment and every six years thereafter, judges of the district court shall be subject to approval by a majority vote of the electorate voting upon the question. In the case of a justice of the supreme court, the electorate of the state shall vote upon the question of approval. In the case of a judge of the district court only the electorate of that district shall vote on the question of approval. All justices and judges shall hold their offices until their successors are duly qualified and shall receive such compensation for their services as prescribed by law.

There shall be a judicial nominating committee which shall select the nominees for appointment to the office of justice of the supreme court and judge of the district court. The committee shall not nominate any person who is, or within a period of one year has been, a member of the committee. The membership of such committee shall consist of the chief justice of the supreme court, who shall act as chairman, one attorney licensed to practice law from each judicial district who shall be selected by the attorneys licensed to practice law residing within such district; and one citizen from each judicial district, not an attorney licensed to practice law, appointed by the majority decision of the attorney general, the secretary of state and the governor. No member of the judicial nominating committee shall hold any elective office in the state, federal or county governments or hold office in any political party. The terms of office and compensation for members of the committee shall be provided by law.

Section 3. Amendment.) Section 94 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 94.** All justices and all judges shall be citizens of the United States. No person shall be eligible to an appointment as district judge unless such person shall be a resident of this state and of the judicial district in which he shall serve and shall have been licensed to practice law in this state for at least five years prior to such appointment; no person shall be eligible to an appointment as a justice of the supreme court unless such person shall be a resident of this state and have been licensed to practice law in the state for at least ten years prior to such appointment or is a district judge. The legislative assembly may prescribe by law additional qualifications for justices of the supreme court and judges of the district court. Judges of other courts shall be selected in a manner, for such terms, and with such qualifications as shall be prescribed by law.

No justice or judge of the supreme court or district courts shall engage in the practice of law, or directly or indirectly make any contribution to, or hold office in a political organization or file for elective office other than judicial.

**Section 4. Amendment.)** Section 100 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 100.** If any justice or judge of the supreme or district court shall have an interest in a case in his court or be unable to hear a case because of being physically or mentally incapacitated or declares himself disqualified, the chief justice may assign a justice or judge in such cases.

**Section 5. Amendment.)** The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

There shall be a judicial council whose membership shall consist of all supreme court justices, all district judges and other judges and attorneys licensed to practice law in this state as may be provided by law. Its powers and duties shall be as prescribed by this Constitution and by law.

**Section 6. Amendment.)** The Constitution of the state of North Dakota shall be amended by adding thereto the following section:



Any judge of the supreme or district court elected or appointed to the office prior to the effective date of these amendments shall serve the balance of his term and shall be eligible to succeed himself as provided by this Constitution and by law.

**Section 7. Amendment.)** The Constitution of the state of North Dakota shall be amended by adding thereto the following section:

A justice or judge of the supreme or district court may be censured, retired, or removed from his judicial office by a two-thirds vote of the supreme and district court judges, and a justice or judge of any other court may be censured, retired, or removed from his judicial office by a two-thirds vote of the membership of the judicial council for, but not limited to, the following:

1. Conviction in a court of this or any other state, or of the United States, of a crime punishable as a felony or a crime involving moral turpitude; or
2. Willful misconduct in a judicial office; or
3. Failure to perform judicial duties with reasonable dispatch; or
4. Habitual intemperance; or
5. Ceasing to be a resident of the state; or
6. Disability or incapacity seriously interfering with the performance of his duties and which is likely to be of a permanent nature; or
7. Lack of judicial competence in the performance of his duties.

The supreme and district court judges or the judicial council, whichever the case may be, may, after such investigations as they or it deems necessary, order a hearing to be held before them or it concerning the censure, retirement, or removal of such justice or judge, or they or it may in their or its discretion request the supreme court to appoint three special masters, who shall be judges of courts of record, to hear and take evidence, in any such matter and to report thereon to them or it. If, after hearing or after considering the record and report of the masters, they or

it find good cause therefor, they or it shall order censure, retirement, or removal as the case may be, of the justice or judge. Upon an order for retirement, the justice or judge shall thereby be promptly removed from office and his salary shall cease from the date of such order. Retirement age, rights, privileges and benefits shall be as prescribed by law.

**Section 8. Amendment.)** The Constitution of the state of North Dakota shall be amended by adding thereto the following:

The state shall be divided into judicial districts as provided by law.

**Section 9. Repeal.)** Sections 88, 89, 92, 93, 95, 97, 98, 102, 104, 105, 106, 107, 108, 109, 112, 113, 114, 115, 116, 117, and 118 of the Constitution of the state of North Dakota are hereby repealed.

Disapproved September 3, 1968. 45,926 to 58,230

**Note:** This was constitutional measure No. 5 on the primary election ballot.

## CHAPTER 586

## CONSTITUTIONAL REVISION

House Concurrent Resolution "A", chapter 518, 1967 Session Laws, proposed by the Fortieth Legislative Assembly of the state of North Dakota to provide for the amendment of sections 124, 125, 127, and 129, relating to the voting franchise and to repeal sections 122, 123, 126, and 128, relating to the voting franchise; to amend and reenact section 130, relating to municipal corporations; to repeal sections 132, 133, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, and 146, relating to other corporations; to repeal section 151, relating to education; to amend and reenact sections 153, 154, 155, and 156, relating to school and public lands and to repeal sections 157, 158, 159, 160, 161, 162, and 164, relating to school and public lands; to amend and reenact sections 168, 170, 172, and 173, relating to county and township organization; and to repeal section 166, relating to county and township organization; to amend and reenact sections 176 and 179, relating to revenue and taxation; to amend and reenact sections 185 and 186, relating to public debt and public works; to repeal section 187 and Articles 59 and 65, relating to public debt and public works; to amend and reenact section 202, relating to methods of amending the state Constitution; to amend and reenact Article 33 of the Amendments, relating to recall provisions; to amend and reenact section 212, relating to the exchange "black lists"; to repeal sections 209 and 214, relating to the labor of children and original legislative apportionment; to amend and reenact section 215, relating to public institutions, and to repeal section 216 and Article 19 of the Amendments, relating to public institutions; to amend and reenact Article 54 of the Amendments, relating to the state board of higher education; to amend and reenact Article 56 of the Amendments, relating to gasoline taxes; and to repeal sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of the Schedule to the Constitution of the state of North Dakota; all such sections and Articles of Amendments amended and repealed, being a part of the Constitution of the state of North Dakota.

**Be It Enacted by the People of the State of North Dakota:**

**Section 1. Amendment.)** Section 124 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 124.** A general election of the state shall be held biennially on the first Tuesday after the first Monday in November.

**Section 2. Amendment.)** Section 125 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 125.** No elector shall be deemed to have lost his residence in this state solely by reason of his absence on business of the United States or of this state, or while serving as a member of the armed forces of the United States. Nor shall voting residence be gained solely in consequence of being stationed in this state as a member of the armed forces of the United States.

**Section 3. Amendment.)** Section 127 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 127.** No person who is legally incompetent shall be qualified to vote at any election; nor shall any person convicted of a felony unless restored to civil rights.

**Section 4. Amendment.)** Section 129 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 129.** All elections shall be by secret ballot, subject to such regulations as shall be provided by law.

**Section 5. Amendment.)** Section 130 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 130.** Except in the case of home rule cities as provided in this section the legislative assembly shall provide by general law for the organization of municipal corporations, specifying their powers as to levying taxes and assessments, borrowing money, and contracting debts. Money raised by taxation, loan or assessment for any purpose shall not be diverted to any other purpose except by authority of law.

The legislative assembly shall provide by law for the establishment of home rule in cities. Home rule cities shall have all powers of self government except:

1. Those powers withheld from them by law;
2. Those powers not accepted by the city by its home rule charter; and

3. Those powers prohibited by this Constitution or the law of the land; provided that the legislative assembly shall not be restricted in granting of home rule powers to home rule cities by section 183 of this Constitution.

**Section 6. Amendment.)** Section 153 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 153.** All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this state; all such per centum as may be granted by the United States on the sale of public lands; property and the proceeds of property that shall fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual trust fund for the maintenance of the common schools of the state. Only the interest and income of the fund may be expended and the principal shall be retained and devoted to the trust purpose. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, shall be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be commingled only with similar funds for the same institution. Should a gift be made to an institution for a specific purpose, without designating a trustee, such gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide.

**Section 7. Amendment.)** Section 154 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 154.** The interest and income of the common school fund together with the net proceeds of all fines for violation of state laws and all other sums which may be added thereto by law, shall be faithfully used and applied each year for the benefit of the common schools of the state, and shall be apportioned among the common school corporations of the state according to the number of children attending each public school within the state.



The interest and income of each institutional trust fund held by the state shall, unless otherwise specified by the donor, be appropriated by the legislative assembly each biennium to the exclusive use of the institution for which the funds were given.

**Section 8. Amendment.)** Section 155 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 155.** The legislative assembly shall provide for the sale or lease of all properties held by the state in the school or other institutional trust funds at not less than fair market value; provided that in the sale of any such real estate the minerals, including but not limited to oil, gas, coal, cement materials, sodium sulphate, sand and gravel, road material, building stone, chemical substances, metallic ores, uranium ores, and colloidal or other clays, shall be reserved and excepted to the state of North Dakota. Leases may be executed by the state for the extraction and sale of such materials in the manner and upon such conditions as the legislative assembly may provide. The proceeds of all sales and leases shall be credited to the fund from which the property was removed for sale purposes.

**Section 9. Amendment.)** Section 156 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 156.** The superintendent of public instruction, governor, attorney general, secretary of state and state auditor, shall constitute a board of commissioners, which shall be denominated the "board of university and school lands", and, subject to the provisions of this Article and any law that may be passed by the legislative assembly, said board shall have control of the appraisalment, sale, rental and disposal of all school, university, and institutional lands held in trust by the state under the authority of this Article, and shall direct the investment of the funds governed by this Article in the hands of the state treasurer as provided by law.

**Section 10. Amendment.)** Section 168 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 168.** All changes in the boundaries of organized counties before taking effect shall be submitted to the electors

of the county or counties, to be affected thereby at a general or statewide election and be adopted by a majority of all the legal votes cast in each county at such election; and in case any portion of an organized county is stricken off and added to another, the county to which such portion is added shall assume and be holden for an equitable proportion of the indebtedness of the county so reduced.

**Section 11. Amendment.)** Section 170 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 170.** The legislative assembly shall provide by law for optional forms of government for counties in addition to the forms provided by sections 172 and 173 of the Constitution, and which may be adopted by a county when approved by the voters therein by a majority of the votes cast on the question.

**Section 12. Amendment.)** Section 172 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 172.** Until one of the optional forms of county government provided by the legislative assembly be adopted by any county, the fiscal affairs of said county shall be transacted by a board of county commissioners.

**Section 13. 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 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, or until such time as an optional form of government is accepted by the electorate and assumes the functions, and whose duties shall be provided by law; provided that 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.

**Section 14. 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 legislative assembly may by law exempt any or all classes of personal property from taxation and all fixtures, buildings, and improvements upon land may be deemed personal property for exemption purposes. Property used exclusively for schools, religious, cemetery, charitable or other public purposes, unless held or used for profit, shall be exempt from taxation. Except as restricted by this Article, the legislative assembly may provide for raising revenue and fixing the situs of all property for the purpose of taxation.

**Section 15. Amendment.)** Section 179 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 179.** All taxable property except as hereinafter in this section provided, shall be assessed in the taxing district in which it is situated. The property, including franchises of all railroads operated in this state, and of all express companies, freight line companies, dining car companies, sleeping car companies, car equipment companies, or private car line companies, telegraph or telephone companies, the property of any person, firm or corporation used for the purpose of furnishing electric light, heat or power, or in distributing the same for public use, and the property of any other corporation, firm or individual now or hereafter operating in this state, and used directly or indirectly in the carrying of persons, property or messages, shall be assessed by the state board of equalization in the manner provided by law. But should any railroad or public utility allow any portion of its railway or property to be used for any purpose other than the operation of a railroad or a public utility, such portion of its property, while so used shall be assessed in a manner provided for the assessment of other property.

**Section 16. Amendment.)** Section 185 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 185.** The state or any of its political subdivisions may make internal improvements and may engage in any

industry, enterprise, or business, except the alcoholic beverage business. Neither the state nor any political subdivision thereof shall otherwise loan or give its credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor, nor subscribe to or become the owner of capital stock in any association or corporation; except that the state and any of its political subdivisions may enter into joint enterprises with each other in carrying out their public projects to the extent authorized by law.

**Section 17. Amendment.)** Section 186 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 186. (1)** All public moneys of this state, except as provided in section 153 of this Constitution, shall be paid over monthly by the person receiving the funds to the state treasurer and deposited by him in the state treasury, and shall be paid out only pursuant to annual or biennial appropriations first made by the legislative assembly; provided that this section shall not apply to moneys for financial transactions of the bank of North Dakota or the state mill and elevator association, and the legislative assembly may further exempt from this section the financial transactions of the commercial undertakings of the various state institutions. An appropriation need not be first made to allow disbursements from the state hail insurance fund, state bonding fund, state fire and tornado fund, workmen's compensation fund, or unemployment compensation fund, board of university and school lands investment funds or other funds authorized by law to be invested, retirement of bonds or other fixed obligations, public employees' retirement funds, allocation of state funds to political subdivisions, refunds authorized in any tax law, trust fund and trust fund income which is the result of private gifts if the terms of the gift provide for disbursement of the fund or its interest and income, and interest and income from retirement, insurance or similar trust funds, nor to license fees of any licensed trade or profession. When the provisions of this amendment become effective, all existing balances in funds not exempted from the provisions of this section shall be transferred to the state treasury.

(2) No bills, claims, accounts, or demands against the state or any county or other political subdivision shall be audited; allowed, or paid until a full itemized statement in writing shall be filed with the officer or officers whose duty it may be to audit

the same, and then only upon warranty drawn upon the treasurer of such funds by the proper officer or officers.

Section 18. 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 become a part of this Constitution.

Amendments to the Constitution of the state may also be proposed by an initiative petition of the electors; such petition shall be signed by electors at large totaling five percent of the population of North Dakota as determined by the latest federal decennial census and shall be filed with the secretary of state at least one hundred twenty days prior to the election at which they are to be voted upon, and any amendment, or amendments so proposed, shall be submitted to the electors and become a part of the Constitution, if a majority of the votes cast thereon are affirmative. All provisions of the Constitution relating to the submission and adoption of measures by initiative petition, and on referendum petition shall apply to the submission and adoption of amendments to the Constitution of the state.

The electorate through an initiated measure or the legislative assembly may at any time provide by law for a constitutional convention to amend or revise the Constitution. Such law shall provide for the submission of the proposed amendments from such convention directly to the electorate for their approval or rejection, and upon approval shall become effective in the same manner as other constitutional amendments or as specified in the amendments or revision.

If conflicting constitutional measures are approved at the same election the one receiving the highest number of affirmative votes shall prevail to the extent of such conflict.

Section 19. Amendment.) Article 33 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:



**ARTICLE 33.** The qualified electors of the state or of any county, or of any congressional, judicial, legislative, or commissioner district may petition for the recall of any elective congressional, state, county, judicial or legislative officer by filing a petition with the officer with whom the petition for nomination to such office in the primary election is filed, demanding the recall of such officer. Such petition shall be signed by at least thirty percent of the qualified electors who voted at the preceding election for the office of governor in the state, county or district from which such officer is to be recalled. The officer with whom such petition is filed shall call a special election to be held not less than forty nor more than forty-five days from the filing of such petition.

The officer against whom such petition has been filed shall continue to perform the duties of his office until the result of such special election shall have been officially declared. Other candidates for such office may be nominated in the manner as is provided by law in primary elections. The candidate who shall receive the highest number of votes shall be deemed elected for the remainder of the term. The name of the candidate against whom the recall petition is filed shall go on the ticket unless he resigns within ten days after the filing of the petition. After one such petition and special election, no further recall petition shall be filed against the same officer during the term for which he was elected. This Article shall be self-executing and all of its provisions shall be treated as mandatory. Laws may be enacted to facilitate its operation, but no law shall be enacted to hamper, restrict or impair the right of recall.

**Section 20. Amendment.)** Section 212 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 212.** The exchange of "black lists" between corporations shall be prohibited.

**Section 21. Amendment.)** Section 215 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 215.** The following public institutions of the state are permanently located at the places hereinafter named. Each institution shall have the lands heretobefore allocated to it by the United States, by the Constitution or laws of this state, or

by private donation, and shall be disposed of and used as the legislative assembly may prescribe subject to the provisions contained in the grants thereof or as provided in this Constitution.

First: The seat of government at the city of Bismarck.

Second: The state university and the school of mines at the city of Grand Forks.

Third: The North Dakota state university of agriculture and applied science at the city of Fargo.

Fourth: State colleges at the cities of Valley City, Mayville, Dickinson, and Minot.

Fifth: A school for the deaf at the city of Devils Lake.

Sixth: A state industrial school at the city of Mandan.

Seventh: An educational or other institution as the legislature may provide at the cities of Ellendale, Bottineau, and Wahpeton.

Eighth: A state hospital for the mentally ill at the city of Jamestown.

Ninth: A state school for the mentally deficient at the city of Grafton.

Tenth: A state soldiers' home or such other institution as the legislative assembly may determine, at the city of Lisbon.

Eleventh: A state school for the blind at Grand Forks.

**Section 22. Amendment.)** Article 54 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**ARTICLE 54.** There shall be a state board of higher education which shall administer and control state-operated educational institutions of higher learning. The board shall consist of seven members, with staggered seven-year terms, appointed by the governor, and confirmed by the senate in the manner provided by law. The board shall, in accordance with law, admin-

ister and formulate policy for all state-operated educational institutions of higher learning and shall appoint a state commissioner of higher education, who shall be as executive officer of the board and perform such duties as may be prescribed by the board.

**Section 23. Amendment.)** Article 56 of the Amendments to the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**ARTICLE 56.** The revenue from excise taxes on gasoline and other motor fuels consumed by motor vehicles using the public highways of this state and revenue from the license taxation, registration and license taxes from such vehicles, after deduction of cost of administration and collection authorized by legislative appropriation only, and statutory refunds, shall be appropriated and used solely for construction, reconstruction, repair and maintenance of public highways, and the payment of obligations incurred in the construction, reconstruction, repair and maintenance of public highways.

**Section 24. Repeal.)** Sections 122, 123, 126, 128, 132, 133, 135, 136, 137, 138, 140, 141, 142, 143, 144, 145, 146, 151, 157, 158, 159, 160, 161, 162, 164, 166, 187, 209, 214, and 216 of the Constitution of the state of North Dakota; Articles 19, 59, and 65 of the Amendments to the Constitution of the state of North Dakota; and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, and 26 of the Schedule to the Constitution of the state of North Dakota are hereby repealed.

Disapproved November 5, 1968

82,400 to 116,813

**Note:** This was constitutional measure No. 1 on the general election ballot.

## CHAPTER 587

## PARIMUTUEL WAGERING ON HORSERACES

An initiative petition to amend Amendment 1 of the Constitution of the state of North Dakota, relating to prohibition of legislative power to authorize lotteries or gift enterprises, except that persons may wager on the results of horseracing by the parimutuel method, limiting horseracing to sixty-five days a year, providing for a state horseracing commissioner, providing for the licensing of horseraces, providing for a penalty for violations, providing for payment and allocation of tax, establishing a North Dakota horsebreeders' racing fund, establishing a large animal diagnostic laboratory and clinic and fund, providing financial assistance for retarded and crippled children, providing for expenses of administration, and providing for protection of the public.

**Be It Enacted by the People of the State of North Dakota:**

**Section 1. Amendment.)** Amendment 1 of the North Dakota Constitution is hereby amended and reenacted to read as follows:

**AMENDMENT 1.** The legislative assembly shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale of lottery or gift enterprise tickets; except nothing in this section shall be construed to prohibit wagering on the results of horseraces by the parimutuel method on any calendar day sixty-five days a year.

A state horseracing commissioner shall be appointed by the governor within ninety days after this Act takes effect for a term to expire on December 31, 1971. The term of the North Dakota state horseracing commissioner shall be for three years but said commissioner may be removed from office by the governor for cause after a public hearing. Notice of said hearing shall fix the time and place of hearing and shall specify the charges. Notice of said hearing shall be served upon the commissioner by mailing same at least twenty days before the date fixed for said hearing. The commissioner may select and employ two horseracing stewards and a secretary. The commissioner shall establish an office at such place in the state as he may determine and may change the location of such office as he may decide from time to time. The commissioner shall have as his duty the licensing, regulating and supervising of all horseraces under the parimutuel system in this state and shall cause all horseracing tracks where horseraces under the parimutuel system are held to be

visited and inspected at least once a year. The commissioner may incur such costs, charges and expenses as are reasonably necessary in carrying out the intent and purposes of this article. The commissioner shall keep detailed records of all business transacted by him and of any and all meetings which he shall hold.

It shall be the duty of the commissioner as soon as possible after his appointment, to prepare and promulgate a complete set of rules and regulations to govern horseraces under the pari-mutuel system. It shall be the duty of every person holding a license under the authority of this article and every owner, trainer, jockey and attendant at any racetrack in this state to comply with this article and with all the rules and regulations promulgated and all orders issued by the commissioner.

It shall be unlawful for any person to hold any horserace under the parimutuel system in this state without first obtaining a license therefor. Every person making an application for a license to hold a horserace under the provisions of this article shall comply with the rules and regulations of the commissioner. All applications shall be submitted to the commissioner who will act upon such applications within thirty days. The commissioner shall be the sole judge of whether or not the horserace shall be licensed and the number of days that horseracing shall continue. The licensee shall pay in advance of the scheduled horserace, a fee, the amount of which shall be set by the commissioner which shall not exceed fifty dollars each day of racing, which fees shall be placed in the general fund of the state of North Dakota. Provided, however, that the commissioner may refund the license fee to the licensee if unforeseen circumstances prevent the holding or completion of any day of horseracing.

Any license held by any person who violates any of the provisions of this article or who fails to pay to the commissioner any or all the sums required under the provisions of this article shall be subject to cancellation and revocation by the commissioner. Such cancellation shall be made only after a summary hearing before the commissioner, of which the licensee, shall be given three days' notice in writing specifying the grounds for the proposed cancellation or revocation.

Any person holding a horserace or any owner, trainer or jockey participating in any horserace who violates the terms of this article is guilty of a misdemeanor. It shall be unlawful to



conduct any pool selling, bookmaking, or to bet or wager on a horserace other than by the parimutuel system; and it shall further be unlawful to knowingly permit any minor to use the parimutuel system. The commissioner shall have the power to exclude from any and all racetracks in this state any person whom the commissioner deems detrimental to the best interests of horseracing or any person who wilfully violates any of the provisions of this article or any rule, regulation or order of the commissioner.

Each licensee conducting the parimutuel system shall distribute all sums deposited in any pool to the winners thereof, less an amount which shall be equal to fifteen percent of the total deposits plus the odd cents of all the redistribution to be based on each dollar deposited exceeding a sum equal to the next lowest multiple of ten, known as "breakage".

In addition to the license fees required by this article, the licensee shall pay to the state treasurer at the end of each day's racing, a sum equal to four percent of the gross receipts or money deposited under the parimutuel system. All moneys thus collected or received by the state treasurer shall be allocated to the following special funds in the following proportions and shall be used only for the purposes of each respective fund:

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received or collected by the state treasurer shall be transferred to the North Dakota horsebreeders' racing fund to be used as hereinafter provided.

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received or collected by the state treasurer shall be transferred to the large animal diagnostic laboratory and clinic fund to be used as hereinafter provided.

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received or collected by the state treasurer shall be transferred to the state welfare department to be used in treatment of and assistance to retarded and crippled children.

One percent of the gross receipts or the total moneys deposited under the parimutuel system with all licensees and received

or collected by the state treasurer shall be transferred to the horseracing administration fund to be used for the expenses of administration of this article including the expenses of the commissioner and his compensation, the expenses of the secretary and other employees hired by the commissioner and their compensation, and any other reasonable and necessary expenses for the proper administration of the office of the commissioner, except that at the end of the thirtieth day of June of each year, any money in excess of seventy-five thousand dollars shall be transferred to the state general fund.

In the event any government or governmental agency imposes a levy on the licensees by a special tax on the money so deposited under or the gross receipts of the parimutuel system, the said licensee may withhold in addition to the aforementioned percentage and breakage as provided in this article, the amount of the tax so levied.

For the purpose of encouraging the breeding, within this state, of valuable thoroughbred and registered horses, at least one race each day at each horseracing event shall be limited to the North Dakota bred or owned registered racehorses. However, if in the opinion of the commissioner, sufficient competition cannot be had among such class of horses, said race may be eliminated for said days and a substitute provided instead. The commissioner shall have discretion in providing additional money from the North Dakota horsebreeders' racing fund which shall be used exclusively for futurity and derby races for horses owned and bred by North Dakota citizens and residents.

The state horseracing commissioner shall in his discretion, as soon as there are sufficient funds in the large animal diagnostic laboratory and clinic fund, appoint a board of three directors for the terms hereinafter provided to establish and locate a large animal diagnostic laboratory and clinic which either may or may not be in conjunction with one of the state's institutions of higher learning. The members of the board of directors shall be appointed by the commissioner, one for a term to expire on December 31, in the year following his appointment, and one for a term to expire on December 31 two years following the year of his appointment and one for a term to expire on December 31 three years following the year of his appointment, and upon the expiration of the term of any of the members of the board of directors, the commissioner shall appoint a successor for a term of three years, except that the person filling a vacancy occurring

prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of the term. Any member of the board of directors may be removed from office by the governor for cause after a public hearing. Notice of said hearing shall fix the time and place of hearing and shall specify the charges. Notice of said hearing shall be served upon the director by mailing same at least twenty days before the date fixed for the said hearing.

The board of directors shall organize by electing one of the directors as chairman. Any two directors shall constitute a quorum for the transaction of any and all business of the board of directors. The board of directors shall appoint an executive officer to be known as the administrator of the large animal diagnostic laboratory and clinic. The large animal diagnostic laboratory and clinic shall be furnished with adequate real estate and buildings as may be necessary for conducting diagnostic research and treatment of large animals.

The board of directors of the large animal diagnostic laboratory and clinic shall have the following powers and duties:

1. Promulgate adequate rules and regulations for the large animal diagnostic laboratory and clinic.
2. Establish adequate facilities and equipment for the treatment of and research for new and improved methods for injuries to and diseases of large animals.
3. Establish adequate files and reference libraries for research concerning large animals.
4. Hire sufficient and qualified personnel necessary for the proper running and administering of the large animal diagnostic laboratory and clinic.

The administrator of the large animal diagnostic laboratory and clinic shall act as its secretary, shall be its chief administrative officer and shall supervise and direct the work of its employees.

The salary and expenses of the state horseracing commissioner and the salary and expenses of the members of the board of directors, the administrator and employees of the large ani-

mal diagnostic laboratory and clinic shall be determined by the legislative assembly.

For the protection of the public and all members thereof, the exhibitors and visitors, every person licensed to conduct horse-racing events under the provisions of this article shall carry public liability insurance in the amount and form of contract and with a company approved by the commissioner. Every licensee required to pay the license fee as provided in this article shall provide and deliver to the commissioner a bond signed by a surety company licensed to do business in this state in such form as shall be required by the commissioner, and in a sum of not less than twenty-five thousand dollars or such additional amount as may be required by the commissioner, conditioned that said licensee will pay to the state of North Dakota, all moneys due the state under the provisions of this article.

Disapproved November 5, 1968.

85,235 to 133,713

Note: This was constitutional measure No. 2 on the general election ballot.

# CONSTITUTIONAL AMENDMENTS, PROPOSED

## CHAPTER 588

### SENATE CONCURRENT RESOLUTION NO. 5

(Lips)

#### CHANGING METHOD OF SELECTION OF TAX COMMISSIONER AND SUPERINTENDENT OF PUBLIC INSTRUCTION

A concurrent resolution for the amendment of section 82 of the Constitution of the state of North Dakota, changing the selection of the superintendent of public instruction and tax commissioner from election to appointment by the governor with the consent of the senate.\*

**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 82 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 1970, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended, provided however that this proposed amendment shall not be submitted at said election in the event the people by election shall have called for a constitutional convention prior to such general election in 1970.

**Section 1. Amendment.)** Section 82 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 82.** There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, commissioner of insurance, an attorney general, and a commis-

\*Note: Chapter 593, 1969 S. L., also proposed amendment to section 82 of the Constitution.



sioner of agriculture and labor. The governor, with the consent of the senate, shall appoint to serve at his pleasure a superintendent of public instruction and a tax commissioner beginning with the year 1973, who, together with the elected state officials, shall have attained the age of twenty-five years and shall have the qualifications of state electors. The secretary of state, auditor, treasurer, attorney general, commissioner of insurance, and the commissioner of agriculture and labor shall severally hold their offices at the seat of government for the term of four years beginning with the year 1965, and until their successors are elected and duly qualified; but no person shall be eligible for the office of treasurer for more than two consecutive terms.

The board of railroad commissioners shall hereafter be known as the public service commission and the members of the board of railroad commissioners as public service commissioners and the powers and duties now or hereafter granted to and conferred upon the board of railroad commissioners are hereby transferred to the public service commission. The public service commissioners shall have the qualifications of state electors, have attained the age of twenty-five years, be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, hold office at the seat of government and until their successors are elected and duly qualified. Each of the three public service commissioners shall be elected for a term of six years.

The legislative assembly may by law provide for a department of labor, which, if provided for, shall be separate and distinct from the department of agriculture, and shall be administered by a public official who may be either elected or appointed, whichever the legislative assembly shall declare; and if such a department is established the commissioner of agriculture and labor provided for above shall become the commissioner of agriculture.

Filed March 27, 1969.

## CHAPTER 589

## SENATE CONCURRENT RESOLUTION NO. 6

(Trenbeath, Torgerson)

## POLITICAL SUBDIVISION DEDICATED REVENUE BONDS

A concurrent resolution for the amendment of the Constitution of the state of North Dakota, relating to issuance of dedicated bonds by political subdivisions of the state and providing the methods for repayment thereof.

**Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Constitution of the state of North Dakota be amended by adding thereto the following section which is agreed to and which shall be submitted to the qualified electors of the state of North Dakota for approval or rejection at the general election in 1970, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended, provided, however, that this proposed amendment shall not be submitted at said election in the event the people by election shall have called for a constitutional convention prior to such general election in 1970.

**Section 1. Amendment.)** The Constitution of the State of North Dakota shall be amended by adding thereto the following section:

Notwithstanding sections 175, 176, 179, 183, 184, and 185, or other provisions of this Constitution, political subdivisions of the state of North Dakota may incur indebtedness by the issuance of dedicated bonds for such purposes, amounts, manner, and subject to such limitations as shall be prescribed by law.

A dedicated bond as used in this section means an instrument of indebtedness, either incurred or to be incurred for which certain taxes, moneys, income or revenue, except ad valorem taxes on either personal or real property, or special assessments on personal or real property, are irrevocably pledged and dedicated for the retirement of said indebtedness. The legislature shall prescribe the manner and conditions under which payment from any fund may be made in the event the dedicated funds are inadequate to pay principal or interest when due, or when default is imminent, and the manner and conditions in which repayments shall be made to the funds drawn upon. The legislature may sub-

stitute other funds for dedicated funds but it shall not destroy the effect of the pledged or dedicated revenues, moneys, or income for any bond issue.

Nothing herein shall affect the obligations of municipal bonds payable in whole or in part from special assessments, or other taxes levied on all taxable property for the payment of any deficiency in special assessment bonds, or other funds pledged to payment of such bonds.

Filed March 27, 1969.

## CHAPTER 590

## SENATE CONCURRENT RESOLUTION NO. 7

(Ringsak, Hernett, Sands, Jacobson, Mutch)  
(Morgan, Chesrown)

## LEGISLATIVE COMPENSATION COMMISSION

A concurrent resolution for the amendment of section 45 of the Constitution of the State of North Dakota, relating to compensation of members of the Legislative Assembly and providing an independent commission to set legislative pay and compensation.

**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 45 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 for approval or rejection at the general election to be held in 1970 in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

**Section 1. Amendment.)** Section 45 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 45.** There is hereby established a Legislative Compensation Commission to establish salaries and expense allowances for the members of the Legislative Assembly.

The Compensation Commission shall consist of five members appointed by the governor for terms, and with powers, duties, and functions as prescribed by law.

Filed February 28, 1969.

## CHAPTER 591

## SENATE CONCURRENT RESOLUTION NO. 15

(Becker)

## POLITICAL SUBDIVISION DEBT LIMITS

A concurrent resolution for the amendment of section 183 of the Constitution of the state of North Dakota, relating to the debt limits of political subdivisions.

**Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the following proposed amendment to section 183 of the Constitution of the state of North Dakota is agreed to and shall be submitted to the qualified electors of the state of North Dakota at the general election to be held in 1970, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended, provided, however, that this proposed amendment shall not be submitted at such election in the event the people by election shall have called for a constitutional convention prior to such general election in 1970.

**Section 1. Amendment.)** Section 183 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 183.** The debt of any county, township, city, school district or any other political subdivision, shall never exceed seven per centum upon the assessed value of the taxable property therein; provided that any incorporated city, may by a two-thirds vote, increase such indebtedness three per centum on such assessed value beyond said seven per centum limit, and a school district, by a majority vote may increase such indebtedness five percent on such assessed value beyond said seven per centum limit; provided also that any county or city by a majority vote may issue bonds upon any revenue producing utility owned by such county or city, or for the purchasing or acquiring the same or building or establishment thereof, in amounts not exceeding the physical value of such utility, industry or enterprise.



In estimating the indebtedness which a city, county, township, school district or any other political subdivision may incur, the entire amount, exclusive of the bonds upon said revenue producing utilities, whether contracted prior or subsequent to the adoption of this Constitution, shall be included; provided further that any incorporated city may become indebted in any amount not exceeding five per centum of such assessed value without regard to the existing indebtedness of such city for the purpose of constructing or purchasing waterworks for furnishing a supply of water to the inhabitants of such city, or for the purpose of constructing sewers, and for no other purposes whatever. All bonds and obligations in excess of the amount of indebtedness permitted by this Constitution, given by any city, county, township, school district, or any other political subdivision shall be void.

Filed March 27, 1969.

## CHAPTER 592

## SENATE CONCURRENT RESOLUTION NO. 17

(Holand, Torgerson)

## BOND ISSUE FOR VIET NAM VETERANS

A concurrent resolution for a constitutional amendment authorizing the issuance of bonds of the state of North Dakota and the expenditure of the proceeds for the payment of adjusted compensation to North Dakota veterans of the Viet Nam conflict.

**Be It Resolved by the Senate of the State of North Dakota, the House of Representatives 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 for approval or rejection at the primary election to be held in September 1970 in accordance with the provisions of section 202 of the Constitution of the state of North Dakota.

**Section 1. Amendment.)** The Constitution of the state of North Dakota shall be amended by adding thereto the following article:

The legislative assembly of the state of North Dakota is hereby authorized and empowered to provide by legislation for the issuance, sale, and delivery of bonds of the state of North Dakota in such principal amounts as determined by the legislative assembly to be necessary for the payment of adjusted compensation to North Dakota veterans of the Viet Nam conflict. Such adjusted compensation shall be paid from the proceeds of the bonds at rates equal to the rates provided by law for adjusted compensation paid by the state of North Dakota to veterans of World War II and the Korean conflict on the basis of terms of service and such other terms and conditions as the legislative assembly may provide. Grants or stipends paid pursuant to law by the state of North Dakota to any veteran for educational assistance shall be deducted from the adjusted compensation otherwise payable to such veteran.

Filed March 11, 1969

## CHAPTER 593

## SENATE CONCURRENT RESOLUTION NO. 24

(Ringsak, Torgerson, Morgan, Wilhite)

REMOVAL OF TERM LIMITATION  
ON STATE TREASURER

A concurrent resolution for the amendment of section 82 of the Constitution of the state of North Dakota, relating to removing the term limitation on the eligibility of a person to seek the office of state treasurer.\*

**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 82 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 1970, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended.

**Section 1. Amendment.)** Section 82 of the Constitution of the state of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 82.** There shall be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, a secretary of state, auditor, treasurer, superintendent of public instruction, commissioner of insurance, an attorney general, a commissioner of agriculture and labor, and a tax commissioner, who shall have attained the age of twenty-five years and shall have the qualifications of state electors. They shall severally hold their offices at the seat of government for the term of four years, and until their successors are elected and duly qualified.

The tax commissioner shall be elected on a no-party ballot and he shall be nominated and elected in the manner now provided for the nomination and election of the superintendent of public instruction.

\*Note: Chapter 588, 1969 S. L. also proposed amendment to section 82 of the Constitution.

The board of railroad commissioners shall hereafter be known as the public service commission and the members of the board of railroad commissioners as public service commissioners and the powers and duties now or hereafter granted to and conferred upon the board of railroad commissioners are hereby transferred to the public service commission. The public service commissioners shall have the qualifications of state electors, have attained the age of twenty-five years, be chosen by the qualified electors of the state at the times and places of choosing members of the legislative assembly, hold office at the seat of government and until their successors are elected and duly qualified. As each of the three public service commissioners now holding office completes his term, his successor shall be elected for a term of six years.

The legislative assembly may by law provide for a department of labor, which, if provided for, shall be separate and distinct from the department of agriculture, and shall be administered by a public official who may be either elected or appointed, whichever the legislative assembly shall declare; and if such a department is established the commissioner of agriculture and labor provided for above shall become the commissioner of agriculture.

Filed March 27, 1969.

## CHAPTER 594

## SENATE CONCURRENT RESOLUTION NO. 62

(Hernett, Longmire, Meschke, Trenbeath)

INVESTMENT OF INSTITUTIONAL TRUST  
FUNDS

A concurrent resolution for an amendment of sections 153 and 156 and to repeal sections 159 and 162 of the North Dakota Constitution, all relating to the use and investment of trust funds of the common schools and state educational, penal, and charitable institutions.

**Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the following amendments to sections 153 and 156 and the repeal of sections 159 and 162 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 primary election to be held in 1970 in accordance with the provisions of section 202 of the Constitution of the State of North Dakota, as amended.

**Section 1. Amendment.)** Section 153 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 153.** All proceeds of the public lands that have heretofore been, or may hereafter be granted by the United States for the support of the common schools in this State; all such per centum as may be granted by the United States on the sale of public lands; the proceeds of property that shall fall to the state by escheat; all gifts, donations, or the proceeds thereof that come to the state for support of the common schools, or not otherwise appropriated by the terms of the gift, and all other property otherwise acquired for common schools, shall be and remain a perpetual trust fund for the maintenance of the common schools of the state. Only the interest and income of the fund may be expended and the principal shall be retained and devoted to the trust purpose. All property, real or personal, received by the state from whatever source, for any specific educational or charitable institution, unless otherwise designated by the donor, shall be and remain a perpetual trust fund for the creation and maintenance of such institution, and may be com-



mingled only with similar funds for the same institution. Should a gift be made to an institution for a specific purpose, without designating a trustee, such gift may be placed in the institution's fund; provided that such a donation may be expended as the terms of the gift provide.

The interest and income of each institutional trust fund held by the state shall, unless otherwise specified by the donor, be appropriated by the legislative assembly to the exclusive use of the institution for which the funds were given.

**Section 2. Amendment.)** Section 156 of the Constitution of the State of North Dakota is hereby amended and reenacted to read as follows:

**SECTION 156.** The superintendent of public instruction, governor, attorney general, secretary of state and state auditor shall constitute a board of commissioners, which shall be denominated the "Board of University and School Lands," and, subject to the provisions of this article and any law that may be passed by the legislative assembly, said board shall have control of the appraisement, sale, rental, and disposal of all school and university lands, and the proceeds from the sale of such lands shall be invested as provided by law.

**Section 3. Repeal.)** Sections 159 and 162 of the North Dakota State Constitution are hereby repealed.

Filed March 27, 1969.

## CHAPTER 595

## HOUSE CONCURRENT RESOLUTION NO. 16

(Kelsch)

## CONSTITUTIONAL CONVENTION

A concurrent resolution to direct the secretary of state to place on the 1970 statewide primary election ballot a proposed constitutional amendment regarding a constitutional convention and the question of whether a constitutional convention shall be called.

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the following proposed new section in amendment 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 for approval or rejection at the primary election to be held in 1970, in accordance with the provisions of section 202 of the Constitution of the state of North Dakota, as amended, and that the secretary of state is directed to place a question on the ballot for the primary election to be held in 1970 in the form provided in section 2 of this resolution.

**Section 1.** A constitutional convention shall be called for the purpose of proposing a new Constitution, or revision or amendment of the existing Constitution. Such convention shall be called and conducted, and delegates thereto shall be chosen in the manner provided by law.

A constitutional convention called by a majority affirmative vote on this question shall be called and conducted as provided by law, and the proposed revision or amendment of the Constitution resulting from such shall be submitted by such convention directly to the people of North Dakota for approval or disapproval at the statewide special election called by the governor as provided by law.

**Section 2. Question for the Electors of North Dakota.)** The question of adoption of the constitutional amendment proposed in section 1 and the calling of the convention shall be stated on the primary election ballot as follows:

**Shall the Constitutional Amendment Proposed in Section 1 Be Adopted and Shall a Constitutional Convention Be Called for the Purpose of Revising the Constitution of the State of North Dakota and Submission of the Revised Constitution To The People of North Dakota for Approval or Disapproval?**

Yes ( )

No ( )

Filed March 27, 1969.

# HOUSE RESOLUTIONS

---

## HOUSE RESOLUTION NO. 1

(Wagner)

### SIMONSON ELECTION CONTEST

A resolution relating to the election contest in the 23rd Legislative District, consisting of the counties of Griggs, Steele, and part of Barnes.

**WHEREAS**, Simon Simonson, a candidate for the office of representative for the 23rd Legislative District, State of North Dakota, has given notice and filed with the Secretary of State, a contest of the election of Thomas Brakke, wherein he challenges the right of Thomas Brakke to hold the office of representative for the 23rd Legislative District;

**WHEREAS**, such notice of contest has been forwarded to the House of Representatives and a committee having been appointed to examine the allegations set forth in the contest, and to investigate the election which is contested; and

**WHEREAS**, the demand for recount should be investigated by the House of Representatives;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:**

That such committee shall have all power and authority necessary to investigate the allegations and 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 House for the punishment of any witnesses for contempt or for any disobedience of a subpoena, a refusal to be sworn, or to answer as a witness.
5. To reduce the testimony to writing as the committee deems it advisable;
6. To conduct such hearing at such place or places as committee may deem necessary or convenient;
7. That the committee be authorized to employ such personnel or other assistance as they deem necessary;
8. To apply to the appropriate Court for necessary orders to make ballots of the precincts of the 23rd Legislative District available to the committee; and
9. To take appropriate precautionary measures to safeguard the ballots while under its control and supervision.

Be It Further Resolved, that the expenses of such investigation as are authorized by the committee be paid from legislative funds, including subpoena fees and mileage and fees of subpoenaed witnesses at the rates provided for witnesses appearing in District Court.

Filed January 17, 1969.



## HOUSE RESOLUTION NO. 2

(Dick)

## POWERS ELECTION CONTEST

A resolution relating to the election contest in the 22nd Legislative District, consisting of part of the County of Cass.

WHEREAS, Anna Powers, a candidate for the office of representative for the 22nd Legislative District, State of North Dakota, through Florence Thompson, District Chairman, has given notice and filed with the Secretary of State, a contest of the election of Wesley Belter, wherein she challenges the right of Wesley Belter to hold the office of representative for the 22nd Legislative District;

WHEREAS, such notice of contest has been forwarded to the House of Representatives and a committee having been appointed to examine the allegations set forth in the contest, and to investigate the election which is contested; and

WHEREAS, the demand for recount should be investigated by the House of Representatives;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:

That such committee shall have all power and authority necessary to investigate the allegations and 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 House for the punishment of any witnesses for contempt or for any disobedience of a subpoena, a refusal to be sworn, or to answer as a witness;
5. To reduce the testimony to writing as the committee deems it advisable;

6. To conduct such hearing at such place or places as the committee may deem necessary or convenient;
7. That the committee be authorized to employ such personnel or other assistance as they deem necessary;
8. To apply to the appropriate Court for necessary orders to make ballots of the precincts of the 22nd Legislative District available to the committee; and
9. To take appropriate precautionary measures to safeguard the ballots while under its control and supervision.

Be It Further Resolved, that the expenses of such investigation as are authorized by the committee be paid from legislative funds, including subpoena fees and mileage and fees of subpoenaed witnesses at the rates provided for witnesses appearing in District Court.

Filed January 17, 1969.

**HOUSE RESOLUTION NO. 3**

(Streibel, Link, Atkinson, Boustead, Burke)  
(Lang, Metzger, Wagner)

**R. FAY BROWN MEMORIAL**

A memorial resolution in memory of former Speaker of the House of Representatives, R. Fay Brown.

**WHEREAS**, Almost immediately following the adjournment of the Fortieth Legislative Assembly, Almighty God in His infinite wisdom called from our midst on March 17, 1967, Representative R. Fay Brown, an outstanding legislator and citizen of this state; and

**WHEREAS**, Representative Brown's devoted service to his state included eight terms in the House of Representatives, the eighth of which he was serving at the time of his passing, and one of which he served as Speaker, as well as the chairmanship of several subcommittees of the legislative research committee and standing committees of the House; and

**WHEREAS**, Representative Brown's long and distinguished service to his city and community included membership and participation in church, service clubs, and other civic activities;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:**

That we express our keen and personal sorrow over the passing of Representative R. Fay Brown, and our appreciation, on behalf of the people of North Dakota, of the outstanding contributions and loyal service of Representative Brown to his community and this state; and

**Be It Further Resolved**, that for the perpetuation of his memory, this token of respect and sympathy by his successors in trust be printed in the journal of the House and that a duly enrolled copy of this resolution be presented by the House of Representatives to the surviving family of Representative R. Fay Brown.

Filed January 31, 1969.

## HOUSE RESOLUTION NO. 4

(Streibel, Link)

## COMMENDATION OF RUTH SMITH

A resolution commending Mrs. Ruth Smith for her service to the Legislative Assembly of the State of North Dakota.

**WHEREAS, Mrs. Ruth Smith has retired after having served the Legislative Assembly of the State of North Dakota continuously since 1927; and**

**WHEREAS, her loyalty, dedication, fairness, and accuracy in the performance of her many duties as desk reporter have materially contributed to the efficient functioning of the House of Representatives; and**

**WHEREAS, it is the desire of the House of Representatives to formally recognize the respect, the high esteem, and the affection in which Mrs. Smith is held by all its members and express the appreciation of the House of Representatives to Mrs. Smith;**

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:**

**That Mrs. Ruth Smith be commended for her many years of efficient and outstanding service to the Legislature and to the citizens of North Dakota; and**

**Be It Further Resolved, that former Speakers, Representatives Aamoth and Link, personally deliver the original copy of this Resolution to Mrs. Ruth Smith.**

Filed January 17, 1969.

## HOUSE RESOLUTION NO. 5

(Committee on Delayed Bills)  
(Streibel, Strinden, Link, Reimers, Giffey)

## OFFICIAL PHOTOGRAPHER

A resolution to appoint an official photographer for the House of Representatives of the Forty-first Legislative Assembly of the State of North Dakota.

WHEREAS, for historical purposes it has been the custom of all North Dakota Legislative Assemblies to have composite group pictures made of all members of such assemblies; and

WHEREAS, L. W. Naegle's Studio, of Bismarck, North Dakota, offers to make a composite group picture of the members of the 1969 North Dakota House of Representatives, size thirty-eight inches by forty-nine inches, said picture to be framed and ready to hang; and one hundred and two, fourteen inches by eleven inches, copies of said pictures for each member and desk force of the House of Representatives; and two, five inches by seven inches, prints of each representative, one for the state historical society and one for each member of the House of Representatives, at a cost of one thousand four hundred and ninety-five dollars;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:**

That L. W. Naegle's Studio, of Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota House of Representatives of the Forty-first Legislative Assembly;

**Be It Further Resolved,** that L. W. Naegle's Studio of Bismarck, North Dakota, be, and is hereby awarded the sole privilege of photographing members of the House of Representatives of the Forty-first Legislative Assembly, at a cost of one thousand four hundred and ninety-five dollars to be taken out of legislative expenses;



---

**Be It Further Resolved,** that delivery of the photographs shall be within ninety days after the adjournment of the legislative session.

Filed March 17, 1969.

## COMMENDATION OF NORTH DAKOTA SENATE

A resolution commending the North Dakota Senate.

WHEREAS, the North Dakota Legislative Assembly is about to complete its busiest session in its history, having considered and acted upon almost twelve hundred bills and resolutions; and

WHEREAS, it would have been impossible for the Legislative Assembly to meet its responsibilities without the dedication and cooperation of both Houses and all members of the Legislative Assembly;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota:**

That the House of Representatives and all its members express their appreciation to the North Dakota Senate and all its members for their exceedingly fine cooperation with the House of Representatives and its members, for their dedication and concern in working in the best interests of the State, and for the personal friendliness of all its members; and

**Be It Further Resolved,** that this resolution be messaged to the Senate and read upon the floor of the Senate by a member of the House of Representatives.

Filed March 27, 1969.

# HOUSE CONCURRENT RESOLUTIONS

---

## HOUSE CONCURRENT RESOLUTION NO. 2

(Aamoth, Ganser, Haugland, Hilleboe, Leibhan, Opedahl)  
(Rundle, I. Solberg, Stoltenow, Tweten, Wells)

(From Legislative Research Committee Study)

### MERGER OF CERTAIN RETIREMENT FUNDS

A concurrent resolution directing the Legislative Research Committee to carry out a comprehensive study of the feasibility of merging the highway patrolmen's retirement fund and the teachers' retirement fund with the state employees' retirement fund.

WHEREAS, it is in the mutual interest of the public and public employees that maximum benefits be obtained from both employer and employee contributions to retirement programs; and

WHEREAS, a merger of the several retirement funds now covering public employees, teachers, and highway patrolmen may result in an increase of retirement benefits through unified investment planning and unified administration;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee, with the cooperation of representatives of the various retirement funds, carry out a comprehensive study of the feasibility and desirability of combining the teachers' retirement fund and the highway patrolmen's retirement fund with the state employees' retirement fund, and which committee shall report its recommendations to the Forty-second Legislative Assembly, together with suitable legislation to carry out such recommendations.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 3

(Aamoth)

## WELFARE PAYMENTS TO NONRESIDENTS

A concurrent resolution urging the President and the Congress of the United States to provide for federal participation in welfare payments to nonresidents within the state of North Dakota.

WHEREAS, the Federal Social Security Act since its enactment in 1935 has permitted the various states to impose reasonable residence requirements for eligibility to the various public assistance programs whose costs are partly paid by Federal funds; and

WHEREAS, the Federal Social Security Act authorizes and the state of North Dakota has consistently required a reasonable continued residence as an eligibility factor for permanent public assistance payments; and

WHEREAS, certain Federal courts in the United States have declared the unconstitutionality of such residence requirements, holding that they contravene the "equal protection of the law" guarantee of the Federal Constitution and that they unduly restrict the freedom of Americans to travel at will within the country; and

WHEREAS, if this new judicial theory is upheld by the United States Supreme Court, state and county costs of public assistance in North Dakota will be tremendously and permanently increased;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly of the state of North Dakota respectfully memorializes the President and the Congress of the United States to amend the Federal Social Security Act at once so as to provide full federal financing of public assistance payments made to recipients who do not meet the length of residence requirements presently permitted by federal statute and contained in title 50 of the North Dakota Century

Code and applicable statutes in other states, such federal financing to continue in each case only until the existing length of residence requirements have been met by each recipient; and

**Be It Further Resolved**, that the Chief Clerk of the House of Representatives transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each senator and representative from North Dakota in the Congress of the United States.

Filed March 11, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 4

(Wagner)

### CONSOLIDATION OF STATE HEALTH AND WELFARE AGENCIES

A concurrent resolution directing a study by the Legislative Research Committee for the purpose of determining the feasibility of consolidating the various state health and welfare agencies.

**WHEREAS**, the State Department of Health, the Public Welfare Board, and other functionally related agencies have duties and responsibilities which evidence a common interest in a certain segment of the population and the general welfare of the state; and

**WHEREAS**, the operation of these agencies is subject to potential duplication of effort, and thereby to waste of human and economic resources; and

**WHEREAS**, the consolidation of these agencies may allow economical interchange of personnel and creation of comprehensive social service centers and mental health and retardation clinics which could encompass all the needs of recipients of public assistance; and

**WHEREAS**, the consolidation of these agencies could promote more efficient operation and could facilitate receipt of available federal funds; and



WHEREAS, it is to the benefit of all the citizens of this state to assure the maintenance of certain standards of health and welfare in the most efficient and economical manner;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee is authorized and directed to make a study for the purpose of determining the desirability and feasibility of consolidating the state department of health, the public welfare board, and any other functionally related agency; and

**Be It Further Resolved**, that the Legislative Research Committee make its report and recommendations thereon to the Forty-second Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 5

(Dick, Wagner)

### MILEAGE AND EXPENSES OF ELECTION CONTEST COMMITTEE MEMBERS

A concurrent resolution authorizing payment of the mileage and uncompensated expenses of the members of the special committees on contested elections.

WHEREAS, it was necessary to appoint two committees, each consisting of five members of the House of Representatives, to resolve election contests concerning candidates for membership in the House of Representatives of the Forty-first Legislative Assembly; and

WHEREAS, these committees met concurrently at the State Capitol for a period of two days in December, 1968, and accomplished their assigned tasks; and

WHEREAS, additional time of members was expended in

necessary travel, arrangements, and in completing committee business, and the members of these committees have incurred travel and other expenses in the performance of their duties;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That each member of the committees on contested elections and seating of members be allowed mileage expense to and from Bismarck, North Dakota, at the rate of ten cents per mile, and reimbursement for other expenses for a period of three days in the amount set forth in section 54-03-20 of the 1967 Supplement to the North Dakota Century Code, such payments to be made from the appropriation for the Forty-first Legislative Assembly.

Filed January 20, 1969.

---

## HOUSE CONCURRENT RESOLUTION 6

(Boustead, Aamoth)

### CONSOLIDATION OF POLITICAL SUBDIVISIONS

A concurrent resolution directing the Legislative Research Committee to conduct a study and formulate a procedure for the consolidation of county, city, and county seat city governments.

WHEREAS, the laws of the state of North Dakota do not presently provide a procedure for the consolidation of county, city, and county seat city governments even though such consolidation may be desired by a majority of the residents of a county; and

WHEREAS, the duties and responsibilities of many county and city officials are substantially the same, resulting in the appearance of duplication of effort and expenditure in such cases; and

WHEREAS, the United States Supreme Court has applied the "one man, one vote" principle to state legislatures and, more recently, to local government, thereby affecting the relation-

ship and representation of county and city governments; and

WHEREAS, population shifts and the greatly increasing costs of operating local governments over recent years have greatly increased the possibility that the residents of some counties may wish to avail themselves of the opportunity to consolidate local government wherever feasible; and

WHEREAS, the policy of the state, as expressed through its laws, should be to facilitate governmental reorganization by the residents of any county when a majority of the voters there feel that consolidation of county, city, and county seat city government is both practical and desirable;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the legislative research committee is hereby directed to study the ways and means of best facilitating consolidation of county, city, and county seat city governments and to formulate a procedure for initiation and approval of such consolidation on the basis of its study, and to make its report and recommendations thereon to the Forty-second Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 7

(Hilleboe, White, Aamoth, Strinden, Seibel, Bunker)  
(Bernabucci, Eagles, Larson, Hentges, Boyum, Backes)

### STUDY OF STATUTORY BOARDS AND COMMISSIONS

A concurrent resolution directing the Legislative Research Committee to study the membership, duties, and responsibilities of all statutory boards and commissions except occupational and professional licensing boards.

WHEREAS, in addition to boards for occupational and professional licensing, there exists a proliferation of statutory

boards and commissions with varying composition and authority; and

WHEREAS, such a profusion of governmental boards and commissions leads to confusion on the part of citizens who must deal with them as well as creates problems for the legislative assembly which must recognize the extent of authority and the relationship between and among such boards and commissions; and

WHEREAS, service upon numerous boards and commissions by public officials is often exceedingly time consuming and interferes with the performance of the principal duties of their offices;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the legislative research committee is hereby directed to conduct a study of the membership, duties, and responsibilities of state boards and commissions in order to determine whether, respectively, such boards and commissions are necessary, are susceptible to consolidation with another board or commission, and whether the composition of the board or commission is logical, proper, and desirable, and to report its findings and recommendations to the Forty-second Legislative Assembly together with any legislation necessary to carry out such recommendations; and

**Be It Further Resolved,** that the legislative research committee shall be authorized to call upon any board, commission, department, or agency of the state for information and assistance as may be necessary to complete the study.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 9

(Bernabucci, Wells, Boyum, Froelich, Reimers, J. Peterson)

## STATE AIRCRAFT POOL

A concurrent resolution directing the Legislative Research Committee to conduct a study to determine the feasibility of a state aircraft pool.

WHEREAS, greater numbers of state officers and employees to make more efficient use of their time would travel by aircraft on state business if such services were available; and

WHEREAS, agencies, institutions, and departments of government have acquired aircraft for their own use; and

WHEREAS, if state agencies, departments, and institutions continue to purchase or acquire aircraft on a noncoordinated, department-by-department basis, hundreds of thousands of dollars will be unnecessarily expended through unnecessary duplication of equipment and personnel; and

WHEREAS, at the present time there is no central aircraft pool; and

WHEREAS, the creation of a central aircraft pool would reduce travel time of state officers and employees and also reduce travel costs;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee conduct a study to determine the feasibility of establishing a central aircraft pool which would make aircraft services available to all state departments, agencies, and institutions. Such study shall include an inventory of all aircraft owned by the various state agencies, institutions, and departments, the utilization of such aircraft and the cost of its operations which shall include the cost of personnel to operate such aircraft. All agencies, departments, and institutions shall cooperate with the committee by providing such information and assistance as the committee may request. In addition, the committee shall survey the potential use of a central aircraft pool. The committee shall report



its findings and conclusions along with such legislation as may be necessary to implement its recommendations to the Forty-second Legislative Assembly.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 10

(Streibel, Link)

### COMMENDATION TO PLANNERS AND PARTICIPANTS IN INAUGURAL CEREMONIES

A concurrent resolution expressing appreciation to the Adjutant General, the National Guard, and the Governor's Inaugural Committee for their activities in making the inauguration activities a success.

WHEREAS, Major General LaClair Melhouse, North Dakota Adjutant General, and the North Dakota National Guard have for many sessions handled the Governor's inaugural program in a most commendable manner; and

WHEREAS, they have again on January 7, 1969, performed these duties with finesse, dignity, and courtesy; and

WHEREAS, the Governor's Inaugural Committee planned and made the Governor's reception and ball an outstanding event;

**Now, Therefore, Be It Resolved by the House of Representatives, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly of the State of North Dakota does hereby express its thanks and appreciation to Major General LaClair Melhouse, the National Guard, Brigadier General (Ret.) and Mrs. James O. Guthrie, Co-Chairmen, and Dr. and Mrs. Carroll Lund, Honorary Chairmen of the Governor's Inaugural Committee, and to all others who furnished numbers for the joint session, served on committees, or assisted in any way with the success of the events of the inaugural program;

**Be It Further Resolved, that this resolution be printed in the journal and that properly authenticated copies be sent by**

the Secretary of State to Major General LaClair Melhouse, Brigadier General (Ret.) and Mrs. James O. Guthrie, and Dr. and Mrs. Carroll Lund.

Filed February 3, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 11

(O. Solberg)

NORTH DAKOTA USE OF MISSOURI RIVER WATER

A concurrent resolution urging Congress to respect the rights of the state of North Dakota to the use of waters of the Missouri River.

WHEREAS, the upper Missouri River Basin States of Montana, North Dakota, South Dakota, and Wyoming are now doing active planning for development and use of the waters of the Missouri River and its tributaries; and

WHEREAS, results of planning investigations conducted to date should be based on full resource development potential and not limited to mere projections of historical trends, economic and otherwise, as is presently being done by task forces preparing the Missouri Basin Comprehensive Planning Report; and

WHEREAS, additional time is needed for collection of more complete evidence to substantiate the above-mentioned revised basis for appraising the needs of the upper Missouri River Basin States (which needs will guide state planning); and

WHEREAS, the said Missouri River Basin States have, by the O'Mahoney-Millikin Amendment to the Flood Control Act of 1944 (Sec. 1(b), P.L. 534, 78th Congress), been granted preference in the use of Missouri River Basin Waters, which must include the preparation of plans to meet present and future needs; and

WHEREAS, plans in the four-state area should consider other state and national, aesthetic, and environmental objectives which provide for the optimum utilization of Missouri River Basin waters; and

WHEREAS, there now exists a proposal which calls for the

interstate diversion of water from the Missouri River Basin to states not partially or totally located in the Basin before optimum water resources potential in said upper Missouri River Basin States have been appraised or plans made;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly of the state of North Dakota does hereby go on record as demanding its rights, under the O'Mahoney-Millikin Amendment to the Flood Control Act of 1944, to Missouri Basin water and use of that water for other purposes; and

**Be It Further Resolved,** that the Forty-first Legislative Assembly of the state of North Dakota does declare that its rights to Missouri Basin Water would be violated by any and all diversions of water out of the states of the Missouri River Basin for any use whatsoever; and

**Be It Further Resolved,** that the Forty-first Legislative Assembly of the state of North Dakota does hereby remind the Congress of the United States that plans of this state will, when completed, be based on future water needs for full realization of resources potentials within the states of Montana, North Dakota, South Dakota, and Wyoming and not on historical projection, and that the state of North Dakota will, under the uses stated in the O'Mahoney-Millikin Amendment, and for other purposes, demand such quantities of water as will be needed in support of the state water resources plan and to assure optimum water supplies for future economic security and general welfare of its citizens as part of the environment of the lives of the people in this great nation; and

**Be It Further Resolved,** that the Forty-first Legislative Assembly of the state of North Dakota request that no plans be initiated or implemented for any interstate interbasin diversion of water until such times as the four states of Montana, North Dakota, South Dakota, and Wyoming have completed their state water resources plan and a joint evaluation of such plan is made.

Filed March 11, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 13

(Aas, Bunker, Backes, Haugland, Anderson, J. Peterson)  
(Sanstead, Emerson, Eagles, L. Larson)

ESTABLISHING NURSING PROGRAMS AT CERTAIN  
INSTITUTIONS OF HIGHER EDUCATION

A concurrent resolution urging the Board of Higher Education to establish nursing programs at Minot State College and North Dakota State University.

WHEREAS, hospital-sponsored schools of nursing are finding it difficult to continue their programs because of high costs; and

WHEREAS, some Federal health insurance programs do not adequately reimburse hospitals for care provided by student help; and

WHEREAS, the Federal wage and hour laws preclude student nurses from working the number of hours in addition to classroom hours that are necessary to make the program of substantial value to the hospital; and

WHEREAS, the training of nurses, due to the high cost of such training, will have to become a public obligation if such training is to continue; and

WHEREAS, nursing schools sponsored by hospitals do not give degrees necessary for advanced training and teaching, and students are requesting such opportunities; and

WHEREAS, federal and private funds are available during the 1969-1971 biennium to finance new nursing programs at Minot State College and North Dakota State University from other than the general fund 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 Board of Higher Education be urged to implement a four-year degree nursing program at Minot State College and a two-year associated degree nursing program at North Dakota

State University during the 1969-1971 biennium. Such programs shall be financed from other than the general fund of the state during the current biennium, with funds being requested from the general fund in future bienniums only in the event that private and federal funds become inadequate to finance such programs.

Filed March 27, 1969.

HOUSE CONCURRENT RESOLUTION NO. 14

(Committee on Employment)

LEGISLATIVE EMPLOYEES

A concurrent resolution providing and designating House and Senate employees and fixing their salaries.

**Be It Resolved by the House of Representatives of the Forty-First Legislative Assembly of the State of North Dakota, the Senate Concurring Therein:**

**Section 1.)** That for and during the Forty-first Legislative Assembly the following named persons are employed and appointed as employees of the House and Senate and shall be paid the per diem opposite their respective names in accordance with the dates of their employment as recorded in the journal, except as provided in sections 2, 3, and 4 of this resolution:

House

Roy Gilbreath, chief clerk . . . . .	\$33.00
Barbara King, desk reporter . . . . .	33.00
E. A. Tough, assistant chief clerk . . . . .	25.00
Delano Wawers, bill clerk . . . . .	22.00
Mavis Patchen, chief stenographer and payroll clerk . . . . .	24.00
Alfred Hetland, calendar clerk . . . . .	22.00
Ernest Benser, sergeant-at-arms . . . . .	19.00
Jonas Johnson, deputy sergeant-at-arms . . . . .	16.00
Henry Benson, assistant sergeant-at-arms . . . . .	15.00
Oluf Grundstad, assistant sergeant-at-arms . . . . .	15.00
Olger Sandven, assistant sergeant-at-arms . . . . .	15.00
Dorothy Litchfield, secretary to speaker . . . . .	21.00
Marlys Fleck, secretary to majority floor leader . . . . .	21.00
Corliss Mushik, secretary to minority floor leader . . . . .	21.00
Lela Knudsen, chief committee clerk . . . . .	22.00



ElaNor Weber, appropriations committee clerk . . . . .	21.00
Maude Grambs, committee clerk . . . . .	19.00
LuGale Backlin, committee clerk . . . . .	19.00
Helen Soma, committee clerk . . . . .	19.00
Alice Zako, committee clerk . . . . .	19.00
Louise Ebert, committee clerk . . . . .	19.00
Darlyne Clausnitzer, stenographer . . . . .	20.00
Marie D. Enders, stenographer . . . . .	20.00
Gloria Farnstrom, stenographer . . . . .	20.00
Mary Ann Schmaltz, stenographer . . . . .	20.00
Veronica Sauter, stenographer . . . . .	20.00
Gladys Van Vleet, stenographer . . . . .	20.00
Keith Morken, bill book clerk . . . . .	15.00
Kathleen Robey, bill book clerk . . . . .	15.00
Adaline Lee, bill book clerk . . . . .	15.00
Mrs. Gary Cleveland, bill book clerk . . . . .	15.00
Dorothy Peterson, typist . . . . .	18.00
Ailon Norton, typist . . . . .	18.00
Shirley Shaw, enrolling and engrossing clerk . . . . .	19.00
Ruth Harter, enrolling and engrossing clerk . . . . .	19.00
Frieda Borth, proofreader . . . . .	19.00
Gertrude Learn, proofreader . . . . .	19.00
Sam Labrenz, journal room clerk . . . . .	15.00
Julius Sukut, journal room clerk . . . . .	15.00
Ann Bahmer, journal room clerk . . . . .	15.00
Pearl Andre, bill room clerk . . . . .	15.00
Hazel Common, bill room clerk . . . . .	15.00
Frances V. Froeschle, information desk attendant . . . . .	15.00
Jack Tully, supply room attendant . . . . .	15.00
Ruth McCormack, postmistress . . . . .	15.00
Emma Dickey, assistant postmistress . . . . .	15.00
Enola Eck, telephone attendant . . . . .	15.00
Iola Langord, telephone attendant . . . . .	15.00
Clara Wendt, chief page . . . . .	18.00
Eunice Weekes, page . . . . .	15.00
Tom Tudor, page . . . . .	15.00
Carol Ewald, page . . . . .	15.00
Geri Kirschmann, page . . . . .	15.00
Karen Fay Thompson, page . . . . .	15.00
Mildred Weishaar, page . . . . .	15.00
Robert Kilickowski, page . . . . .	15.00
Barbara Wadeson, page . . . . .	15.00
Edna Erickson, page . . . . .	15.00
Pius Reis, parking lot attendant . . . . .	18.00
J. J. Cummins, assistant sergeant-at-arms . . . . .	15.00

Mary E. Hausauer, typist . . . . .	18.00
Richard Wittmayer, journal room clerk . . . . .	15.00

## Senate

Leo Leidholm, secretary . . . . .	33.00
Dagny Olson, desk reporter . . . . .	33.00
A. E. Bradley, sergeant-at-arms . . . . .	19.00
Arthur Herk, assistant secretary . . . . .	25.00
Robert Ellsworth, deputy sergeant-at-arms . . . . .	16.00
Richard H. Jagd, assistant sergeant-at-arms . . . . .	15.00
Ralph Scott, assistant sergeant-at-arms . . . . .	15.00
Roy Pearson, assistant sergeant-at-arms . . . . .	15.00
Nick Frank, assistant sergeant-at-arms . . . . .	15.00
Vernon Asheim, bill clerk . . . . .	22.00
Cora Essington, chief stenographer and payroll clerk . . . . .	24.00
Lois J. Scherr, chief committee clerk . . . . .	22.00
Lyness Lloyd, calendar clerk . . . . .	22.00
Eunice Anderson, enrolling and engrossing clerk . . . . .	19.00
Marguerite Stenehjelm, enrolling and engrossing clerk . . . . .	19.00
Dormilee Diede, secretary to the president . . . . .	21.00
Donna Heisler, secretary to majority floor leader . . . . .	21.00
Mariann L. Lang, secretary to minority floor leader . . . . .	21.00
Dennis Rohde, bill room clerk . . . . .	15.00
Ernest Schramm, bill room clerk . . . . .	15.00
Janine Haug, stenographer . . . . .	20.00
Marlene Backman, stenographer . . . . .	20.00
Darlene Jose, committee clerk-typist . . . . .	19.00
Jackie Burke, stenographer . . . . .	20.00
Lorraine Moos, stenographer . . . . .	20.00
Celeste Archuleta, typist—committee clerk . . . . .	19.00
Ann Stephan, typist . . . . .	18.00
Gladys Derrick, appropriations committee clerk . . . . .	21.00
Betty Swang, committee clerk . . . . .	19.00
Darlene Hedstrom, committee clerk . . . . .	19.00
Roberta Small, committee clerk . . . . .	19.00
Jane Romsdal, committee clerk . . . . .	19.00
Jackie Hayden, page . . . . .	15.00
Linda Morrison, page . . . . .	15.00
Rosella Grantham, page . . . . .	15.00
Susan Giles, John Angell, Kevin Reis, Joy Markley, Russell Berge, Dianne Bennett, pages each to receive equal portions of . . . . .	15.00
Frieda Schlaht, telephone attendant . . . . .	15.00
Viola DeForest, telephone attendant . . . . .	15.00

Wanda Froehlich, bill book clerk . . . . .	15.00
Pearl Herron, bill book clerk . . . . .	15.00
John Fibelstad, bill book clerk. . . . .	15.00
Emil Albrecht, bill book clerk . . . . .	15.00
Helen Peterson, information desk attendant . . . . .	15.00
Fred Krause, Jr., journal room chief . . . . .	16.00
Alta Harens, journal room clerk . . . . .	15.00
Hazel Ludemann, journal room attendant . . . . .	15.00
Iver Kval, parking lot attendant . . . . .	18.00
Marie Skjod, proofreader . . . . .	19.00
Elma Schrammen, proofreader . . . . .	19.00

Section 2.) That the following employees shall be paid additional compensation for services performed for the Legislative Assembly during periods prior to the date of subscribing to their oath of office, as indicated in the journal, for the days of employment set forth following their names and at the rate of pay indicated for such position in section 1 of this resolution:

#### House

Roy Gilbreath, chief clerk—January 3, 4, and 6, 1969.  
 Delano Wawers, bill clerk—January 6, 1969.  
 Clara Wendt, chief page—January 6, 1969.  
 Tom Tudor, page—January 6, 1969.  
 Mildred Weishaar, page—January 7, 1969.  
 Shirley Shaw, enrolling and engrossing clerk—January 7, 8, and 9, 1969.  
 Sam Labrenz, journal room clerk—January 7, 1969.  
 Julius Sukut, journal room clerk—January 7, 1969.  
 Hazel Common, bill room clerk—January 7, 1969.  
 Keith Morken, bill book clerk—January 9, 1969.  
 Oluf Grundstad, assistant sergeant-at-arms—January 9, 1969.  
 Henry Benson, assistant sergeant-at-arms—January 9, 1969.  
 Gloria Farnstrom, stenographer—January 9, 1969.  
 Ruth Harter, enrolling and engrossing clerk—January 9, 1969.  
 Jonas Johnson, deputy sergeant-at-arms—January 8 & 9, 1969.  
 Olger Sandven, assistant sergeant-at-arms—January 8 & 9, 1969.  
 Gertrude Learn, proofreader—January 8 & 9, 1969.  
 Emma Dickey, assistant postmistress—January 7, 1969.

#### Senate

Leo Leidholm, secretary—January 6, 1969.  
 Cora Essington, chief stenographer and payroll clerk—January 6, 1969.

Lois J. Scherr, chief committee clerk—January 6, 1969.  
 Marguerite Stenehjem, enrolling and engrossing clerk—January 14, 1969.  
 Lorraine Moos, stenographer—January 13 and 14, 1969.  
 Linda Morrison, page—January 14, 1969.  
 Fred Krause, Jr., journal room chief—January 6, 1969.

**Section 3.)** That for and during the Forty-first Legislative Assembly, the following persons are employed effective January 6, 1969, at a rate of \$500.00 per month or a portion thereof based upon the portion of any month they are employed, in the position of Legislative Intern, and are hereby assigned for supervision purposes to the Legislative Research Committee:

David Axtmann  
 Larry Allen Bakken  
 Earle R. Myers, Jr.  
 Richard Louis Wakefield  
 Roger R. Weisenburger  
 Boyd Lewis Wright

**Section 4.)** That for and during the Forty-first Legislative Assembly the following persons are employed for the performance of janitorial, engineering, and electrical repair services at rates of pay set opposite their names, such employment being effective January 7, 1969:

John Sprynczynatyk, janitor . . . . .	\$14.00
John Dorrheim, janitor . . . . .	14.00
Fred Hetterle, janitor . . . . .	14.00
Matt Roehrich, janitor . . . . .	14.00
Fred Bosch, Jr., janitor . . . . .	14.00
Alf Johnson, janitor . . . . .	14.00
Edwin Keller, engineer . . . . .	14.00
Art Fricke, assistant engineer . . . . .	one-third of 14.00
Peter Ternes, janitor . . . . .	14.00

**Section 5.)** In the event any employee shall resign, be discharged, or for other reasons terminate his employment, the compensation provided for in this resolution shall cease, effective the last day of such employment.

Filed January 31, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 15

(Hilleboe, Metzger)

SINGLE GROUP INSURANCE POLICY  
FOR STATE EMPLOYEES

A concurrent resolution directing the Legislative Research Committee to study and review the feasibility and advantages of obtaining a single group policy to cover health, accident, and life insurance for all State employees.

WHEREAS, a variety of group health, accident, and life insurance policies are presently purchased by the various departments, agencies, and institutions of the State of North Dakota; and

WHEREAS, differences in coverage in such policies may well result in unequal treatment of employees of the State; and

WHEREAS, the purchasing power of the State through competitive bidding on a single group insurance policy to provide health, accident and life insurance coverage for all State employees may well provide broader coverage at less cost to public employees and therefore may be in the best interests of the State of North Dakota;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee is hereby directed to make a study and review of the feasibility of purchasing a single group policy to cover health, accident, and life insurance for all State employees; and

**Be It Further Resolved**, that the Legislative Research Committee, in conducting such study and review, may seek the assistance and advice of any State agency, institution, or department, and all such State agencies, institutions, and departments are hereby directed to cooperate in providing such assistance and advice requested; and

**Be It Further Resolved**, that the Legislative Research Committee shall make its report and recommendations resulting from



such study and review, together with any legislation necessary to implement such recommendations, to the Forty-second Legislative Assembly.

Filed March 27, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 17

(Boustead, Strinden)

FINANCING POLITICAL SUBDIVISION  
ROAD AND STREET CONSTRUCTION

A concurrent resolution directing the Legislative Research Committee to conduct a study of alternative methods of assisting counties and cities in the financing of road and street construction and maintenance, and to make a report to the legislative assembly.

WHEREAS, the development of a well-planned system of highways, roads and streets is of vital concern to all citizens of North Dakota; and

WHEREAS, the development of such a system is dependent on adequate and assured financing at all levels of government; and

WHEREAS, sufficient comprehensive consideration has not been given to the alternative methods of assuring counties and cities of adequate revenues and planning assistance;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee, with the cooperation of such other agencies as the committee may request, is hereby directed to make a study of present and alternative methods of providing state assistance to counties and cities for the purpose of road and street construction, including the possibility of establishment of matching-fund programs and the operation of such programs; and

**Be It Further Resolved,** that the Legislative Research Com-

mittee make its report upon such study to the members of the Forty-second Legislative Assembly.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 18

(J. Peterson, Goodman, Kingsbury, Wells, Bernabucci)  
(Bullis, Anderson, Aas, Emerson, Reimers, Rundle)  
(Haugland)

### EMPLOYMENT OF ARCHITECTS FOR STATE CONSTRUCTION

A concurrent resolution relating to the employment of architects in planning and constructing buildings by the state of North Dakota.

WHEREAS, it is the public policy of the state of North Dakota to encourage the talented graduates of its schools and institutions of higher education to remain within the state in order that the economic and social well being of the state and its residents is enhanced through their contribution to their community and state; and

WHEREAS, the state of North Dakota, through its college of architecture at North Dakota State University of Agriculture and Applied Sciences graduates well-qualified North Dakota residents in the field of architecture, many of whom are forced to seek employment in other states because of lack of opportunities within their home state; and

WHEREAS, there exists within the state of North Dakota a substantial number of highly qualified architects and architectural firms which contribute to the economy of the state and make available services in this field that are highly important if North Dakota is to grow and progress; and

WHEREAS, departments and agencies of the state of North Dakota have in the past employed architectural firms from other states in the planning, design, and construction of public buildings; and

WHEREAS, rarely, if ever, have buildings been constructed by the state of North Dakota which are not within the general

competence and experience of North Dakota architectural firms; and

WHEREAS, in unusual instances where the services of specialists in specific types of architectural planning and design may be determined desirable, such services can be procured on a consultation basis either directly by the state agency concerned or through the architectural firm selected for planning, designing, and supervising the construction as a part of the architectural fee or at a modest additional cost; and

WHEREAS, the use of out-of-state architectural firms in the design, planning, and supervision of construction within the state is generally more costly to the state because of distances involved and the generally higher fees charged for the services performed; and

WHEREAS, because of the shortage of public funds for necessary construction projects and in the interest of economies in the expenditure of public funds, it is highly desirable that unduly expense planning and design fees be avoided;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That each department, agency, and institution of the state of North Dakota charged with the responsibility of the construction of public buildings is hereby urged and directed to select and employ North Dakota architectural firms for the planning, design, and supervision of such construction, and that the employment of non-residential architectural firms be limited to consultation and review of building plans and design in those unusual instances where the special knowledge and experience of such firms is deemed essential to the planning and the building to be constructed.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 19

(Rundle, Hickle, J. Peterson, Davis, Rivinius)

## PETROLEUM MARKETING PRACTICES

A concurrent resolution directing the office of the attorney general to gather information in regard to marketing practices of petroleum products in North Dakota.

WHEREAS, the wholesale and retail sale of petroleum products is an important segment of North Dakota's economy, affecting, directly or indirectly, every resident of the state; and

WHEREAS, there appears to be trade practices in effect in North Dakota that are contrary to the best interests of the consumers in the state; and

WHEREAS, such methods affect the economy and welfare of the consumers and have a profound influence upon agriculture, the state's major source of wealth;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the attorney general confer with the Federal Trade Commission or departments thereof to determine what action is being taken by federal agencies in this area of petroleum marketing, and what actions might be feasible for the state of North Dakota to take in regard to this matter, and said attorney general shall make his report and recommendations to the Forty-second Legislative Assembly.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 20

(Thompson)

## STOECKELER EXPERIMENTAL FOREST

A concurrent resolution urging the Congress of the United States, the Department of Agriculture, and the Chief of the Forest Service to designate the Denbigh Dunes experimental forest as "Stoekeler Experimental Forest" in memory of the late Dr. Joseph J. Stoekeler.

WHEREAS, the late Dr. Joseph J. Stoekeler is recognized as one of the nation's leading research authorities on shelterbelt trees of the Great Plains; and

WHEREAS, foresters throughout the country recognize the impact of Dr. Joseph J. Stoekeler's work and the contribution he made to the success of shelterbelt establishment in the plains states; and

WHEREAS, Dr. Joseph J. Stoekeler established and laid out the conifer plantings of the Denbigh Dunes experimental forest, McHenry County, North Dakota, which research foresters today regard as one of the most significant research plantings ever made in the Great Plains;

**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, the Department of Agriculture, and the Chief of the Forest Service are hereby urged to designate the Denbigh Dunes experimental forest as Stoekeler Experimental Forest, in honor of the late Dr. Joseph J. Stoekeler; and

**Be It Further Resolved,** that copies of this resolution be forwarded to the Secretary of Agriculture, the Chief of the Forest Service, and to each member of the North Dakota congressional delegation.

Filed March 27, 1969.



## HOUSE CONCURRENT RESOLUTION NO. 21

(O. Solberg, Grant, Wilkie, W. Erickson, Wagner, Linderman)

## INDIAN FAMILY TRAINING CENTER

A concurrent resolution indicating the support of the Legislative Assembly for the establishment of an Indian family training center at Fort Lincoln, south of Bismarck, and urging the appropriate Federal authorities to establish such a center.

WHEREAS, the primary need of Indian families to compete effectively in a modern technological society is adequate training as a family; and

WHEREAS, there are no family training centers for Indian people in the upper midwest that provide orientation and training for families, necessitating long travel to faraway centers for such training; and

WHEREAS, the facilities at Fort Lincoln, south of Bismarck, North Dakota, are ideally suited for a family-type vocational training center, are now available, and are ideally located near a major airport, railroad lines, interstate highway, and marketing services; and

WHEREAS, the United Tribes of North Dakota Development Corporation, working in close cooperation with the North Dakota State Employment Service, the Division of Vocational Education, the North Dakota State Economic Opportunity Office and an Advisory Committee of key leaders from the Bismarck-Mandan area, has developed and submitted applications for joint funding from several federal agencies; and

WHEREAS, all state and local officials are in full support of the family training center concept and the use of Fort Lincoln for this purpose as proposed by tribal leaders;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Assembly fully supports the efforts of the United Tribes of North Dakota Development Corporation to

establish a family training center at Fort Lincoln, south of Bismarck, North Dakota; and

**Be It Further Resolved**, that the Legislative Assembly urges the properly concerned and responsible federal agencies to move with all possible speed to establish such a training center with fiscal 1969 federal funds.

Filed March 27, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 22

(Matheny)

ERECTION OF SPILLWAY FENCE AT  
GARRISON DAM

A concurrent resolution requesting the Corps of Engineers, United States Army, to erect a fence on top of the walls of the spillway of the Garrison Dam.

WHEREAS, it has come to the attention of the legislative assembly that the walls of the spillway of the Garrison Dam are not fenced; and

WHEREAS, due to this lack of fencing, deer and other animals have fallen over said walls to the concrete floor of the spillway and have thereby been killed or injured, and such condition is also a threat to visitors who may not be aware of the dangerous area;

Now, Therefore, **Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly of the State of North Dakota recommends and respectfully urges the Congress to authorize and direct the United States Army Corps of Engineers to erect fences on top of the walls of the spillway of the Garrison Dam; and

**Be It Further Resolved**, that copies of this resolution be transmitted by the Secretary of State to the members of the North Dakota Congressional delegation; Chief of Engineers,

Department of the Army, Washington, D. C.; Division Engineer, Missouri River Diversion, Corps of Engineers, Omaha, Nebraska; District Engineer, Corps of Engineers, Omaha, Nebraska; and Area Engineer, Corps of Engineers, Riverdale, North Dakota.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 27

(Reimers, O. Solberg, Aas, Davis, Boyum)  
(Olienyk, Mueller, Link, Aamoth, Jenkins)  
(Haugland, Backes, Streibel, Bernabucci)  
(Giffey, Opedahl, Halcrow, Hoffner)

### DEVELOPMENT OF MISSOURI WATERWAY

A concurrent resolution urging a study of the feasibility of the development of a Missouri River waterway suitable for providing river navigation by barge to points within the State of North Dakota, and of the benefits resulting from such project to Missouri River States.

WHEREAS, a study is presently being contemplated by federal authorities of the feasibility of a Missouri River waterway suitable for carrying barge traffic to the vicinity of Yankton, South Dakota; and

WHEREAS, the development of a Missouri River waterway, including the upper reaches of the Missouri River and encompassing points within the State of North Dakota, would, because of the historically lower freight costs in water transportation, do much to improve the market position of North Dakota agricultural produce and mineral products and manufactured products, thereby encouraging the economic and industrial development of the State; and

WHEREAS, lower cost river transportation would provide additional competition to other modes of transportation in the State, thereby having a beneficial effect upon the impediment of high transportation costs affecting agriculture and industry within the State; and

WHEREAS, improvements in the channel of the Missouri

River that would occur as a part of its development for barge-type traffic would compliment and aid in bank stabilization along the Missouri River channel, thereby adding additional conservation benefits;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Secretary of the Interior and the Chief of Army Engineers are urged and requested to initiate such action as may be necessary for a study of the feasibility and the potential benefits of the development of the Missouri River as a waterway suitable for barge traffic to points within the State of North Dakota; and

**Be It Further Resolved,** that copies of this resolution be forwarded to the United States Secretary of the Interior, the Chief of Army Engineers, and each member of the North Dakota Congressional Delegation.

Filed March 17, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 28

(Bier, Miedema, Froelich, Giffey, Hoffner, Hougen)  
(G. Larson, Moquist, Eagles, Register, Sandness, Sanstead)  
(Knudson, Leibhan, Jones, R. Peterson, Swedlund)  
(Stoltenow, Seibel, E. Johnson)

COMMENDATION OF SUPERINTENDENT  
OF PUBLIC INSTRUCTION

Commending Superintendent of Public Instruction M. F. Peterson upon his election as president of the Council of Chief State School Officers.

WHEREAS, Superintendent of Public Instruction M. F. Peterson has been elected President of the Council of Chief State School Officers; and

WHEREAS, the selection of North Dakota's Superintendent of Public Instruction by his national colleagues to head their national organization reflects substantial credit upon him and is a matter in which the citizens of the state take great pride;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly takes great pleasure in commending State Superintendent Peterson upon his election as president of his national organization; and

**Be It Further Resolved, that copies of this resolution be forwarded by the Clerk of the House of Representatives to Superintendent of Public Instruction M. F. Peterson.**

Filed February 19, 1969.



## HOUSE CONCURRENT RESOLUTION NO. 29

(Gackle, Goodman, Ganser, Hickie, Kingsbury)

## WATER BANK LEGISLATION

A concurrent resolution urging Congress to give favorable consideration to the proposed water bank legislation being considered by the North Dakota Congressional Delegation.

WHEREAS, there are hundreds of thousands of wetlands in North Dakota and more throughout the nation; and

WHEREAS, these wetlands are valuable wildlife reserves to North Dakota and to the nation; and

WHEREAS, it is essential that farmers and ranchers obtain income from these wetlands in order that adequate levels of production and utilization of land be maintained; and

WHEREAS, many acres of these wetlands will be drained, resulting in considerable losses of wildlife habitat, in the absence of an incentive to encourage farmers and ranchers to preserve them; and

WHEREAS, such an incentive can be supplied through adoption of a plan whereby farmers and ranchers would receive income for the preservation of wetlands areas;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first session of the legislature of the state of North Dakota respectfully memorializes the Congress of the United States to adopt legislation which would establish a water bank plan providing for annual payments to farmers and ranchers for nonagricultural use of wetland areas provided that the decision to participate remains with the individual land-owner; and

**Be It Further Resolved,** that copies of this resolution be transmitted by the Secretary of State to members of the North Dakota Congressional Delegation.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 30

(Dornacker)

(From Personal Property Tax Study Commission)

STUDY OF NORTH DAKOTA TAX STRUCTURE  
AND ASSESSMENT PROCEDURE

A concurrent resolution directing the Legislative Research Committee, with the aid and cooperation of the State Tax Department, to make a comprehensive study of the North Dakota tax structure, and particularly personal and corporate income tax rates, including in lieu taxes, and to make a complete review and study of the property tax assessment procedure used in North Dakota, both at the local level and property assessed by the State Board of Equalization.

WHEREAS, numerous inequities exist in the tax structure of North Dakota which affect each resident and the economic development and growth of the State as a whole; and

WHEREAS, the conclusions of the Personal Property Tax Commission point out the interrelationship of the various taxes in North Dakota, and the difficulty in making improvements by correcting the inequities of one type of taxation without making improvements in other areas of taxation;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee is directed, with the aid and cooperation of the State Tax Department, to make a comprehensive study of the North Dakota tax structure, and particularly personal and corporate income tax rates, including in lieu taxes, and to make a complete review and study of the property tax assessment procedure used in North Dakota, both at the local level and property assessed by the State Board of Equalization; and

**Be It Further Resolved,** that the Legislative Research Committee make its report and recommendations thereon to the Forty-second Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 31

(Wagner, Davis)

## CONGRATULATING MISS NORTH DAKOTA

A concurrent resolution commending and congratulating Miss North Dakota.

WHEREAS, The Miss North Dakota Pageant was first held in 1949 and is subsequently held each year as the state final for the Miss America Pageant, and is the oldest, best known, and most respected beauty pageant in North Dakota; and

WHEREAS, it is the custom of the North Dakota Legislative Assembly to recognize and honor its citizens for their accomplishments; and

WHEREAS, the present Miss North Dakota and those selected to hold such title in the past have reflected credit to the State and its citizens;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly takes great pleasure in commending the current Miss North Dakota, Miss Virginia Lee Hansen, and expresses its congratulations and best wishes during her reign as Miss North Dakota.

**Be It Further Resolved,** That the Secretary of the House of Representatives be hereby directed to transmit a suitably prepared copy of this resolution to Miss Virginia Lee Hansen.

Approved March 11, 1969.



## HOUSE CONCURRENT RESOLUTION NO. 34

(Committee on Appropriations)

## STUDY OF TAX EXEMPTIONS

A concurrent resolution directing the Legislative Research Committee to study the exemptions from taxation provided by the laws of this State.

WHEREAS, the taxing statutes of the State of North Dakota provide for exemption from taxation for certain persons, properties, and organizations, among them, organizations which are educational, charitable, religious, fraternal, corporate, or co-operative in nature; and

WHEREAS, many of the exemptions granted for certain persons, properties, and organizations have been in effect for many years, and with the passage of time and change of circumstances certain exemptions may not presently be justified; and

WHEREAS, the rising costs of State and local governments in response to the demand for increased services require that additional revenue be raised to operate State and local governments at satisfactory levels; and

WHEREAS, a discontinuance of certain exemptions from taxation where such exemptions are unwarranted would have the effect of increasing revenue for State and local government without increasing the amount of taxes now levied on persons, properties, and organizations that are presently subject to the taxation statutes 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 Research Committee is hereby authorized and directed to study the exemptions from taxation provided by the laws of this State and determine whether, because of the change of circumstances through the passage of time, or because of the need for increased revenue for State and local governments, such exemptions should be discontinued. The Legislative Research Committee shall make its report and recommendations,

together with any legislation necessary to carry out such recommendations, to the Forty-second Legislative Assembly.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 35

(Jenkins, K. Johnson, Davis, Stoltenow)

### ADMINISTRATION OF FEDERAL WHOLESOME MEAT ACT

Requesting Secretary of Agriculture Hardin to investigate the manner and intent in which the Wholesome Meat Act of 1967 is being administered, urging compliance with the intent of Congress and the prior pledges of the Agriculture Department, and requesting an interpretation of the "Rule of Reason".

WHEREAS, the United States Congress has enacted the Wholesome Meat Act of 1967, which requires that livestock slaughtering and meat processing firms meet minimum federal standards, so as to insure the production of pure and wholesome meat for human consumption; and

WHEREAS, the Secretary of Agriculture when testifying before Congress, prior to the enactment of this legislation, assured Congress, "The eligibility of an establishment for inspection under the Wholesome Meat Act of 1967 is based upon a qualified evaluation of the operating procedures used by the establishment in the building, construction and physical facilities rather than upon a separate evaluation of these factors", and further indicated that there were no material specifications except that a plant be clean and sanitary; and

WHEREAS, Dr. Robert K. Somers, the Deputy Administrator of the Consumer Protection division of the Consumer and Marketing Service of the United States Department of Agriculture in testimony before Congress stated, "Insofar as facilities are concerned, we would use a rule of reason that anything capable of handling meat in a sanitary manner would be accepted"; and



WHEREAS, there is every indication that the Department of Agriculture will break faith with Congress by deliberately enforcing the Wholesome Meat Inspection Act of 1967 in a manner totally inconsistent with the intent of Congress and their own pledges, as given to Congress by the Secretary of Agriculture and the Deputy Administrator of the Consumer Protection division of the Consumer and Marketing Service of the United States Department of Agriculture, by administering the Wholesome Meat Inspection Act of 1967 in a rigid, uncompromising, excessively technical and totally unrealistic manner; and

WHEREAS, ninety-six percent of the slaughtering and processing firms in North Dakota are non-federally inspected firms to which meat inspection will apply, are an industry grossing \$17,517,000 in terms of sales from slaughtering, processing, wholesaling and retailing, are employing 531 full-time and 188 part-time employees annually, earning wages totalling \$1,016,000 and are producing an annual net income in excess of \$777,000 totaling \$1,793,000 in annual income from non-federally inspected plants in North Dakota, all as established by a study conducted at North Dakota State University; and

WHEREAS, said study further revealed that relatively low profit levels exist in the non-federally inspected firms to which meat inspection will apply, suggesting that these firms could not withstand major and abrupt financial requirements in an attempt to gear-up for a stringent, excessively technical and totally unrealistic inspection program within a relatively short period of time; and

WHEREAS, the enforcement of the existing federal standards will cause an undue hardship on the non-federally inspected firms located in the State of North Dakota all to the advantage of foreign meat importers who presently function under standards ridiculously less severe than those imposed on domestic firms; and

WHEREAS, the difficulties attendant with meat inspection in rural North Dakota vary substantially from those created by the enforcement of the Wholesome Meat Act of 1967 in more populous and industrialized states; and

WHEREAS, a survey of meat processors in North Da-

kota revealed that only 27% would definitely continue operations by remodeling and upgrading existing facilities, that 10% would definitely discontinue operations, and that 63% would continue operations only if the Wholesome Meat Act of 1967 were enforced realistically and in accordance with the Congressional intent and policy as espoused by the Department of Agriculture prior to the enactment of said Act; and

WHEREAS, states may exempt themselves from federal meat inspection program by establishing state programs for this purpose; and

WHEREAS, the state of North Dakota is desirous of exempting itself from the extremely harsh standards of the federal program; and

WHEREAS, the Forty-first Legislative Assembly of the State of North Dakota will very probably be adjourned by the 15th day of March 1969;

**Now, Therefore, Be It Resolved By The House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That Secretary of Agriculture Hardin is hereby urgently requested to carefully investigate the manner and intent in which the Wholesome Meat Act of 1967 has been administered and forthwith direct the Consumer and Marketing Service of the United States Department of Agriculture to bring their policy and regulations into compliance with the intent of Congress and their own pledges as given to Congress by the Secretary of Agriculture and the Deputy Administrator of the Consumer Protection division of the Consumer Marketing Service of the United States Department of Agriculture; and

That a clear, concise and realistic interpretation of the "Rule of Reason" be forthwith promulgated and published so that the Forty-first Legislative Assembly of the State of North Dakota can act accordingly and exempt itself from the presently oppressive characteristics of the meat inspection provisions of the Wholesome Meat Act of 1967; and

**Be It Further Resolved** that if the time remaining is insufficient to allow the Secretary of Agriculture to so act that

the State of North Dakota be given an extension of two years in which to comply with the inspection provisions of the Wholesome Meat Act of 1967; and

**Be It Further Resolved**, that the Clerk of the House of Representatives forward a copy of this resolution to Clifford Hardin, Secretary of Agriculture, J. Phil Campbell, Jr., Under Secretary of Agriculture, and each member of the North Dakota Congressional Delegation.

Filed February 19, 1969.

---

### HOUSE CONCURRENT RESOLUTION No. 38

(Sanstead, Anderson, J. Peterson, Backes, Haugland)  
(Emerson, Aas, Seibel, Simonson, Rundle)

#### COMMENDATION OF MINOT STATE MARCHING BAND

A concurrent resolution commending the Minot State College Marching Band and its director, Dr. James W. Jurrens, for the national recognition they have received.

WHEREAS, the Minot State College Marching Band has, since its inception in 1946, been a credit to the musical talents of North Dakotans; and

WHEREAS, a crowning achievement of the illustrious history of the Minot State College Marching Band was its performance in the Tournament of Roses Parade in Pasadena, California, on New Year's Day; and

WHEREAS, officials of this most famous of all pre-bowl football game parades estimate that at least two million persons saw the band along the line of march and an additional one hundred million Americans saw it on television;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly takes great pleasure in commending the Minot State College Marching Band and its director, Dr. James W. Jurrens, for the hon-

ors they have brought to their college and to this State; and

**Be It Further Resolved**, that copies of this resolution be forwarded by the Secretary of State to the President of Minot State College and to Dr. James W. Jurrens.

Filed February 24, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 40

(Streibel, Link)

INVESTIGATION OF CARLOAD FREIGHT RATES  
FOR SMALL GRAIN

A concurrent resolution requesting the Congress of the United States to direct the Interstate Commerce Commission to investigate the carload freight rates applicable to small grains and to prescribe such rates, charges, rules, and regulations as it shall find reasonable and equitable.

WHEREAS, North Dakota's economy is dependent to a large extent upon the production and sale of agricultural products, particularly wheat and other small grains; and

WHEREAS, the bulk of all small grains produced in North Dakota enter interstate commerce via the State's network of railway systems in order to reach markets for sale, processing, or consumption, and compete with similar grains of other states and foreign countries; and

WHEREAS, the freight rates and charges prevailing for the transportation of these grains via said railway systems have a definite influence upon the ability of North Dakota's grains to reach markets and places at which these grains are processed and utilized or consumed, and to successfully compete with the grains of other states and of foreign countries; and

WHEREAS, the most recent general investigation by the Interstate Commerce Commission of the freight rates on grains in the West, which included North Dakota, was completed in 1934 pursuant to the Hoch-Smith Resolution (Public Resolution No. 46, 68th Congress, 43 Stat. L., 801) with piecemeal revisions permitted or imposed at various times since 1934; and

WHEREAS, during the intervening years since 1934 there have developed substantial changes in marketing patterns, competitive conditions as between transportation agencies, improvements in transportation facilities and equipment and their operation, the manufacturing and marketing of products of small grains, the manufacture of new and different products, and shifts in population; and

WHEREAS, the present freight rate structure does not reflect the present-day needs of the producer particularly, but also of other persons interested in marketing and processing small grains, in the light of changed circumstances and conditions, and has thus resulted in numerous unreasonable and unduly prejudicial, and preferential rates, and that where there have been piecemeal revisions, they have in numerous instances aggravated existing situations; and

WHEREAS, these factors call attention to the need for a reappraisal and a general overhauling of the present freight rate structure on small grains for the purpose of determining the reasonableness and equity of the present rates, charges, rules, and regulations applicable to their transportation, not only with respect to domestic movements but to export as well;

**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 be urged to enter into an independent investigation, such as an independent commission, concerning the equity of the freight rates, charges, rules, and regulations pertaining to the transportation of carload shipments of small grains in domestic and export commerce; and to provide reasonable and sufficient appropriations to employ competent and sufficient personnel to proceed with and complete as promptly as possible such an investigation, and to make, as a result thereof, such recommendations as it may deem appropriate with respect to a reasonable adjustment of rates, charges, rules, and regulations free from undue preference, prejudice, and discrimination which it will find justified in the premises; to recommend the establishment as a fundamental rule of ratemaking the broad principle of equal charges for equal transportation service, recognizing transportation factors which affect the cost of producing the specific service and the different characteristics of service performed by each mode of transportation; to restate specifically the prohibitions of the 1958 Act against "umbrella" rate-



making; and to direct the Interstate Commerce Commission: (1) in consideration of pending and future cases of rate regulation to give maximum practicable weight to the cost of moving the specific traffic involved, including a fair and reasonable profit; (2) in collaboration with industry and the accounting profession promptly to devise and prescribe cost-finding procedures based on modern methods of data processing and analysis and; (3) to issue regulations calculated to foster application of the basic principle of ratemaking enunciated above; and

**Be It Further Resolved**, that copies of this resolution be forwarded by the Secretary of State to the Committee on Commerce of the Senate of the United States, the Committee on Interstate and Foreign Commerce of the House of Representatives of the United States, to each member of the North Dakota congressional delegation, and to the Agriculture Committee chairman and presiding officers of each House of all the Great Plains grain states' Legislatures, and their respective congressional delegations.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 41

(E. Johnson, Davis, Opedahl, Bunker)

### AMENDMENT OF UNIFORM TIME ACT OF 1966

A concurrent resolution urging Congress to amend the Uniform Time Act of 1966 to provide that daylight saving time would commence on Memorial Day and end after Labor Day.

WHEREAS, pursuant to the Uniform Time Act of 1966, daylight saving time commences on the last Sunday in April and ends on the last Sunday in October of each year; and

WHEREAS, the transition from standard time to daylight saving time and then back to standard time at such dates, because of the fewer number of daylight hours at these seasons, causes inconveniences and disrupts normal routines; and

WHEREAS, making the time changes on national holidays would be more convenient and would cause less confusion as to

the day of such changes;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Congress of the United States be urged to pass the necessary amendment to the Uniform Time Act of 1966 to provide that daylight saving time would commence on Memorial Day and would end after Labor Day; and

**Be It Further Resolved, that the Secretary of State be directed to forward a copy of this resolution to the Secretary of the United States Department of Transportation and to each member of the North Dakota congressional delegation.**

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 43

(Committee on State and Federal Government)

### STUDY OF REGULATORY FEES

A concurrent resolution directing the Legislative Research Committee to conduct a study of fees charged for the licensing, inspection, or regulation of business activities and products, and fees charged for services rendered by the State.

WHEREAS, there are many agencies engaged in the licensing, inspection, and regulation of business activities and products; and

WHEREAS, these governmental functions were established without any systematic pattern as the need for them arose and without regard to the level of fees charged for other licensing, inspection, regulation, or service activities; and

WHEREAS, there is a lack of uniformity in the amount of such fees, which in some instances may not adequately offset the administrative costs of issuing the licenses, permits, or approval, and in other instances may cover not only the administrative costs but full costs of regulation; and

WHEREAS, it is desirable to develop a uniform system of fees based upon the cost of providing the services rendered by 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 Research Committee is hereby authorized and directed to conduct a study of fees charged by the State for services rendered for the licensing, inspection, or regulation of business activities or products, for the purpose of developing a systematic and uniform set of charges based upon the costs of providing such services, and that the Committee make a report of its findings and recommendations, together with any proposed legislation, to the Forty-second Legislative Assembly.

Filed March 27, 1969.

---

#### HOUSE CONCURRENT RESOLUTION NO. 44

(Link, Aafedt, R. Peterson, W. Erickson, Grant, Giffey)  
(Bier, DeKrey, Atkinson, Boustead, Burke, Lang, Metzger)  
(Wagner, Connolly, Hickle, Kelsch, Kuehn, Dawson)  
(Rivinius, Streibel)

#### CONSTRUCTION OF BRIDGE OVER GARRISON RESERVOIR

A concurrent resolution urging approval by Congress of United States Senate Bill No. 231 which calls for construction of a bridge over a certain portion of the Garrison Reservoir, and commending Senator Quentin Burdick for sponsoring the legislation.

WHEREAS, the construction of the Garrison Dam and formation of the Garrison Reservoir, one of the largest manmade lakes in the world, has resulted in dividing the Fort Berthold Indian Reservation into five segments; and

WHEREAS, the Indian people, as a result of this division and flooding, were forced to move from portions of their land, and suffered loss of valuable river bottom land, community centers, and burial grounds; and

WHEREAS, the peaceful, orderly, and economic readjustment of the relocated Indian communities, as well as the practical, desirable, and beneficial development of the recreational opportunity of the reservoir and surrounding areas, is dependent upon a convenient and properly constructed bridge connecting the western and southern segments of the Fort Berthold Indian Reservation, and a portion of this project would become a part of the Lewis and Clark trailway, already authorized by Congress; and

WHEREAS, the Fortieth Legislative Assembly passed House Concurrent Resolution "X-1" which urged Congress to authorize construction of a bridge in the general vicinity of Charging Eagle Bay on the Garrison Reservoir; and

WHEREAS, United States Senator Quentin Burdick has introduced United States Senate Bill No. 231 which would authorize construction of a bridge in the vicinity of Charging Eagle Bay;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly urges the Congress to give favorable consideration to S. 231, and commends Senator Quentin Burdick for his cooperation with the Legislative Assembly of the State of North Dakota in sponsoring that bill; and

**Be It Further Resolved**, that copies of this resolution be forwarded by the Secretary of State to the North Dakota Congressional delegation, the Chief of Army Engineers, the United States Secretary of the Army, the United States Secretary of the Interior, the Commissioners of the Bureau of Indian Affairs and the Bureau of Public Roads.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 45

(Link, Aafedt, R. Peterson, W. Erickson, Grant, Giffey)  
(Bier, DeKrey, Atkinson, Boustead, Burke, Lang, Metzger)  
(Wagner, Connolly, Hickle, Kelsch, Kuehn, Dawson)  
(Rivinius, Link, Streibel)

## CONSTRUCTION OF BRIDGE OVER OAHE RESERVOIR

A concurrent resolution urging approval by the Congress of Senate Bill No. 229 which calls for construction of a bridge over the Oahe Reservoir in the vicinity of Fort Yates, North Dakota, and commending Senator Quentin Burdick for sponsoring the legislation.

WHEREAS, residents of, and travelers through, the south central portion of North Dakota and the north central portion of South Dakota have relied upon ferry service in crossing the Missouri River, principally in the vicinity of Fort Yates, North Dakota; and

WHEREAS, this vast area of the two Dakotas lying between existing crossings at Bismarck, North Dakota, and Mobridge, South Dakota, a distance of over one hundred ten river miles and nearly one hundred air miles, has been bisected by the Oahe Reservoir, making ferryboat crossings impractical; and

WHEREAS, a modern bridge crossing of the Oahe Reservoir in the area between Bismarck, North Dakota, and Mobridge, South Dakota, is needed by those engaged in agricultural activities and would provide a stabilization of the area's economy by increasing the potential for industrial development, tourism, and recreational usage of areas endowed with great natural beauty, which will otherwise lie dormant; and

WHEREAS, providing an adequate crossing of the Oahe Reservoir will eliminate the present isolation of the Standing Rock Indian Reservation and be an important contributing factor in the progress toward completion of a program encompassing industrial, housing, educational, health, and social development on that Reservation; and

WHEREAS, the Fortieth Legislative Assembly passed Senate Concurrent Resolution "Z" which urged Congress to authorize construction of a bridge across the Oahe Reservoir in the vicinity of Fort Yates, North Dakota; and



WHEREAS, Senator Quentin Burdick has introduced United States Senate Bill No. 229 which would authorize construction of a bridge in the vicinity of Fort Yates, 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-first Legislative Assembly urges Congress to give favorable consideration to S. 229, and commends Senator Quentin Burdick for his cooperation with the Legislative Assembly of the State of North Dakota in sponsoring that bill; and

**Be It Further Resolved,** that copies of this resolution be forwarded by the Secretary of State to the North Dakota Congressional Delegation, the Chief of Army Engineers, the United States Secretary of the Army, the United States Secretary of the Interior, the Commissioners of the Bureau of Indian Affairs and the Bureau of Public Roads.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 46

(Rundle, K. Johnson)

TRIBUTE TO NORTH DAKOTA MEN WHO  
HAVE DIED IN VIETNAM

A concurrent resolution paying tribute to North Dakota men who have died in Vietnam.

WHEREAS, since the adjournment of the Fortieth Legislative Assembly, many of North Dakota's finest young men have been called upon to fight those forces which would engulf the world and this Country in slavery; and

WHEREAS, it is the intention of the members of the Forty-first Legislative Assembly, acting as the representatives of all of the people of the state of North Dakota, not to let those brave, courageous, and valorous men go unrecognized who, in performing their duty, made that supreme sacrifice which men of their stature have been called down through our country's history to make for the right to be free;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Forty-first Legislative Assembly of the state of North Dakota hereby pays solemn tribute to:

Pfc. Roger D. Alberts, Ft. Totten

Capt. Thomas E. Alderson, Grand Forks

Pfc. Dale H. Amundson, Finley

Pfc. William P. Backer, Mandan

Capt. Ernest E. Bartolina, Jr., Bismarck

Pfc. Kenyon E. Bean, Williston

Sgt. Elroy E. Beier, Langdon

Lt. Glenn Belcher, Fessenden

Pfc. Peter Binstock, Jr., New England

Maj. Ronald D. Bond, Fargo

Sgt. Curtis E. Boots, Watford City

Pfc. Richard L. Borgman, Minot

Pfc. Wesley C. Brenno, Larson

WO. John W. Brinkmeyer, New England

Cpl. Lawrence D. Brownotter, Bullhead

Capt. David A. Bujalski, Carrington

Maj. Robert H. Carroll, Carrington

Hm. 1 Leslie L. Carter, Jamestown

Sfc. Paul F. Charnetzki, Valley City

Adj. 2 Chester L. Coons, Bismarck

Spec. 4 Christopher W. Davis, Belcourt

Spec. 4 David R. DePriest, Rugby

SMAJ Francis E. Dowling, Cooperstown

HM3 Kurt W. Duncan, Fargo

Donald D. Durant, Bismarck

JO1 William C. Eckes, Beach

LCPL Stephen J. Eichelberger, Fargo

Sgt. Jerome W. Ellenson, Walcott

YN2 Joel A. Ellington, Rolette

Sgt. Ward C. Evans, Fargo

SN Michael A. Evenson, Lakota

SSgt. Zlatko M. Fakin, Cogswell  
Pfc. James C. Freidt, Grand Forks  
Cpl. Norbert L. Froehlich, Belfield  
Spec. 4 Rapheal J. Frost, Hunter  
Sgt. Arlan D. Gable, Rolette  
Cpl. Richard J. Gaffaney, Jr., Fargo  
Capt. Francis E. Geiger, Dickinson  
Pfc. Ronald C. Goodiron, Shields  
Maj. Virgil R. Greany, Rugby  
A1C Robert C. Greene, Williston  
Spec. 4. Stephen J. Groth, Jr., Enderlin  
Spec. 4 David P. Haegele, Napoleon  
Seaman Mitchell C. Hansey, Scranton  
Pfc. Dale G. Helgeson, Grand Forks  
Lt. Michael F. Hendrickson, Fargo  
Spec. 4 Dan L. Herdebu, Baldwin  
1Lt. Rodger R. Hertel, Portal  
SFC Louis Hillyer, Monango  
Capt. Robert J. Himler, Williston  
HN Michael D. Himmerick, Valley City  
Sgt. Gene E. Honcharoff, Max  
Spec. 4 Richard D. Hovland, Williston  
Cpl. Gerald A. Iverson, Oakes

Pfc. Fred W. Jansonius, Jamestown  
Pvt. Kenneth L. Johner, Noonan  
BULCN Melvin Johnson, Minot  
Sfc. Gerhardt Just, Wishek  
LCPL Douglas M. Kelly, Dickinson  
Pfc. David L. Kirkeby, Drayton  
Pfc. Garry D. Klein, Mott  
Sgt. Gerald D. Klein, Raleigh  
Pfc. Terrance P. Klein, Dickinson  
Pfc. David B. Kline, Hurdsfield  
Spec. 4 Douglas C. Klose, Jamestown  
1Lt. Roger D. Knudtson, Fairfield  
Pfc. Raymond E. Kramer, New Salem  
Pfc. Florian H. Kuss, Strasburg  
Spec. 4 David J. LaTraille, Grafton  
1Lt. Melvin D. Lembke, Grand Forks  
Sgt. James M. Levings, New Town  
Pvt. Eugene L. Lavoy, Jr., Grand Forks  
LCPL Gary W. Lindsay, Grand Forks  
Pfc. Leon L. Lochthowe, Minot  
Capt. Gary D. Lokken, Bowman  
Cpl. Gregory H. Lunde, Westhope  
WO James McAleer III, Steele



MSgt. Patrick J. McCabe, Bismarck

Pfc. Ralph C. McCowan, Trenton

Pfc. Michael F. Meyhoff, Center

Pfc. Gary F. Myers, Ft. Yates

1Lt. David J. Nessel, Fargo

Pfc. Dan L. Neuenschwander, Fessenden

Cmdr. Delbert A. Olson, Casselton

Pfc. Larry R. Olson, McHenry

Pfc. Richard J. Olson, Grand Forks

Spec. 4 Richard W. Orsund, Grafton

Maj. Chester M. Ovnand, Devils Lake

Pfc. Allen W. Porter, Carson

Spec. 5 John V. Raaum, LaMoure

Pfc. DeWayne M. Selby, Bismarck

Pfc. Thomas A. Senne, Valley City

LCPL Larry J. Sikorski, Fairmount

1Lt. Robert J. Sime, Tolna

Pfc. Donald J. Soby, Rugby

Pfc. Ronald G. Stoltenow, Hankinson

WO Robert L. Storey, Grand Forks

Spec. 4 John R. Tague, Burlington

Sgt. John C. Tingley, Kathryn

Pfc. George E. Tongen, Walhalla  
Sgt. Richard F. Triske, Grand Forks  
Sgt. Arlen Tuttle, Valley City  
Spec. 4 George E. Valker, III, Minot  
Durwood W. Verrett, Bismarck  
Pfc. Murray D. Vidler, Fargo  
Spec. 4 Michael Villareal, Grand Forks  
Spec. 4 Roy C. Wagner, Bismarck  
Sgt. Ward G. Walter, Minot  
Pfc. Larry L. Warbis, Haynes  
SSgt. Thomas A. Welker, Minot  
Spec. 4 Charles D. Wendt, Dickinson  
Spec. 4 Vernon E. Whetham, Cando  
Cpl. Norman P. Williams, Maddock  
LCPL Michael F. Wolf, Beulah  
Pfc. Paul H. Wolos, Fargo  
SMAJ Laurence C. Zietlow, New Salem

for their sacrifice in helping to keep the United States of America and other freedom-loving countries of this world from becoming slaves of those forces which would strip the human race of its God-given right to be free men; and

**Be It Further Resolved**, that the people of the state of North Dakota hereby join together to express their deepest sympathy to the parents and relatives of these brave men and to express to them their fervent belief that these men did not die in vain; and

**Be It Further Resolved**, that the Secretary of State send enrolled copies of this resolution to the parents and wives of these men to whom the people of this state owe so much.

Filed March 27, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 47

(Hoffner, Hilleboe, Aamoth, L. Larson, White)  
(Bunker, Thompson, Kelsch, Hentges, Seibel, Strinden)  
(Eagles, Swedlund)

COORDINATION OF STATE PUBLIC HEALTH  
ACTIVITIES

A concurrent resolution directing the Legislative Research Committee to study the feasibility of coordinating the administration of certain activities relating to public health which are now administered by separate State boards, departments, and agencies.

WHEREAS, there are numerous activities of the State in the fields of health and consumer protection, many of which have been placed under the jurisdiction of separate boards, departments, and agencies, including but not limited to the State Health Department, the State Laboratories Department, the Livestock Sanitary Board, and the Milk Stabilization Board; and

WHEREAS, it would appear that serious consideration should be given to coordinating the activities of all of these boards, departments, and agencies in order to improve consumer protection in food and drug processing, preparation, and distribution within the police powers of the State of North Dakota;

Now, Therefore, **Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee is hereby directed to study the various activities of the State in the areas of health and consumer protection now being carried on by the various boards, departments, and agencies, to determine the feasibility of consolidating and coordinating the administration of these activities, and to make its report and recommendations to the

Forty-second Legislative Assembly together with such legislation as may be necessary to carry out such recommendations.

Filed March 27, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 48

(Wilkie, Link, Matheny, Bier, Lillehaugen)

SEGREGATION OF EXPENDITURES OF UNITED STATES DEPARTMENT OF AGRICULTURE

A concurrent resolution urging the United States Department of Agriculture to segregate the allocation of expenditures of the Department that benefit the general public from those expenditures that directly benefit farmers.

WHEREAS, the United States Department of Agriculture participates in numerous programs designed to feed the hungry of foreign lands as well as those Americans who have substandard diets; and

WHEREAS, commodity donations to those programs and to the school lunch programs are of greater benefit to nonfarm people than to farmers; and

WHEREAS, the budget of the Department of Agriculture includes the cost of operating the Forest Service, meat inspection, and other services that benefit the general public; and

WHEREAS, urban people tend to believe that the entire Agriculture Department budget is spent for the benefit of farmers;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the United States Department of Agriculture is hereby respectfully urged to make all possible efforts to inform the public as to a true allocation of costs between programs that benefit farmers and those that benefit nonfarmers or the general public.

**Be It Further Resolved**, that a copy of this resolution be forwarded by the Secretary of State to the United States Secretary of Agriculture and to the North Dakota congressional delegation.

Filed March 27, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 50

(Grant, Opedahl, Ganser, Simonson)

**INCREASING WHEAT EXPORTS**

A concurrent resolution urging the Secretary of the United States Department of Agriculture to use any and all methods available to increase wheat exports.

**WHEREAS**, farmers in the State of North Dakota and in the Nation are desirous of maintaining an economic standard in keeping with the rest of our national economy; and

**WHEREAS**, the economic standard of the farmer is affected directly by the amount of wheat exported to foreign countries as increased exports tend to reduce the wheat surplus and increase the price of wheat; and

**WHEREAS**, during the 1967 crop year, approximately seven hundred sixty-two million bushels of wheat were exported to foreign countries; and

**WHEREAS**, projected estimates for the 1968 crop year indicated that approximately seven hundred fifty million bushels of wheat would be exported to foreign countries, but it now appears that exports for this period will be approximately six hundred fifty-five million bushels, a reduction from the projected estimates of ninety-five million bushels;

**Now, Therefore, Be it Resolved** by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Secretary of the United States Department of Agriculture is hereby respectfully urged to use any and all methods a-



available to him to increase the amount of our wheat exports in the interest of the farmers of this State and the Nation; and

**Be It Further Resolved**, that copies of this resolution be forwarded by the Secretary of State to the Secretary of the United States Department of Agriculture.

Filed March 27, 1969.

---

HOUSE CONCURRENT RESOLUTION NO. 51

(E. Johnson, R. Peterson, Jones)

REVISION OF EDUCATION LAWS

A concurrent resolution directing the Legislative Research Committee to study and revise the laws relating to elementary and secondary education in North Dakota.

**WHEREAS**, Title 15 of the North Dakota Century Code is the most frequently amended title in the North Dakota statutes; and

**WHEREAS**, the numerous amendments of the education laws have over the years made this title almost a patchwork of amendments; and

**WHEREAS**, such amendments have at times been passed without full regard to existing law, resulting in conflicts and in their placement in illogical chapters of Title 15; and

**WHEREAS**, no complete and overall study and review for the purpose of revising, coordinating, and integrating the school laws of North Dakota has been carried on since statehood; and

**WHEREAS**, the present school laws, because of conflicts, ambiguities, surplus language, improper arrangement and sequence, and a continuance of unused and archaic provisions results in uncertainty and, at times, confusion to those who must administer such laws and, at times, causes unnecessary legal expense and litigation to the school districts and citizens;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee is hereby authorized and directed to conduct a study of all elementary and second-

dary school laws of the State of North Dakota for the purpose of identifying and removing unused and archaic sections and laws, the reconciliation of conflicts and ambiguities, the elimination of surplus language, and to arrange the subject matter in the laws in a proper and logical sequence, and that the Committee report its recommendations to the Forty-second Legislative Assembly, together with suitable legislation to accomplish the objectives of this study.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 54

(Link, K. Erickson, Stone, Aas, McDonald)

### STUDY OF OVERLAPPING OF COURSES AT INSTITUTIONS OF HIGHER EDUCATION

A concurrent resolution directing a continuing study by the Legislative Research Committee with the assistance of the Board of Higher Education of the overlapping of courses and the use of instructional services to avoid the duplication of instruction, teaching loads and hours, standards for the evaluation of the qualifications of instructors, and to evaluate and update the previous studies regarding instructional programs and space utilization at the state institutions of higher education.

WHEREAS, the Legislative Assembly of the State of North Dakota recognizes that there is a need for the most efficient utilization of faculty and facilities of the institutions of higher education in order to offer the best possible education to the students of the State; and

WHEREAS, the fact that during the present biennium the appropriation for higher education is some twenty-nine and one-tenth percent higher than during the prior biennium, and the Executive Budget for the coming biennium suggests a twenty-three and six-tenths percent increase over the present biennium, indicate that the most careful evaluation must be made to insure the highest degree of efficiency in the utilization of the funds available for higher education; and

WHEREAS, because appropriations for higher education inure to the direct benefit of only a portion of the youth of the State of North Dakota, every effort must be made to avoid the unjustified duplication of programs, particularly in advanced and four-year degree-granting programs in order to assure that a portion of

the educational dollar can be made available for the education and training of youth of the State not pursuing in the academic field; and

WHEREAS, the increasing student enrollments and the ever-increasing costs of providing adequate educational opportunities are creating financial problems which may seriously weaken the quality of education offered by the State unless the limited funds that are available and will be available are expended in the areas of greatest need in as efficient a manner as possible, giving the greatest possible return in higher education for each dollar expended;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee, with the assistance of the Board of Higher Education and personnel employed by the Board, is hereby directed to conduct a continuing study of the overlapping of courses and the use of instructional services to avoid the unjustified duplication of instruction, teaching loads and hours, standards for the evaluation of the qualifications of instructors, and to evaluate and update the previous studies regarding instructional programs and space utilization at the state institutions of higher education, and to make its report and recommendations thereon to the Forty-second Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 55

(Natural Resources Committee)

IMPROVEMENT OF OIL AND GAS RULES  
AND REGULATIONS

A concurrent resolution requesting the industrial commission to proceed to improve the oil and gas rules and regulations governing the disposal of salt water liquids or brines produced with oil and natural gas and to intensify the enforcement thereof.

WHEREAS, the Legislative Assembly is aware that damage has occurred to the waters, lands and animal life of this state due to the improper disposition of salt water liquids or brines produced with oil and natural gas; and

WHEREAS, such damage is detrimental to the economic and personal well-being of the residents of this state as well as to the reputation of the producers of oil and natural gas; and

WHEREAS, the Legislative Assembly believes the enforcement of the present rules and regulations governing the disposal of salt water liquids or brines produced with oil and natural gas is inadequate; and

WHEREAS, the Legislative Assembly believes there is a definite need to improve such rules and regulations and to rigorously and diligently enforce same; and

WHEREAS, the Legislative Assembly has, by statute, vested the industrial commission with the authority to enact rules and regulations relative to the conservation of oil and natural gas, including the authority to enact rules and regulations governing the disposal of salt water liquids or brines produced with oil and natural gas, and to enforce such rules and regulations as it adopts;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Legislative Assembly hereby requests the industrial commission of the State of North Dakota to proceed with due

dispatch to improve its rules and regulations governing the disposal of salt water liquids and brines produced with oil and natural gas and to enforce such rules and regulations with rigor and diligence.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 56

(Boustead, Kuehn, Boyum, White, Bunker, McDonald)  
(Aas, Froelich, Atkinson, Goodman, Wagner)

### CREATION OF STATE MOTOR POOL

A concurrent resolution directing the Legislative Research Committee to conduct a study to determine the feasibility of a motor pool to furnish automobile transportation for state employees' travel.

WHEREAS, in excess of one thousand five hundred motor vehicles are owned by the various State agencies and institutions; and

WHEREAS, many other agencies, departments, and institutions pay employees for use of privately owned vehicles; and

WHEREAS, there is no guideline to determine when it becomes more economical for the State to purchase and furnish automobiles rather than pay for personal vehicle mileage; and

WHEREAS, savings may result through the establishment of motor pools on a regional basis whereby automobiles would be furnished to employees of the various agencies and institutions based on the cost for each trip;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee is hereby directed to study the feasibility of establishing motor pools on a regional basis to provide motor vehicles for State employees' use for necessary travel. Such study shall include an inventory of the motor vehicles owned by the State, the costs incurred in operating and maintaining such vehicles, and the moneys paid to em-



ployees furnishing their own vehicles for State travel. The committee shall determine the most economical methods for the State to provide travel expenses for its employees. All agencies, departments, and institutions shall cooperate and provide such information as may be necessary to assist the Committee in conducting the study. The Committee shall make its report and recommendations resulting from such study and review, together with any legislation necessary to implement such recommendations, to the Forty-second Legislative Assembly.

Filed March 27, 1969.

---

### HOUSE CONCURRENT RESOLUTION No. 57

(Boustead, Bernabucci, Bunker, Wells, Froelich)

#### SUPPORT OF "KEEP NORTH DAKOTA CLEAN" ORGANIZATION

A concurrent resolution relating to the efforts of private citizens to encourage the preservation of the beauty and the cleanliness of this State.

WHEREAS, North Dakota has earned a rightful reputation as the State that is cleaner and greener in the summer and whiter and brighter in the winter; and

WHEREAS, the citizens of North Dakota wish to maintain that reputation, and to continue to preserve North Dakota scenic beauty and to maintain in the State an environment, both rural and urban, that is neat and clean and devoid of debris and unsightliness the year around; and

WHEREAS, a group of North Dakota citizens representing a cross-section of business, industry, agriculture, education, and other professions have united in an organization called KEEP NORTH DAKOTA CLEAN to assist in achieving this purpose; and

WHEREAS, the members of this nonprofit organization are donating their efforts in a continuing campaign in all media, stressing to our citizens the importance of improving the attractiveness of our cities, towns, and countryside, preserving our natural beauty; and maintaining a neat and orderly appearance;

**Now, Therefore, Be It Resolved by the House of Repre-**

sentatives of the State of North Dakota, the Senate Concurring Therein:

That the citizens of North Dakota be urged to support and cooperate with the KEEP NORTH DAKOTA CLEAN organization in their long-range and highly laudable efforts to maintain and improve the North Dakota environment as a most favorable place in which to live, work, and play.

Filed March 4, 1969.

---

### HOUSE CONCURRENT RESOLUTION NO. 65

(Stone, Dick, Moquist, Belter, Boyum, Dornacker)  
(Halcrow, Strinden, Link, Register, Hilleboe, Hensrud)

#### SUBJECTING NATIONAL BANKS TO STATE TAX LAWS

A concurrent resolution urging the Congress of the United States to permit the States to subject national banks to state tax laws applying to other citizens and businesses.

WHEREAS, the Federal Government, for the purpose of protecting nationally chartered banks and financial institutions, and presumably based upon the fear of discriminatory state taxation, has severely limited the form of taxation that may be applied to national banks and financial institutions by the State and local government; and

WHEREAS, such protection is fully provided under the Fourteenth Amendment to the United States Constitution and in similar guarantees in the Constitutions of the States; and

WHEREAS, in order to prevent giving unfair competitive advantages to nationally chartered banks and financial institutions, it is necessary that state chartered banks and financial institutions be taxed upon the same basis as national banks and financial institutions are taxed; and

WHEREAS, the Federal law forces unfair and undue favoritism in State tax laws in favor of financial institutions, disrupts the normal tax administration because of exemptions that are required, and distorts local governmental finance because of the

difficulties in allocating the special tax revenues to the political subdivisions providing governmental services to such institutions, and makes it exceedingly difficult to develop tax laws that permit such institutions to make their fair contribution to the governmental overhead of State and local government; and

WHEREAS, this invasion of the Federal Government into the taxing powers of the sovereign states is a precedent of the most dangerous type in that a continuance of this course of action may eventually make the states entirely dependent upon the tax base allocations of the Federal Government, all contrary to the philosophy of the Federal system;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Congress of the United States is urged to amend the respective Federal statutes regulating the type of State and local taxation that may be applied by State and local government to federally chartered financial institutions in order to, so far as possible and practicable, permit State and local government to subject federally chartered financial institutions to the same types of taxation as affects other businesses and citizens of the states; and

**Be It Further Resolved,** that copies of this resolution be forwarded by the Secretary of State to the Chairmen of the Banking and Finance Committees of the United States Senate and House of Representatives, and to each member of the North Dakota Congressional Delegation.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 70

(Committee on Delayed Bills)

## COMMENDATION OF NILS A. BOE

A concurrent resolution commending the Honorable Nils A. Boe, former Governor of South Dakota, upon his appointment as Director of the United States Office of Intergovernmental Relations.

WHEREAS, the President of the United States has by Executive Order created the Office of Intergovernmental Relations directly under the supervision of the Vice President of the United States; and

WHEREAS, the purpose of this office is to assist and advise the Vice President and the President in the matter of intergovernmental cooperation between the Federal Government, State Government, and local governments, and to act as liaison for the President between the executive and legislative officials of State and local governments; and

WHEREAS, it is the duty of this office to encourage, assist, and facilitate maximum cooperation among and between the various Federal agencies and State and local governments and to make Federal departments and programs more sensitive, receptive, and responsive to the views of State and local government officials; and

WHEREAS, the Honorable Nils A. Boe, former Governor of the State of South Dakota and a long-time member and Speaker of the South Dakota House of Representatives, has been appointed by the President as Director of the Office of Intergovernmental Relations; and

WHEREAS, the appointment of a resident and former Governor of our Sister State of South Dakota not only is an honor to Governor Boe and the State of South Dakota, but also reflects credit to people of all of the Great Plains States;

Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:

That the Legislative Assembly expresses its pleasure in regard to the appointment of the Honorable Nils A. Boe as Director of the Office of Intergovernmental Relations, and that it extend the congratulations of the citizens of North Dakota and its Legislative Assembly to Governor Boe and express their full confidence in his performance of the functions of the office in the preservation and improvement of the Federal system; and

**Be It Further Resolved**, that an enrolled copy of this resolution be forwarded by the Secretary of State to the Honorable Nils A. Boe.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 71

(Committee on Delayed Bills)

### REGULATORY FEE SYSTEM FOR PUBLIC SERVICE COMMISSION

A concurrent resolution directing the Legislative Research Committee, with the cooperation of the Public Service Commission, to study the feasibility of developing a regulatory fee system paid by the regulated industries for the purpose of paying the costs of regulation incurred by the Public Service Commission, and a review of the feasibility of developing similar systems for other State-regulated businesses and industries.

WHEREAS, the Public Service Commission of the State of North Dakota, and similar regulatory bodies in other States, were created for the purpose of protecting customers of certain regulated businesses and industries, principally those providing public utility-type services, and to assure a fair and reasonable return upon invested capital of the owners of the regulated businesses and industries; and

WHEREAS, it is in the interests of the consumer of public utility-type products and in the interests of the investors in public utility-type industries and other businesses regulated by the Public Service Commission, that all States develop sound and strong State regulatory programs for the mutual protection of the consumer and the owners of the regulated businesses; and

WHEREAS, thirty-eight of the States have developed a system



of regulatory fees charged to the regulated utilities and businesses for the purpose of paying for the expense of such regulation by Public Service Commissions in accordance with the regulatory costs incurred by the various types of regulated businesses and industries; and

**WHEREAS,** the State of North Dakota has experienced substantial difficulty in providing adequate funds for Public Service Commission regulatory activities in view of the pressing demands for funds in other areas of State responsibility;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee, with the cooperation of the Public Service Commission, is hereby authorized and directed to conduct a study of the feasibility of developing a system of fees to be paid by businesses and industries regulated by the Public Service Commission for the purpose of providing funds for the payment of proportionate costs of regulation of the various classes and types of businesses and industries regulated; and

**Be It Further Resolved,** that the Legislative Research Committee shall review other areas of business and industry regulation to determine the feasibility of the development of a similar fee system based upon costs of regulation for the benefit of the regulated industries and the protection of the customers of such industries; and

**Be It Further Resolved,** that the Legislative Research Committee shall report its findings and recommendations to the Forty-second Legislative Assembly, together with such legislation as may be necessary to carry out such recommendations.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 72

(Committee on Delayed Bills)

## PROCESSING OF CLAIMS AGAINST THE STATE

A concurrent resolution directing the Legislative Research Committee to study a method of providing an orderly and equitable method of processing claims against the State of North Dakota for damages suffered by citizens.

WHEREAS, because of the doctrine of governmental immunity, the State of North Dakota is not subject to suit by its citizens who may suffer injury or damage through its actions or activities in carrying on governmental functions, except to the extent that the State has by law specifically waived this immunity; and

WHEREAS, except in matters involving contracts with the State, damages from motor vehicle accidents where insurance is carried, and tax refunds as specifically provided by law, there is no established procedure by which a citizen who suffers injury from actions of the State can present a claim for reimbursement; and

WHEREAS, because of the failure of the Legislative Assembly to establish a process of receiving and investigating such claims, numerous individual bills are introduced at each session to indemnify those having meritorious claims; and

WHEREAS, such process results in the expenditure of an appreciable amount of legislative time during each session in hearings and in reviewing such claims in detail and an extreme reluctance on the part of the Legislative Assembly to approve even apparently meritorious claims because of lack of independent investigation or evaluation and the lack of a uniform policy as to the types of claims that the State should handle, thereby forcing individuals who suffered damage or injury in the course of programs carried on for the overall public good to absorb the cost of such loss or injury through the harsh and inequitable policies and laws that currently exist; and

WHEREAS, it is highly unfair and contrary to the basic principles of the American system of justice that innocent persons should be forced to suffer damages without any recourse from the person causing such damages; and

WHEREAS, orderly procedures for processing, investigating, and evaluating citizens' claims against a State have been established in a number of States in order that only well-documented, meritorious claims are presented to the Legislative Assembly for its consideration in fields upon a basis established by the Legislative Assembly as proper for such reimbursement;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Research Committee is hereby authorized and directed to conduct a study of a means of processing, investigating, and evaluating claims resulting from activities of the State and of fields of responsibility in which meritorious claims might arise, and to make its report and recommendations, together with legislation necessary to carry out such recommendations, to the Forty-second Legislative Assembly.

Filed March 27, 1969.

---

## HOUSE CONCURRENT RESOLUTION NO. 73

(Committee on Delayed Bills)

### COMMENDATION OF GENERAL HAROLD K. JOHNSON

A concurrent resolution commending General Harold K. Johnson, a native of North Dakota, upon his receipt of the George Washington Award from the Freedoms Foundation at Valley Forge, Pennsylvania.

WHEREAS, General Harold K. Johnson, United States Army Retired, was chosen by the Freedoms Foundation to be the recipient of its highest honor, the George Washington Award; and

WHEREAS, General Johnson received the award on February 22, 1969, during formal ceremonies at Valley Forge, Pennsylvania; and

WHEREAS, General Johnson is a native of Bowesmont, North Dakota, and during his distinguished Army career, culminating in service as Chief of Staff of the Army, has brought honor to this State and our Nation; and

WHEREAS, General Johnson survived the Bataan Death March and three years of imprisonment by the Japanese during World War II, and during this period set an example of inspiring and exemplary conduct as a soldier and a citizen; and

WHEREAS, the choice of General Johnson to be the recipient of the George Washington Award is an occasion of which all North Dakotans can be proud;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Assembly expresses its pleasure and pride in regard to the selection of General Harold K. Johnson to be the recipient of the Freedoms Foundation's George Washington Award, and commends General Johnson for his outstanding service to his State and Nation, as well as for the distinction brought to the State through the recognition accorded him; and

**Be It Further Resolved,** that the Secretary of State forward an enrolled copy of this resolution to General Johnson.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 74

(Committee on Delayed Bills)

## COMPLETION OF LEGISLATIVE WORK

A concurrent resolution providing for the retaining of certain employees of the House of Representatives and Senate after the legislative session for the purpose of completing legislative work.

WHEREAS, after termination of the Forty-first Legislative Assembly it is necessary to complete and close all legislative work; and

WHEREAS, in order to so complete and close such work it is necessary to retain certain employees;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the following employees from the House of Representatives of the Forty-first Legislative Assembly be retained after the close of session to complete legislative work:

Roy Gilbreath, Chief Clerk, be retained eight days;

Barbara King, Desk Reporter, four days;

Ernest Benser, Sergeant-at-Arms, four days;

E. A. Tough, Assistant Chief Clerk, five days;

Delano Wawers, Bill Clerk, four days;

Mavis Patchen, Chief Stenographer and Payroll Clerk, three days;

Shirley Shaw, Enrolling and Engrossing Clerk, five days;

Ruth Harter, Enrolling and Engrossing Clerk, five days;

Clara Wendt, Chief Page, three days;

Tom Tudor, Page, three days;



Mildred Ann Weishaar, Page, three days;

Enola Eck, Telephone Attendant, three days;

Sam Labrenz, Journal Room Clerk, four days;

Richard Wittmayer, Journal Room Clerk, four days;

Frieda Borth, Journal Proofreader, five days;

That the following employees from the Senate of the Forty-first Legislative Assembly be retained after the close of session to complete legislative work:

Leo Leidholm, Secretary, be retained eight days;

A. E. Bradley, Sergeant-at-Arms, four days;

Arthur Herk, Assistant Secretary, five days;

Richard H. Jagd, Assistant Sergeant-at-Arms, four days;

Vernon Asheim, Bill Clerk, four days;

Cora Essington, Chief Stenographer and Payroll Clerk, three days;

Lois J. Scherr, Chief Committee Clerk, three days;

Eunice Anderson, Enrolling and Engrossing Clerk, five days;

Marguerite Stenehjerm, Enrolling and Engrossing Clerk, five days;

John Fibelstad, Bill Book Clerk, three days;

Fred Krause, Jr., Journal Room Chief, four days;

Alta Harens, Journal Room Clerk, four days;

Marie Skjod, Journal Proofreader, five days;

**Be It Further Resolved**, that the above-named employees be paid their regular rates of pay as specified as follows: Roy Gilbreath, Chief Clerk, eight days at thirty-three dollars per day; Barbara King, Desk Reporter, four days at thirty-three dollars

per day; Ernest Benser, Sergeant-at-Arms, four days at nineteen dollars per day; E. A. Tough, Assistant Chief Clerk, five days at twenty-five dollars per day; Delano Wawers, Bill Clerk, four days at twenty-two dollars per day; Mavis Patchen, Chief Stenographer and Payroll Clerk, three days at twenty-four dollars per day; Shirley Shaw, Enrolling and Engrossing Clerk, five days at nineteen dollars per day; Ruth Harter, Enrolling and Engrossing Clerk, five days at nineteen dollars per day; Clara Wendt, Chief Page, three days at eighteen dollars per day; Tom Tudor, Page, three days at fifteen dollars per day; Mildred Ann Weishaar, Page, three days at fifteen dollars per day; Enola Eck, Telephone Attendant, three days at fifteen dollars per day; Sam Labrenz, Journal Room Clerk, four days at fifteen dollars per day; Richard Wittmayer, Journal Room Clerk, four days at fifteen dollars per day; Frieda Borth, Journal Proofreader, five days at nineteen dollars per day; Leo Leidholm, Secretary, eight days at thirty-three dollars per day; A. E. Bradley, Sergeant-at-Arms, four days at nineteen dollars per day; Arthur Herk, Assistant Secretary, five days at twenty-five dollars per day; Richard H. Jagd, Assistant Sergeant-at-Arms, four days at fifteen dollars per day; Vernon Asheim, Bill Clerk, four days at twenty-two dollars per day; Cora Essington, Chief Stenographer and Payroll Clerk, three days at twenty-four dollars per day; Lois J. Scherr, Chief Committee Clerk, three days at twenty-two dollars per day; Eunice Anderson, Enrolling and Engrossing Clerk, five days at nineteen dollars per day; Marguerite Stenehjem, Enrolling and Engrossing Clerk, five days at nineteen dollars per day; John Fibelstad, Bill Book Clerk, three days at fifteen dollars per day; Fred Krause, Jr., Journal Room Chief, four days at sixteen dollars per day; Alta Harens, Journal Room Clerk, four days at fifteen dollars per day; Marie Skjod, Journal Proofreader, five days at nineteen dollars per day;

and all of the above expenses are to be paid out of the per diem employees' fund of the Forty-first Legislative Assembly and paid when the respective claims are verified by the affidavits of said parties named herein at the completion of said work.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 75

(Committee on Delayed Bills)

COMPLETION OF INTERNATIONAL PEACE  
GARDEN

A concurrent resolution urging Congress to give favorable consideration to United States Senate Bill No. 233 which appropriates federal funds for completion of the formal garden and erection of the peace tower at the International Peace Garden.

WHEREAS, the International Peace Garden lying in northern North Dakota and southern Manitoba symbolizes the peace and friendship existing between the United States and Canada; and

WHEREAS, the International Peace Garden is thirty-seven years old, but the formal garden portion of it is only half completed and the "peace tower" has not been constructed, although plans for its construction were included in the original Peace Garden concept; and

WHEREAS, the International Peace Garden is an important tourist attraction and its completion could mean that even more tourists would travel through North Dakota to visit the site; and

WHEREAS, United States Senate Bill No. 233 providing an appropriation of \$925,000 for completion of the formal garden and construction of the "peace tower" was introduced on January 10, 1969, by Senator Quentin Burdick;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Assembly of the State of North Dakota recommends and respectfully urges the Congress to give favorable consideration to United States Senate Bill No. 233 in order that this major portion of the International Peace Garden may be completed; and

**Be It Further Resolved,** that the Secretary of State forward copies of this resolution to the members of the North Dakota Congressional delegation.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 76

(Committee on Delayed Bills and Resolutions)

UNIFORM POLICY ON JURY SERVICE BY  
STATE EMPLOYEES

A concurrent resolution recommending a uniform policy regarding jury service by state employees.

WHEREAS, service upon a jury when called is an obligation of every eligible citizen of this state and country; and

WHEREAS, state employees who are eligible and called upon should share equally with every other citizen the honor and responsibility of jury service; and

WHEREAS, all state employees should be subject to a fair and uniform policy regarding jury service which would not result in unreasonable financial sacrifice to those state employees who serve upon juries;

**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That all state departments, agencies, and institutions are directed to release employees when they are called for jury service and during the term of such service, and employees released shall continue to accumulate annual leave and sick leave credits and shall receive their state salaries, less the amount of fees received for jury service, as if they are fulfilling their state employment.

Filed March 27, 1969.

## HOUSE CONCURRENT RESOLUTION NO. 77

(Committee on Delayed Bills)

## COMMENDATION OF HAROLD SCHAFER

A concurrent resolution commending Mr. Harold Schafer for his efforts and those of the Gold Seal Company in the preservation and development of the historic townsite of Medora.

WHEREAS, Mr. Harold Schafer of Bismarck, North Dakota, and the Gold Seal Company have assumed responsibility for the preservation, restoration, and development of the historic townsite of Medora, located adjacent to Theodore Roosevelt National Memorial Park in the heart of the North Dakota Badlands; and

WHEREAS, the North Dakota Legislative Assembly, through the passage of legislation creating the Medora Restoration Commission, expressed the public interest of the State in the restoration and preservation of the townsite of Medora and, in view of the assumption of this project on the part of Mr. Schafer and the Gold Seal Company, has at the Forty-first Legislative Session dissolved the Medora Restoration Commission; and

WHEREAS, the efforts and activities of Mr. Schafer and the Gold Seal Company in the preservation and development of the townsite of Medora are much appreciated and the Medora facilities are a source of pride to all residents of North Dakota; and

WHEREAS, the facilities developed in the course of this restoration and reconstruction program have made it possible for citizens of North Dakota to visit and enjoy one of the most scenic and historic areas of North Dakota and have resulted in the townsite of Medora becoming a major point of tourist interest in the State, and have substantially increased the visitations to and the enjoyment of Theodore Roosevelt National Memorial Park; and

WHEREAS, the restoration and development of the townsite of Medora is an outstanding example of the contribution toward the economic development of the State and the promotion of tourism by a private citizen;



**Now, Therefore, Be It Resolved by the House of Representatives of the State of North Dakota, the Senate Concurring Therein:**

That the Legislative Assembly commends Mr. Harold Schafer and the Gold Seal Company for their activities in the development and restoration of the historic townsite of Medora and expresses its appreciation for the loyalty to the State of North Dakota displayed by Mr. Schafer and Gold Seal Company; and

**Be It Further Resolved,** that a copy of this resolution be forwarded by the Secretary of State to Mr. Harold Schafer of Bismarck, North Dakota.

Filed March 27, 1969.

# HOUSE MEMORIAL RESOLUTIONS

---

## HOUSE MEMORIAL RESOLUTION NO. 1001

(Committee on House Memorial Resolutions)

### DECEASED 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:

JOHN S. Aker, who served in the Fourteenth Legislative Assembly, from the twentieth district, died May 1, 1967.

C. A. "ED" ANDERSON, who served in the Thirty-second Legislative Assembly, from the thirty-second district, died December 8, 1968.

R. FAY BROWN, who served in the Thirty-third to the Fourtieth Legislative Assemblies, from the thirty-second district, died March 17, 1967.

KARL H. BRUNSDALE, who served in the Twenty-first to the Twenty-fourth Legislative Assemblies, from the eighth district, died December 2, 1967.

R. JOHN DAWSON, who served in the Thirtieth Legislative Assembly, from the thirtieth district, died June 22, 1967.

CARL H. DITTMER, who served in the Twenty-third to the Twenty-seventh Legislative Assemblies, from the eleventh district, died March 6, 1967.

JAMES DOUGHERTY, who served in the Nineteenth Legislative Assembly, from the twenty-second district, died May 21, 1967.

E. O. ELLINGSON, who served in the Seventeenth to the Nineteenth Legislative Assemblies, from the eighth district, died December 5, 1966.

NETTIE E. ELLINGSON, who served in the Thirtieth Legislative Assembly, from the forty-second district, died January 25, 1969.

WILLIAM B. FALCONER, who served in the Twenty-third, Twenty-seventh to the Thirtieth Legislative Assemblies, from the twenty-seventh district, died May 29, 1967.

E. L. "ALEX" HAVEN, who served in the Thirty-fourth Legislative Assembly, from the eighteenth district, died March 30, 1966.

MANDUS HULTSRAND, who served in the Twenty-fifth and Twenty-sixth Legislative Assemblies, from the eighteenth district, died January 15, 1969.

J. W. JENNINGS, who served in the Twenty-seventh to the Thirtieth Legislative Assemblies, from the forty-sixth district, died September 7, 1968.

ROBERT H. JOHNSON, who served in the Sixteenth Legislative Assembly, from the twenty-fifth district, died December 14, 1968.

ANFIN N. KINDEM, who served in the Twenty-seventh Legislative Assembly, from the twentieth district, died September 15, 1968.

HENRY KLUVER, who served in the Twenty-sixth Legislative Assembly, from the twenty-ninth district, died November 9, 1966.

NORMAN LARSON, who served in the Fortieth Legislative Assembly, from the sixteenth district, died May 19, 1967.

RAYMOND T. LEE, who served in the Thirty-fourth and Thirty-fifth Legislative Assemblies, from the twenty-first district, died April 5, 1968.

J. FRED LINK, who served in the Eighteenth Legislative Assembly, from the forty-eighth district, died January 23, 1969.

GUSTAV LOCKEN, who served in the Thirtieth to the Thirty-second Legislative Assemblies, from the seventeenth district, died September 14, 1967.

ALEX MILLER, who served in the Thirty-fourth Legislative Assembly, from the seventeenth district, died September 4, 1967.

CHARLES W. MOSES, who served in the Fourteenth Legislative Assembly, from the first district, died March 17, 1967.

ARTHUR Z. NELSON, who served in the Twenty-fifth to the Twenty-seventh Legislative Assemblies, from the thirteenth district, died June 17, 1968.

FRED J. NIMS, who served in the Fifteenth and Sixteenth Legislative Assemblies, from the fourteenth district, died December 20, 1968.

WILLIAM H. NORTHRUP, who served in the Thirteenth Legislative Assembly, from the sixteenth district, died May 16, 1967.

GILMAN C. OLSON, who served in the Thirty-fourth to the Thirty-ninth Legislative Assemblies, from the sixteenth district, died September 13, 1967.

REUBEN SCHOLL, who served in the Twenty-second to the Twenty-fourth and the Twenty-sixth Legislative Assemblies, from the forty-sixth district, died March 24, 1967.

A. I. SHARPE, who served in the Twenty-sixth to the Twenty-ninth Legislative Assemblies, from the thirty-second district, died January 25, 1968.

FRITHJOF SKAAR, who served in the Twenty-ninth to the Thirty-second Legislative Assemblies, from the twenty-first district, died July 7, 1967.

ABRAHAM THAL, who served in the Thirty-fifth and Thirty-seventh Legislative Assemblies, from the seventeenth district, died March 29, 1967.

W. W. TREFFRY, who served in the Twentieth to the Twenty-fifth Legislative Assemblies, from the thirty-second district, died April 26, 1968.

JOHN J. WENTZ, who served in the Twenty-first Legislative Assembly, from the thirty-sixth district, died September 18, 1967.

ROY A. YEATER, who served in the Sixteenth to the Twentieth Legislative Assemblies, from the twenty-sixth district, died March 26, 1968.

WHEREAS, today, we as members of the House of Representatives of the Forty-first 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 this state by their contribution to their fellow men and their communities;

**Now, Therefore, Be It Resolved by the House of Representatives of the Forty-First 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 17, 1969.



# SENATE RESOLUTIONS

---

## SENATE RESOLUTION NO. 1

(Morgan, Schultz, Van Horn)

### OFFICIAL PHOTOGRAPHER

A resolution to appoint an official photographer for the senate of the Forty-first Legislative Assembly of the State of North Dakota.

**WHEREAS**, for historical purposes it has been the custom of all North Dakota Legislative Assemblies to have composite group pictures made of all members of such assemblies; and

**WHEREAS**, L. W. Naegle's Studio, of Bismarck, North Dakota, offers to make a composite group picture of the members of the 1969 North Dakota senate, size thirty inches by forty inches, said picture to be framed and ready to hang; and fifty-five, fourteen inches by eleven inches, copies of said picture for each member and desk force of the senate; and one, five inches by seven inches, print of each senator and the lieutenant governor for the state historical society, at a cost of seven hundred ninety-five dollars;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:**

That L. W. Naegle's Studio, of Bismarck, North Dakota, be, and is hereby appointed official photographer for the North Dakota senate of the Forty-first Legislative Assembly.

**Be It Further Resolved**, that L. W. Naegle's Studio, of Bismarck, North Dakota, be, and is hereby awarded the sole privilege of photographing members of the senate of the Forty-first Legislative Assembly, at a cost price of seven hundred ninety-five dollars to be taken out of legislative expenses.

**Be It Further Resolved**, that delivery of the photographs shall be within ninety days after the adjournment of the legislative session.

Filed February 3, 1969.

---

### SENATE RESOLUTION NO. 2

(Litten, Melland, Sorlie, Ringsak, Becker, Wilhite)  
(Berube, Butler, Chesrown, Christensen, Coughlin)  
(Decker, Doherty, Forkner, Freed, Goldberg)  
(Hernett, Holand, Jacobson, Kautzmann, Kelly)  
(G. Larson, L. Larson, Lips, Longmire, Lowe)  
(Luick, Meschke, Morgan, Mutch, Nasset)  
(Nothing, Pyle, Rait, Redlin, Robinson, Roen)  
(Ruemmele, Sands, Schultz, Stafne, Strinden)  
(Stroup, Thoreson, Unruh, VanHorn, Wenstrom)

### COMMENDATION OF SENATOR TRENBEATH

A resolution expressing the pleasure of the Senate in the selection of Senator Grant Trenbeath as North Dakota's Outstanding Handicapped Citizen for 1968.

WHEREAS, the Governor's Committee on Employment of the Handicapped has selected a member of the Senate, Senator Grant Trenbeath, as North Dakota's Outstanding Handicapped Citizen for 1968; and

WHEREAS, the distinction accorded Senator Trenbeath in his selection to receive this well-deserved award not only honors Senator Trenbeath, but also honors the North Dakota Senate in which he serves; and

WHEREAS, while Senator Trenbeath's colleagues in the Senate may be aware of the fact that he may occasionally be inconvenienced, those with whom he works, and especially those members who may at times be in opposition to a position supported by him, would never agree that he might in any way be handicapped; and

WHEREAS, the Senate desires to express the high esteem in which Senator Trenbeath is held by his colleagues;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:**

That it does hereby express its pleasure in regard to the selection of Senator Trenbeath as North Dakota's Outstanding Handicapped Citizen of 1968, and commends him for his outstanding service to his community and state as well as the distinction brought to the Senate of this State through the recognition accorded him; and

**Be It Further Resolved,** that an enrolled copy of this Resolution be presented to Senator Trenbeath by the Lieutenant Governor in the presence of the Senate.

Filed February 5, 1969.

## SENATE RESOLUTION NO. 3

(Trenbeath)

## FEDERAL HIGHWAY USE TAX ON TRUCKS

A resolution urging action of Congress in regard to the inequitable application of the Federal highway use tax to trucks weighing in excess of thirteen thousand pounds used primarily for agricultural purposes.

WHEREAS, the Federal highway use tax on highway motor vehicles was enacted in 1956 to acquire tax revenue from users of the Federal and State highway system; and

WHEREAS, the original and primary purpose of such tax was to affect high mileage users of trucks with an empty weight of thirteen thousand pounds or more; and

WHEREAS, recent changes in the average farm and ranch requirements have made it necessary for farmers and ranchers to purchase trucks of over thirteen thousand pounds empty weight; and

WHEREAS, the internal revenue service has determined that ordinary farm trucks are subject to the Federal highway use tax; and

WHEREAS, farm trucks in this state are being charged such tax, but only travel from two thousand to five thousand miles annually with a large portion of such miles being traveled other than on the Federal and State highway systems:

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota:**

That the United States Congress is urged to amend the Federal highway use tax to exempt from such tax all trucks classified and licensed by the individual states as farm trucks; and

**Be It Further Resolved,** that the Secretary of State forward a copy of this resolution to each member of the North Dakota congressional delegation, and to the respective chairmen of the Finance and Commerce Committees of the United States Senate and the Interstate and Foreign Commerce and Ways and Means Committees of the House of Representatives.

Filed March 15, 1969.

# SENATE CONCURRENT RESOLUTIONS

---

## SENATE CONCURRENT RESOLUTION NO. 1

(Lips, Meschke, Unruh)

(From Legislative Research Committee Study)

### RECESSED LEGISLATIVE SESSIONS

A concurrent resolution directing the legislative research committee to carry out a study of the feasibility of establishing a system of recessed legislative sessions.

WHEREAS, the Constitution of the state of North Dakota as adopted in 1889 limits the regular session of the legislative assembly to sixty legislative days; and

WHEREAS, the workload of the legislative assembly has multiplied many times since 1889 and has quadrupled within the past twenty years with approximately one thousand bills and resolutions introduced for consideration at every session; and

WHEREAS, this avalanche of work, in spite of substantial streamlining of rules, legislative structure, and increased working hours, has made it impossible for the legislative assembly to provide adequate time for public hearings upon this mass of legislation and to give the deliberative consideration to all bills and public problems that is demanded by the citizens it serves; and

WHEREAS, a legislative assembly, geared to perform its function as the policy-making body, is essential if state and local government is to play an important part in the American federal system; and

WHEREAS, many states of this Nation have adopted extended annual and biennial sessions in an effort to meet their legislative responsibilities, thereby substantially increasing the cost of the



legislative branch and making it even more difficult for a majority of the citizens of a state to serve in the legislative assembly; and

WHEREAS, it is desirable that the State of North Dakota develop procedures for meeting the responsibilities of the legislative assembly at the lowest practical cost and with the least damage to the citizen-legislator concept;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the legislative research committee is hereby authorized and directed to make a study of the feasibility and cost of establishing a recess system for regular sessions totaling sixty legislative days during each biennium. The legislative assembly under such system could meet for organizational and orientation purposes in the month of December following the general election, and thereafter recess until the month of January whereupon it could commence its regular session for a period of sufficient length to permit the introduction of bills, the passage of emergency measures, and the assignment of study and research projects to committees, and thereafter recess until after January 1 of the following year with provision for joint meetings of standing committees during the interim between the regular recessed sessions for the purpose of carrying out research and study assignments, conducting full and complete public hearings and committee deliberations upon legislation introduced and referred to it at the regular session, and thereafter reporting on bills to the body in which the bills originated at the beginning of the second recessed session, thereby providing adequate time for research, public hearing, committee consideration, and floor action; and

**Be It Further Resolved,** that the committee shall present to the Forty-second Legislative Assembly its report in regard to the feasibility and cost of such a plan for recessed sessions or a modified version of it, together with any proposed statutes or rules changes necessary to carry out the plan recommended.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 4

(Longmire)

COMMENDATION OF STATE NEWSPAPERMEN  
AND NEWSPAPERWOMEN

For the purpose of designating February 21, 1969, as Newspapermen's and Newspaperwomen's Day at the North Dakota Legislative Assembly, and welcoming Mr. Russell Wiggins, distinguished journalist and public servant, to North Dakota.

WHEREAS, the editors and reporters of North Dakota daily and weekly newspapers are in active partnership with the senators and representatives of this state in the task of keeping citizens informed about their government; and

WHEREAS, these editors and reporters, recognizing the increased demands on the time that senators and representatives can reasonably devote to legislative matters, support the decision of the Legislative Assembly to carry on its regular work on Newspapermen's and Newspaperwomen's Day; and

WHEREAS, North Dakota and the Legislative Assembly will be honored on February 21, 1969, by the visit of Mr. Russell Wiggins, editor of the Washington Post and former Ambassador to the United Nations, who will be the guest speaker that day at a luncheon sponsored by the editors and Sigma Delta Chi;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Senate and the House of Representatives of the State of North Dakota, individually and collectively, invite the newspapermen and newspaperwomen of their respective districts to spend the day of February 21, 1969, at the state capitol as our guests, to witness the legislative process at firsthand; and

**Be It Further Resolved, that the Legislative Assembly commends the newspapermen and newspaperwomen for their**

support of the decision of the Legislative Assembly to remain in regular session during the visit of the newspapermen and newspaperwomen and Mr. Wiggins; and

**Be It Further Resolved**, that each senator and representative make every reasonable effort to attend the luncheon on February 21, 1969, at the invitation of Sigma Delta Chi and individual editors and reporters to hear and meet Mr. Wiggins.

Filed February 21, 1969.

---

## SENATE CONCURRENT RESOLUTION NO. 9

(Ringsak, Decker)

### MODIFICATION OF GOVERNMENTAL IMMUNITY DOCTRINE

A concurrent resolution relating to a study by the legislative research committee of the feasibility of modifying the doctrine of governmental immunity.

WHEREAS, the doctrine of governmental immunity, which was adopted by almost all states of the nation, prohibits any injured citizen from making claims against or suing the state for wrongful acts or torts of its agents in carrying out their governmental duties unless the legislature consents to such suit by law; and

WHEREAS, the state of North Dakota has never waived its immunity from suits for torts of its employees and agents, which often causes hardship to citizens who cannot obtain relief for their injuries and damages; and

WHEREAS, some states have modified the doctrine of governmental immunity by statute or court decision to permit suits against the state or its political subdivisions by injured citizens for damages resulting from the torts or wrongful acts of its agents or employees;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the legislative research committee is hereby authorized and directed to conduct a study to determine the feasibility of the modification of the doctrine of governmental immunity for the purpose of providing redress to citizens injured or damaged through the torts or wrongful acts of employees and agents of the state and its political subdivisions and that the committee make its report and recommendations to the Forty-second Legislative Assembly accompanied by any suitable legislation necessary to carry out such recommendations.

Filed March 27, 1969.

---

### SENATE CONCURRENT RESOLUTION NO. 10

(Becker, Holand, Unruh, Rait, Meschke, Lowe, L. Larson)  
(Doherty, Melland, Decker, Nasset, Wilhite)

#### INTERSTATE COOPERATION IN DEGREE—GRANTING PROGRAMS

A concurrent resolution expressing the willingness of the Forty-first Legislative Assembly of the State of North Dakota to join with the states of South Dakota, Montana, and Wyoming, or individually study and develop joint program proposals for interstate cooperation in providing degree-granting programs in the fields of medical science, dentistry, and veterinary medicine and in providing for the sharing of facilities to serve female incarcerates, sanatoriums, and facilities for the physically and mentally handicapped which will be mutually beneficial to the entire citizenry of the four-state area.

WHEREAS, the individual states of South Dakota, Montana, Wyoming, and North Dakota are experiencing severe problems in adequately providing the professional services of medical doctors, dentists, and veterinarians; and

WHEREAS, these four states do not currently offer collegiate programs leading to a degree in the fields of medical science, dentistry, and veterinary medicine; and

WHEREAS, students who are interested in pursuing careers in medical science, dentistry, and veterinary medicine are

experiencing difficulties in gaining admittance to the study of these professions in other states; and

WHEREAS, students who have obtained a professional education in distant states do not return to their states of origin in large numbers; and

WHEREAS, penal facilities for female incarcerates, sanatoriums, and facilities for the diagnosis, treatment, and cure of physically and mentally handicapped, particularly emotionally disturbed children, are essential governmental services in each of the member states; and

WHEREAS, facilities in each of the above-named areas are not available in all of the member states; and

WHEREAS, the low-density populations of the member states result in a high per capita cost for the furnishing of all of these programs and services; and

WHEREAS, the limited financial resources of each of the member states would indicate that it is desirable to study the feasibility of two or more member states jointly providing the above programs and services as a means of reducing costs through interstate cooperation; and

WHEREAS, the Four-State Legislative Conference assembled at Dickinson, North Dakota, October 31, 1967, passed a resolution urging its participating states to consider the problems involved for interstate cooperation in solving these critical needs;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Legislative Research Committee is hereby authorized to study and develop joint program proposals to correct the critical need for degree-granting programs in the fields of medical science, dentistry, and veterinary medicine, and ways and means to provide penal facilities for female incarcerates, sanatoriums, and facilities for the diagnosis, treatment, and cure of the physically and mentally handicapped which will



be mutually beneficial to the entire citizenry of the four-state area; and

**Be It Further Resolved**, that copies of this resolution be transmitted to the offices of the Governors, the Legislative Research Council or Committee offices, and to the presiding officers of the respective Legislative Assemblies of the states of South Dakota, Montana, and Wyoming, and that these officials are urged to take immediate steps to establish procedures of the joint undertaking of feasibility studies or other actions necessary to the accomplishment of the purpose of this resolution.

Filed March 27, 1969.

---

## SENATE CONCURRENT RESOLUTION NO. 12

(Melland)

### CENTRALIZED STATE MOTOR POOL

A concurrent resolution directing the Legislative Research Committee to study the use of state-owned and private motor vehicles for transportation requirements of state departments, agencies, and institutions.

**WHEREAS**, purchase of motor vehicles by each of the departments, agencies, and institutions of this state tends to increase the number of motor vehicles which may be necessary for economical transportation requirements; and

**WHEREAS**, dispersion of the means and responsibility for providing transportation among the departments, agencies, and institutions of this state may tend to hinder cooperation in providing joint transportation to similar destinations; and

**WHEREAS**, federal agencies and certain states have experienced success in providing transportation requirements more economically with centralized motor pool arrangements;

**Now, Therefore, Be It Resolved** by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Legislative Research Committee is hereby directed to conduct a study of the manner in which motor vehicle transportation is now provided within and for state departments, agencies, and institutions to include the number of motor vehicles purchased and used by the respective departments, agencies, and institutions and the manner in which such motor vehicles are used; mileage paid in addition to the use of such motor vehicles; the extent of present cooperation between and within state agencies, departments, and institutions in providing transportation requirements; and the feasibility of establishing centralized motor pools at appropriate locations in lieu of purchase of motor vehicles by respective departments, agencies, and institutions; and to report its findings and recommendations to the Forty-second Legislative Assembly together with any legislation necessary to carry out such recommendations; and

**Be It Further Resolved**, that the Legislative Research Committee shall be authorized to call upon the Department of Accounts and Purchases, the State Highway Department, and all other departments, agencies, and institutions of this State for such information and assistance that may be necessary to complete the study.

Filed March 27, 1969.

---

#### SENATE CONCURRENT RESOLUTION NO. 14

(Litten, Strinden, Ringsak, Sands, Freed, Nething)  
(Redlin, Doherty, Thoreson, Nasset, VanHorn)  
(Meschke, Wilhite, Becker, Melland, Longmire)  
(Mutch, Kelly, Unruh, Kautzmann)

#### AMERICAN LEGION GOLDEN ANNIVERSARY

A concurrent resolution commending the North Dakota American Legion upon its Golden Anniversary, and declaring January 28, 1969, as American Legion Day in North Dakota.

**WHEREAS**, the North Dakota American Legion is, with the national American Legion, currently observing the fiftieth anniversary of its inception in 1919; and

**WHEREAS, the North Dakota American Legion has, during the past fifty years, been a responsible contributor to citizen thought and deed during the years of our Nation's emergence as a world power; and**

**WHEREAS, American Legion history of the past fifty years is filled with achievements in behalf of mankind through active, continuous campaigns to preserve the lofty concepts of Justice, Freedom, and Democracy; and**

**WHEREAS, in this, the Golden Year of the North Dakota American Legion, the organization is addressing itself to charting anew its course of service to a changing community, State, and Nation; and**

**WHEREAS, the North Dakota American Legion is dedicated, with the national organization, to forging the future of a strong, vigorous, compassionate America in the next half century;**

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

**That the Forty-first Legislative Assembly recognizes the contribution which the American Legion has made and continues to make to our State and congratulates the North Dakota American Legion and each of its members upon the Golden Anniversary of their organization and hereby declares that January 28, 1969, shall be North Dakota American Legion Day in North Dakota; and**

**Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to the Commander of the North Dakota American Legion and to the Department Adjutant of the North Dakota American Legion.**

**Filed January 31, 1969.**

## SENATE CONCURRENT RESOLUTION NO. 16

(Nething, Kautzmann)

## FEDERAL HIGHWAY BEAUTIFICATION POLICIES

A concurrent resolution petitioning the Secretary of Transportation to review and amend the Department of Transportation's internal policies regarding highway beautification, so as to afford the continued operation of the outdoor advertising industry and allied industries, and affording local enterprises the opportunity to advertise in this manner, subject to state control, and whereby said industries and enterprises of North Dakota would attain equality with similar industries and enterprises located in the more densely populated and developed states.

WHEREAS, on October 22, 1965, the Eighty-ninth Congress of the United States of America enacted public law 89-285, whereby the regulation of outdoor advertising adjacent to the interstate system and the state primary system was made the object of federal control; and

WHEREAS, the purported legislative object of public law 89-285 was that the several states provide for the effective control of the erection and maintenance of outdoor advertising signs, displays, and devices located within six hundred sixty feet of the nearest edge of the right-of-way of the respective highway systems. Provided, further, that such signs, displays and devices shall be consistent with customary use, with respect to size, spacing and lighting; and

WHEREAS, the use of directional and other official signs, signs advertising the sale or lease of the property upon which the sign is located and those signs advertising the activities conducted on the property upon which the sign is located, and unzoned and zoned commercial or industrial areas were exempted from the Act as to use for advertising purposes; and

WHEREAS, in 1967, the then secretary of transportation, by letter to the chairman of the House Subcommittee on Roads, Public Works Committee, House of Representatives, defined the meaning of the phrase "unzoned commercial or industrial areas", to be, the existence of at least one commercial or industrial activity in an area to be considered as unzoned commercial or industrial property; and

WHEREAS, the State of North Dakota, being the most rural State in the Union, under the definition of unzoned commercial and industrial area prescribed by the Secretary of Transportation, will be thwarted not only in its efforts at economic diversification into new areas of business and industry, but will also incur a severe setback to the outdoor advertising business as it presently exists with its consequential detrimental effect on those business enterprises relying upon such method of communication; and

WHEREAS, within the state of North Dakota there will ultimately be approximately 560 miles of interstate system and approximately 6000 miles of primary system, for a total of 6560 miles, of which a total of 80 miles would qualify as unzoned and zoned commercial or industrial, which would constitute the total mileage available for outdoor advertising purposes of which total, approximately thirty miles are outside of the limits of municipalities; and

WHEREAS, the state of North Dakota, by administrative order, on December 3, 1965, prohibited the erection of any advertising device within six hundred sixty feet of the right-of-way on the interstate and state primary highway systems without prior approval of the highway commissioner; and

WHEREAS, the state of North Dakota has enacted enabling legislation whereby outdoor advertising can be effectively controlled and in keeping with the intent of the public law 89-285, and to that end has proposed an agreement to be entered into by the state and the Federal Government to provide for the effective control of outdoor advertising which agreement was subsequently rejected by the Federal Government; and

WHEREAS, after the legislative creation of the highway corridor board, that board sought to limit outdoor advertising to the perimeter adjacent to and outlying the several cities of the state, thus providing effective control of outdoor advertising, without eliminating the industry; and

WHEREAS, the only alternative to the state of North Dakota is a strict compliance with public law 89-285, as interpreted and implemented by the department of transportation, which will result in the ultimate elimination of the outdoor advertising industry as a remunerative enterprise in the state of North Dakota; and



WHEREAS, the estimated cost to the state of North Dakota to comply with the administrative interpretation of public law 89-285, would be \$1,800,000, not considering any loss of other forms of income and revenue inuring to the state economy;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Forty-first Legislative Assembly respectfully petitions the Secretary of Transportation to re-examine and re-evaluate the numerous policy memorandums and policy decisions affecting the interpretation of public law 89-285, as they pertain to the administrative definition of an unzoned commercial or industrial area and would urge the existing definition be set aside or modified so as to permit controlled advertising in those areas without defiling the amenities of nature adjacent to North Dakota highways, thus affording the motorist a clear and uncluttered corridor for his driving pleasure between urban areas while still providing the merchant the opportunity to advertise in a regulated and controlled manner;

**Be It Further Resolved,** that a duly attested copy of this concurrent resolution be sent by the Secretary of State to the Secretary of Transportation, to the Secretary of the United States Senate, the Clerk of the United States House of Representatives, to the senators and representatives in Congress from the state of North Dakota and to the governors of the states of South Dakota, Montana, New Mexico, Wyoming, Nebraska, Minnesota, Kansas, Oklahoma, Texas, Colorado, Idaho, Arizona, Nevada, Oregon, Washington, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania, West Virginia, Tennessee, Mississippi, Alabama, Georgia, Florida, North Carolina and South Carolina.

Filed March 21, 1969.

## SENATE CONCURRENT RESOLUTION NO. 19

(Trenbeath)

## DEVELOPMENT OF PEMBINA RIVER BASIN

A concurrent resolution urging the governments of the United States and Canada to begin development of the water resources of the Pembina River Basin in the Province of Manitoba, and the State of North Dakota.

WHEREAS, the governments of the United States and Canada, pursuant to the Boundary Waters Treaty of January 11, 1909, and under the terms of the references of January 12, 1948, and April 3, 1962, requested the International Joint Commission to study, investigate, and report on what measures could be taken to develop the water resources of the Pembina River Basin in the Province of Manitoba and the State of North Dakota, and to determine what plans of cooperative development of the Pembina River Basin would be practicable, economically feasible, and to the mutual advantage of the two countries, in providing for:

1. Needed domestic water supply and sanitation;
2. Control of disastrous and frequent floods;
3. Irrigation;
4. Acquisition of natural woodlands in an amount equal to the amount of woodlands that would be inundated;
5. An increase in fish and wildlife benefits;
6. Recreation sites aggregating at least three hundred fifty acres; and
7. Other beneficial uses; and

WHEREAS, highly recognized Federal, State, and Provincial engineers composing the International Pembina River Engineering Board, appointed by the International Joint Commission, and other eminent technicians of the two countries have during the

past four years made exhaustive studies and formulated comprehensive plans of development of said water resources which incorporate those provisions deemed necessary and desirable by the governments of the United States and Canada, as set out above; and

WHEREAS, the report of the International Joint Commission, United States and Canada, on the cooperative development of the Pembina River Basin, was issued in October 1967 and recommends that the governments of Canada and the United States enter into an agreement, as soon as may be practicable, to implement all features of the plan of cooperative development of the water resources of the Pembina River Basin as described in Section VIII of such report;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Forty-first Legislative Assembly of the State of North Dakota does hereby reaffirm its wholehearted endorsement and support of the proposed development of the water resources of the Pembina River Basin, sincerely commends the International Joint Commission and all participating agencies and technicians of Canada and the United States for their devotion to duty and concern over the precious water and related land resources of the Pembina River Basin, and earnestly urges that the governments of the United States and Canada enter into an agreement and begin construction pursuant to the recommendations of the International Joint Commission within the reasonably near future; and

Be It Further Resolved, that the Secretary of the Senate forward copies of this resolution to the President and Vice President of the United States; Secretary of the Department of State; Chairmen of the Canadian and United States Sections of the International Joint Commission; Chief of Engineers, U. S. Army Corps of Engineers; Commissioner, Bureau of Reclamation; Members, North Dakota Congressional Delegation; the Governor of North Dakota; the Minister of Northern Affairs and Natural Resources, Ottawa; the Minister of Agriculture, Ottawa; the Premier of Manitoba; and the Minister, Department of Agriculture and Conservation, Manitoba.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 21

(Wenstrom, Chesrown, Decker, G. Larson)

## NORTHERN PIKE AS STATE FISH

A concurrent resolution designating the Northern Pike as the State fish of North Dakota.

WHEREAS, the sport of fishing has greatly increased in popularity in North Dakota and the nation over the years, resulting in increased tourism revenues and adding to the relaxation and enjoyment of man; and

WHEREAS, recent years have also seen the game and fish department of this State and private associations and individuals contributing considerable amounts of moneys and time in an effort to increase the game fish population and increase the facilities relating to the sport of fishing; and

WHEREAS, as a result of these efforts the number and size of fish harvested from the waters of the State of North Dakota have gained the attention of the nation; and

WHEREAS, that species of fish known as the Northern Pike has especially gained national recognition and prominence due to the mammoth sizes of such species that the waters of this State have yielded; and

WHEREAS, it is quite possible that a world record Northern Pike will be taken from one of the lakes of the State of North Dakota within the next few years;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Northern Pike be officially designated as the State fish of the State of North Dakota.

Filed March 3, 1969.

## SENATE CONCURRENT RESOLUTION NO. 22

(Trenbeath, Becker, Morgan)

## INCENTIVE PAYMENTS TO NATIVE WOODLAND OWNERS

A concurrent resolution urging the United States Department of Agriculture to give favorable consideration to annual incentive payments to owners of native woodlands in order to preserve those native woodlands still existing.

WHEREAS, there have been thousands of acres of native woodlands destroyed over the past thirty years; and

WHEREAS, privately owned native woodlands now encompass less than three hundred thousand acres of our State's total acreage of forty-four million four hundred fifty-three thousand four hundred eighty; and

WHEREAS, many of these denuded areas are being rapidly and severely eroded by wind and water, thus not only causing loss to those owning the eroded areas, but causing hardship, economic loss, and flooding to the adjacent and downstream farmlands and communities; and

WHEREAS, native woodlands can and do produce aesthetic, recreational, wildlife and scenic values towards the preservation and development of which the general public, as consumers, makes no financial contribution; and

WHEREAS, the owners of such woodlands have been provided with no incentive to retain these values but, to the contrary, Federal income tax writeoff incentives do exist for the expenses incurred in clearing of native woodlands in agricultural areas; and

WHEREAS, modern technology has reduced the cost of clearing woodlands to a point where North Dakota may well expect to see the rate of such clearing triple in the next decade; and



WHEREAS, the retention of such land is of great, and progressively increasing, important aesthetically, as game habitat, for outdoor recreation, and in providing the necessary forest floor to control the level of the water table which provides adjacent communities with their municipal water supplies; and

WHEREAS, the situation has presently reached a point where the continuation of said prevailing conditions threatens the total extinction of our privately owned native woodland in the near future.

**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 through the Agricultural Stabilization and Conservation Service or through the United States Forest Service or such other division as the Secretary of the Department of Agriculture shall determine, is urged to seek authorization to expend the necessary additional funds and to adopt the required measures to provide annual incentive payments to the owners of native woodlands in a sufficient amount to induce them to retain these native woodlands in a productive and healthful condition, where the woodlands are not producing an income equivalent to such annual payment, by entering into contractual agreements with such woodland owners who would qualify for such assistance; and

**Be It Further Resolved,** that copies of this resolution be forwarded to the Secretary of Agriculture, the Chief of the United States Forest Service, the Administrator of the Agricultural Stabilization and Conservation Service, the chairmen of the United States Senate and House Agriculture Committees, and the North Dakota Congressional Delegation.

Filed March 21, 1969.

## SENATE CONCURRENT RESOLUTION NO. 25

(Longmire, Meschke)

STATE RELATIONS WITH TRIBAL  
COUNCILS

A concurrent resolution expressing the policy of the state in its relations with tribal councils.

WHEREAS, there exist areas of disagreement and misunderstanding among North Dakotans regarding the intermediate and ultimate goals to be achieved in relationships between Indian and non-Indian communities; and

WHEREAS, in the final analysis, Indian people themselves must establish and achieve their own goals; and

WHEREAS, there is a deep desire among Indian people to retain their individual and tribal identity and to exercise the greatest possible control of their own affairs; and

WHEREAS, our technological society is becoming ever more complex and interdependent, making it necessary for all groups to work together in many basic areas of life; and

WHEREAS, tribal councils in North Dakota are and will be increasingly involved in new relationships with Federal, State, and local government, and are proving themselves capable of planning and administering programs which significantly advance and promote the well-being of their own communities;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Forty-first Legislative Assembly does express the policy of the State to cooperate fully with tribal councils in North Dakota and does hereby urge all agencies of the State and its political subdivisions to give all possible encouragement and assistance to tribal councils in developing to the fullest their political, economic, judicial, artistic, social, and cultural resources; and

**Be It Further Resolved**, that in all activities and relationships between the State, its political subdivisions, tribal councils, and Federal agencies, all concerned be urged to maintain basic attitudes of mutual respect, realism, and honesty.

Filed March 27, 1969.

---

**SENATE CONCURRENT RESOLUTION NO. 26**

(Longmire, Meschke)

**COMMENDATION OF LEAGUE OF WOMEN VOTERS**

A concurrent resolution commending the League of Women Voters upon the beginning of its Fiftieth Anniversary Year.

**WHEREAS**, March 19, 1969, marks the beginning of the Fiftieth Anniversary Celebration Year of the League of Women Voters of the United States; and

**WHEREAS**, the League of Women Voters, which was founded in 1920 primarily to help twenty million women voters carry out their new responsibilities, has in fact assisted men and women voters alike; and

**WHEREAS**, the League of Women Voters has provided nonpartisan information on candidates and ballot issues prior to elections, encouraged registration and informed voting and helped generations of women understand the structure and function of government; and

**WHEREAS**, the League of Women Voters of North Dakota was established in 1958 to this same end; and

**WHEREAS**, the League of Women Voters, while nonpartisan in relation to candidates and political parties, has studied and acted upon many issues of government in the public interest; and

**WHEREAS**, the League of Women Voters of North Dakota has contributed to the strengthening of State government in

North Dakota through its work on issues in the field of constitutional revision, election laws, and education;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Forty-first Legislative Assembly congratulates the League of Women Voters and each of its members upon the beginning of their organization's Fiftieth Anniversary Year and commends the League of Women Voters for its promotion of informed and active citizen participation in government; and

**Be It Further Resolved,** that copies of this resolution be forwarded by the Secretary of State to the President of the League of Women Voters of the United States and to the Acting President of the League of Women Voters of North Dakota.

Filed February 21, 1969.

---

**SENATE CONCURRENT RESOLUTION NO. 30**

**(Litten, Stafne, Goldberg, Butler)**

**COMMENDATION OF FOOTBALL TEAM AND COACH  
AT NORTH DAKOTA STATE UNIVERSITY**

Commending the North Dakota State University Bison and Ronald P. Erhardt for the national recognition received in collegiate football.

**WHEREAS,** the game of football has become a nationally famous collegiate competitive sport entered into by countless thousands of teams; and

**WHEREAS,** the people of this state have always taken great pride in those teams of this state that have received national recognition for their efforts in collegiate football; and

**WHEREAS,** the North Dakota State University Bison have received such national recognition by being invited in 1968

to participate in the Pecan Bowl Game at Arlington, Texas, for the second successive year; and

WHEREAS, the North Dakota State University Bison have distinguished themselves further by defeating the Arkansas State Indians in the Pecan Bowl Game on December 14, 1968; and

WHEREAS, as a result of this effort, the North Dakota State University Bison were declared to be the National Collegiate Athletic Association midwest region champions, and were ranked as the number one small college team in the nation by the final Associated Press football poll;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Forty-first Legislative Assembly takes great pleasure in commending the North Dakota State University Bison, and the North Dakota State University athletic director and head football coach, Ronald P. Erhardt, for the honors they have brought the North Dakota State University, and this state; and

**Be It Further Resolved,** that copies of this resolution be forwarded by the Secretary of the Senate to the President of the North Dakota State University and to Ronald P. Erhardt.

Filed February 21, 1969.



## SENATE CONCURRENT RESOLUTION NO. 34

(G. Larson, Robinson)

## MISSOURI RIVER BANK STABILIZATION

A concurrent resolution urging Congress to direct the United States Army Corps of Engineers to construct and maintain at Federal expense additional bank stabilization works on the Missouri River in North Dakota.

WHEREAS, as a part of the Missouri River Basin Development Project, dams and large reservoirs have been constructed by the Federal Government which occupy all the reaches of the Missouri River extending from Gavins Point Dam in South Dakota to Williston, North Dakota, with the lone exception of a seventy-mile stretch between the Oahe and Garrison Reservoirs in North Dakota; and

WHEREAS, the remaining channel between the Oahe Reservoir and Garrison Dam no longer performs its function as a natural river but is now acting as a regulated channel for the conveyance of water needed to meet the requirements of flood control, irrigation, navigation, power generation, municipal and industrial water supplies, pollution control, recreation, and wild-life purposes; and

WHEREAS, the stored water in the Garrison Reservoir is released in such manner as to accommodate the downstream beneficiaries as evidenced by the following facts:

1. The water is virtually silt-free when it enters the channel and has tremendous ability to pick up its former bedload in the form of silt;
2. The releases are fluctuated to accommodate the hydro-electric generation demand with variations from four thousand to thirty-two thousand cubic feet per second, thereby causing surging conditions which aggravate any existing erosion problem and cause an annual loss of approximately six hundred forty acres of valuable agricultural bottom lands; and

WHEREAS, a portion of this threatened land is now being irrigated or has an irrigation potential which is of great economic value to the adjacent localities and to the State of North Dakota; and

WHEREAS, Federal lands, public parks, and historic sites of national prominence are a part of the area affected; and

WHEREAS, industries that desire to locate adjacent to the river are being forced to seek more distant sites because of the uncertainty of maintaining their plants at a permanent location; and

WHEREAS, some bank stabilization works already constructed by the Federal Government are effectively protecting the areas in which they are located and attest to the need for similar works at other locations;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Forty-first Legislative Assembly of the State of North Dakota recommends and respectfully urges the Congress to direct and authorize the United States Army Corps of Engineers to construct additional structures needed to stabilize the banks of the aforesaid segment of the Missouri River on an emergency basis; and

**Be It Further Resolved,** that copies of this resolution be transmitted by the Secretary of State to the members of the North Dakota congressional delegation; Chief of Engineers, Department of the Army, Washington, D. C.; Division Engineer, Missouri River Division, Corps of Engineers, Omaha, Nebraska; District Engineer, Corps of Engineers, Omaha, Nebraska; and Area Engineer, Corps of Engineers, Riverdale, North Dakota.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 35

(Holand, Morgan, Robinson, Longmire, Meschke)

## CONSTRUCTION OF GARRISON DIVERSION UNIT

A concurrent resolution in support of the construction of the Garrison Diversion Unit.

WHEREAS, the construction and development of the Garrison Diversion Unit of the Missouri River Basin Project and the several purposes this project will serve, including providing water for irrigation; municipal and industrial, recreation, and fish and wildlife use, will bring a new era of economic growth, stability, and opportunity to North Dakota; and

WHEREAS, construction funds for the initial two hundred fifty thousand acre stage of the Garrison Diversion Unit authorized in 1965 have permitted steady progress in the construction of the various features of the Garrison Diversion Unit so that the long sought-after diversion of water from the Missouri River into central and eastern North Dakota for beneficial use will soon become a reality; and

WHEREAS, the urgent need for the Garrison Diversion Unit to provide water for various purposes is accompanied by a strong desire for the early completion of the project as evidenced by the actions of the people in the area to be served, including the negotiation of repayment contracts by the Garrison Diversion Conservancy District and four irrigation districts, the levy of a one-mill tax by the counties in said Conservancy District for its contract, and the critical water shortages for various purposes that exist in the project area; and

WHEREAS, the development and utilization of the water resources that will be accomplished through the Garrison Diversion Unit will not only significantly improve the economy of the project area and the State of North Dakota but will also enhance the contribution that North Dakota can make to the growth and strength of the Nation;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Forty-first Legislative Assembly of the State of North Dakota does hereby express its appreciation for the progress that has been made in the development of the Garrison Diversion Unit and does respectfully urge President Nixon and his Administration to give full support to the Garrison Diversion Unit and the Congress of the United States to appropriate adequate funds to continue and accelerate the construction of this outstanding and essential water resources project; and

**Be It Further Resolved,** that copies of this Resolution be forwarded to Senators Milton R. Young and Quentin N. Burdick, Representatives Mark Andrews and Thomas Kleppe, the President of the United States, the Secretary of the Interior, and the Commissioner of Reclamation.

Filed February 21, 1969.

---

SENATE CONCURRENT RESOLUTION NO. 37

(Meschke)

DISSOLUTION OF MEDORA RESTORATION  
COMMISSION

A concurrent resolution dissolving the Medora Restoration Commission which was created by House Concurrent Resolution "U" in 1959 Legislative Session.

WHEREAS, House Concurrent Resolution "U" in the 1959 Legislative Session authorized a Medora Restoration Commission to be appointed by the Governor to work with the Village of Medora in the formulation, development and completion of plans for restoring the pioneer cattle town; and

WHEREAS, the Commission met and worked in 1959 and 1960, but has not carried on any activities since then; and

WHEREAS, the purpose of the Commission is now being carried out by private effort and efforts of the state and federal governments;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Medora Restoration Commission be, and it is hereby, dissolved and repealed.

Filed March 27, 1969.

---

## SENATE CONCURRENT RESOLUTION NO. 41

(Robinson)

### STUDY OF LIGNITE MINING INDUSTRY

A concurrent resolution directing an interim study by the Legislative Research Committee, relating to the various aspects of lignite mining in North Dakota, including union welfare funds, retirement benefits, royalties, and other matters pertinent to the lignite mining industry in North Dakota.

WHEREAS, North Dakota is on the threshold of becoming the world's largest supplier of thermal generated electricity manufactured from lignite coal reserves estimated to be approximately six hundred billion tons; and

WHEREAS, for the fiscal year ending on June 30, 1968, Truax-Traer Coal Company and North American Coal Corporation produced 1,363,950 and 939,884 tons of coal, respectively, for electrical generation purposes, with a combined average payroll of one hundred twenty-six men; and

WHEREAS, through a contract with the United Mine Workers' Union, Washington, D. C., these two companies paid, at a rate of twenty cents royalty per ton mined, \$460,766 into the Union treasury in Washington, D. C., towards the retirement pension benefits of their one hundred twenty-six employees, amounting to a payment of \$3,657 for each man on the payroll; and



WHEREAS, by 1971, Minnkota Electric, and, by 1975, Basin Electric, will have plants in operation producing an additional 625 megawatts of electricity and consuming an additional 4,500,000 tons of lignite coal per year; and

WHEREAS, this lignite will presumably be mined by labor under United Mine Workers' contracts, thereby extracting a further \$900,000 per year royalty payment into the miners' pension fund, making, by 1975, a total yearly payment leaving North Dakota of more than \$1,360,000; based on average North Dakota coal field ton yield per acre at twenty cents per ton, the UMW pension fund removes over \$3,000 per acre in royalties; and

WHEREAS, the Progressive Mine Workers' Union of America, Springfield, Illinois, representing workers producing 1,400,000 tons of coal per year for the Knife River Coal Company, has a union contract with the company for a maximum royalty charge of ten cents per ton based on the actual needs of the miners' retirement fund reserve, using actuarial figures, with no royalty payment made if the fund does not require replenishment each year; and

WHEREAS, Progressive Union retirement benefits are presently \$150 per month after twenty years of service and reaching age sixty-five, compared with United Mine Workers' retirement benefits which are presently \$115 per month after twenty years and reaching age fifty-five; and

WHEREAS, it would appear that there is a great disparity between the two union contracts in regard to per ton royalty payments and amounts of retirement benefits received, because the Progressive Mine Workers' Union collects only half as much per ton royalty, based on the actuarial needs of their pension plan; and

WHEREAS, the greater royalty payments being made under the United Mine Workers' contracts create an economic handicap to mine companies operating under such contracts, placing them in an unfair competitive position, and would appear to be a serious impediment to economic development of future coal-consuming industries within the State; and

WHEREAS, it would appear that, due to modern technology and other factors, the coal miners in North Dakota working un-

der United Mine Workers' Union affiliation are subsidizing the retirement of miners working elsewhere 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 Legislative Research Committee conduct a comprehensive study of the problems outlined in this resolution with particular attention being given to the following items:

1. Determine the feasibility, legality, and practicality of requiring that United Mine Workers and the Progressive Mine Workers deposit all pension funds accruing from the labor of North Dakota mine workers in North Dakota banks.
2. Determine if it is feasible to increase the retirement benefits of North Dakota miners in order that there be a more realistic relationship between the United Mine Workers' royalty assessments and the pension paid to retired North Dakota miners.
3. Determine what other states have done regarding the deposit of retirement fund money in the state of origin.
4. Determine the comparative financial status of the pension funds of the two unions representing North Dakota lignite miners. The Committee shall report its recommendations to the Forty-second Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 42

(Meschke, Rait, L. Larson, VanHorn, Berube)

## PROMOTION OF NEW AGRICULTURAL POLICIES

A concurrent resolution urging the Congress of the United States and the Administration to adopt policies relative to the economic well-being of agriculture in the United States of America.

WHEREAS, North Dakota is one of the leading agricultural States in this Nation; and

WHEREAS, the economy of North Dakota is directly affected by net farm income in this State; and

WHEREAS, a smaller portion of the consumer's dollar is spent for food in the United States than in any other Nation in the World; and

WHEREAS, forty percent of the labor force of the United States is employed in agri-business as a result of agricultural production; and

WHEREAS, those engaged in agriculture are substantial consumers of steel, rubber and petroleum products, and labor applied to the aforementioned products; and

WHEREAS, exports of agricultural products can be responsible for a desirable level of balance of payments;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Forty-first Legislative Assembly of the State of North Dakota urges the Congress of the United States, and the Administration to seek out and adopt policies providing for a bold, new approach to agricultural research, foreign trade policies, and domestic policies that will allow farmers to put agricultural technology to work, that will develop and increase markets abroad, and that will develop new uses for products of the soil, that agriculture may have its chance through efficient production to contribute to the economic well-being of the United States of America, and the World.

**Be It Further Resolved**, that copies of this resolution be sent to the President of the United States, the members of the congressional delegation of the State of North Dakota, and the Secretary of Agriculture.

Filed March 27, 1969.

---

## SENATE CONCURRENT RESOLUTION NO. 44

(G. Larson, Hernet)

### BUSINESS AND INDUSTRIAL DEVELOPMENT

A concurrent resolution providing for a study by the Legislative Research Committee and appointed citizen members, of business and industrial development within the State of North Dakota, for the cooperation of the Legislative Assembly in the business and industrial development of the State, and for the study of the structure, responsibilities, and programs of the Economic Development Commission.

WHEREAS, upon direction of the Fortieth Legislative Assembly, the legislature through its Legislative Research Committee during the 1967-1969 biennium conducted a study of incentives that could be provided by the Legislative Assembly in the promotion of the business and industrial development of the State; and

WHEREAS, as a result of such study much information in regard to business and industrial promotion was gathered and reviewed, which resulted in a finding that in addition to the provision of tax and other incentives for the development of business and industry within the state, increased efforts and the development of new or additional approaches to business and industrial promotion are necessary if the State of North Dakota is to share in the ever-increasing productive industrial capacity and wealth of the Nation; and

WHEREAS, it is highly desirable that all possible public and private efforts be directed in a coordinated and cooperative manner toward the many facets of business and industrial development, and that the Legislative Assembly also offer its full support and cooperation in such endeavor;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Legislative Research Committee, with the assistance of outstanding citizens of the State appointed by it, is hereby authorized and directed, through its Subcommittee on Industry and Business, to study and review all private and public activities within and without the State of North Dakota that are carried on for the purpose of the promotion and development of business and industry within the State in order that the committee may determine the manner in which such activities can most effectively be coordinated in pursuing their common goal, In the course of such study, the committee shall encourage the complete and wholehearted cooperation of all public and private agencies, offices, and organizations and shall fully cooperate in the common endeavor of promoting increased business and industrial development within the State. The committee shall be further authorized to study and review any factor affecting the business and industrial development of the State, and cooperate, on behalf of the Legislative Assembly, with all public or private agencies, offices, or organizations in any manner it may deem beneficial to the encouragement and promotion of business and industrial development.

The committee shall specifically study and review the structure, organization, responsibilities, and programs of the Economic Development Commission in order that it may make such recommendations to the Legislative Assembly as may be necessary to most effectively utilize such agency in the promotion of business and industrial development within the State.

All departments, agencies, and institutions shall provide such aid, information, and assistance as the committee may reasonably request.

The committee shall make its report and recommendations, accompanied by any legislation necessary to carry out such recommendations, to the Forty-second Legislative Assembly.

Filed March 27, 1969.



## SENATE CONCURRENT RESOLUTION NO. 45

(Pyle, Ruemmele, Stafne, Strinden, Doherty, Holand)  
(Jacobson, Wilhite, Kelly, G. Larson, Trenbeath)  
(Nasset)

## STUDY OF REVENUE BOND ACT

A concurrent resolution directing the Legislative Research Committee to study the effects of the Revenue Bond Act.

WHEREAS, the State Board of Higher Education through utilization of the Revenue Bond Act, chapter 15-55 of the North Dakota Century Code, has constructed numerous buildings for the use of the several institutions of higher education within the State; and

WHEREAS, although the cost of construction of such buildings is intended to be paid from the revenue obtained therefrom, considerable costs are borne by the State through the operation, maintenance, and furnishing of such buildings; and

WHEREAS, in the event that the revenues gained from such buildings are not sufficient to meet the costs arising from the construction, the State may be morally obligated to meet any deficiency that might arise; and

WHEREAS, it is predicted that within the next few years student enrollments at the institutions of higher education will begin to decrease, raising some question as to whether buildings built to meet the current needs of such institutions can be satisfactorily utilized in the future;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Legislative Research Committee is hereby directed to make a study of the financial implications to the State from the use of the Revenue Bonding Act by the State Board of Higher Education, in order to determine whether the current level of use of the Act is in the best interest of the State of North Dakota; and

<sup>o</sup> **Be It Further Resolved**, that the Legislative Research Committee make its report and recommendations thereon to the Forty-second Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 27, 1969.

---

## SENATE CONCURRENT RESOLUTION NO. 47

(Committee on Appropriations)

### MICROFILMING OF STATE RECORDS

A concurrent resolution directing the Legislative Research Committee to study the feasibility of microfilming state records and documents through a centralized system.

**WHEREAS**, several departments are microfilming records at the present time with such equipment ranging from very poor to very good condition; and

**WHEREAS**, some of the equipment in the various departments may not be sufficiently utilized; and

**WHEREAS**, the storage of State records is very costly because of their bulk; and

**WHEREAS**, significant savings may be achieved by establishing a centralized microfilming service;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Legislative Research Committee is hereby directed to make a comprehensive study of present and potential microfilming equipment and applications in the State and to determine the feasibility of creating a centralized microfilming division. The committee shall be authorized to employ such consultant service as may be necessary to conduct such study and report its recommendations to the Forty-second Legislative Assembly, together with any legislation required to carry out such recommendations.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 50

(Meschke, VanHorn, Rait, L.Larson, Berube)

## COLLECTIVE BARGAINING BY FARMERS

A concurrent resolution expressing the support of the Forty-first Legislative Assembly of the State of North Dakota for collective bargaining efforts by farmers.

WHEREAS, agriculture is North Dakota's most important industry; and

WHEREAS, farm prices have become stagnant while farming costs continue to rise; and

WHEREAS, per capita income of farm families is substantially lower than that of non-farm families; and

WHEREAS, it has become impossible for individual farmers to effectively negotiate with organized volume buyers; and

WHEREAS, collective bargaining has been successful in achieving the needs of other economic groups;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Forty-first Legislative Assembly of the State of North Dakota supports and encourages collective bargaining by farmers to meet modern day agricultural pricing problems and to raise farm incomes to parity with those of fellow Americans not engaged in farming.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 51

(Butler)

## DEPARTMENT OF MOTOR VEHICLES

A concurrent resolution directing the Legislative Research Committee to study the feasibility of establishing a Department of Motor Vehicles to administer all functions relating to motor vehicles.

WHEREAS, operation and use of motor vehicles has become essential to the economic growth and development of this State and the welfare of its people; and

WHEREAS, the several functions of motor vehicle administration are now decentralized throughout state government, which hinders maximum efficiency and thereby adds to the cost of State Government borne by the taxpayer; and

WHEREAS, many other states have Motor Vehicle Departments and a number of those states have completely centralized motor vehicle administration functions in a Motor Vehicle Department; and

WHEREAS, it is reasonable to presume that the operation and use of motor vehicles will increase, thereby compounding the need for greater efficiency in the administration of such operation and use;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Legislative Research Committee, with the cooperation of the Motor Vehicle Registrar, the Highway Patrol, and the Highway Department, is directed to carry out a study of the feasibility of creating a Department of Motor Vehicles to handle all State functions relating to motor vehicle administration and to include the feasibility of creating a citizens advisory board to advise and consult with departments and agencies of State Government responsible for administering motor vehicle functions. The committee shall report its findings and recommendations to the Forty-second Legislative Assembly, together with suitable legislation to carry out such recommendations.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION No. 52

(Sands)

COMMENDING NORTH DAKOTA MOTHER OF  
THE YEAR

A concurrent resolution commending Mrs. Frank Bodine of Velva, North Dakota, upon her selection as North Dakota Mother of the Year and as National Mother of the Year.

WHEREAS, Mrs. Frank Bodine of Velva, North Dakota, was chosen as North Dakota Mother of the Year for 1968; and

WHEREAS, following her selection, Mrs. Bodine was subsequently chosen as National Mother of the Year for 1968; and

WHEREAS, the distinction accorded Mrs. Bodine in her selection to receive the well-deserved titles of North Dakota Mother of the Year and National Mother of the Year not only honors Mrs. Bodine, but also is a credit to all the citizens of North Dakota; and

WHEREAS, the Legislative Assembly desires to express its pleasure in Mrs. Bodine's selection and to extend its congratulations to her;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Legislative Assembly does hereby express its pleasure in regard to the selection of Mrs. Bodine as North Dakota Mother of the Year and as National Mother of the Year, and commends her for this distinction brought to the State through the recognition accorded her; and

Be It Further Resolved, that an enrolled copy of this resolution be forwarded to Mrs. Bodine by the Secretary of State.

Filed February 28, 1969.



## SENATE CONCURRENT RESOLUTION NO. 53

(Kautzmann, Wenstrom, Lips)

DISTRIBUTION OF IN-TRANSIT MAIL  
IN RAILROAD POSTAL CARS

A concurrent resolution requesting the Congress of the United States to enact enabling legislation to reestablish a more efficient mail service by reinstating distribution of in-transit mail in railway post-office cars.

WHEREAS, mail services under present postal policies and practices, are now totally uncertain and inadequate, even between short distances; and

WHEREAS, the United States Post Office Department in the last few years has instituted the detrimental practice of centralizing all four classes of in-transit mail to centralized distribution centers designated as "Postal Sectional Centers", and all mail must go first to a designated sectional center for distribution, regardless of the fact that either all or part of that mail may be for destinations between the office originating the mail and such sectional center, which requires back hauls, creating unjustifiable delays and added transportation costs; and

WHEREAS, the United States railroad system is the most dependable means of transporting mail in any kind of weather; and

WHEREAS, distribution of all in-transit mail en route by highly trained postal transportation clerks in railway post-office cars, operated in passenger trains in this area, was entirely eliminated by the Postmaster General on September 15, 1967; and

WHEREAS, these changes have resulted in inexcusable delays and poor service; and

WHEREAS, reestablishment of railway post-office mail services in passenger trains, wherein all mail in transit is distributed en route, by highly trained postal transportation clerks, in heated mail storage cars, will provide the railroads with additional funds to operate and maintain their passenger trains and equipment more profitably, thus providing the public with the very best of mail and passenger train service;

**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 does hereby petition the Congress of the United States of America for the passage of the necessary legislation with provisions for any needed supplemental appropriation, which will reinstate and maintain on a regular basis, fully adequate railway postal services in the passenger trains of this state and throughout the nation, equivalent to such mail services that were in effect prior to September 15, 1967; and

**Be It Further Resolved**, that copies of this resolution be transmitted by the Secretary of State to the members of the North Dakota Congressional delegation.

Filed March 27, 1969.

---

SENATE CONCURRENT RESOLUTION NO. 58

(Morgan, Redlin)

LIMITATION ON PAYMENTS FOR PARTICIPATION  
IN FEDERAL FARM PROGRAMS

A concurrent resolution memorializing the Congress of the United States to enact legislation placing reasonable restrictions and limitations on payments to individual farmers and other farm groups, associations, or corporations by the Agricultural Stabilization and Conservation Service, and by the Commodity Credit Corporation.

WHEREAS, it has been the intention of the Congress that Federal agricultural programs benefit the family size farm unit; and

WHEREAS, family size farm units generally receive modest Federal payments for their participation in Federal agricultural programs; and

WHEREAS, less than one percent of the total number of farmers in the United States receive more than twenty percent of the total amount of Federal payments to farmers for their participation in agricultural programs; and

WHEREAS, some individual farmers and other farm groups, associations, and corporations receive for their participation in Federal agricultural programs payments in excess of one million dollars each;

**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, and the same is hereby, respectfully requested to enact legislation placing reasonable restrictions and limitations on payments to individual farmers and other farm groups, associations, and corporations by the Agricultural Stabilization and Conservation Service and by the Commodity Credit Corporation; and

**Be It Further Resolved,** that copies of this resolution be transmitted by the Secretary of State to the offices of the President and the Vice President of the United States, the Speaker of the House of Representatives of the United States, the members of the Congressional Delegation of the State of North Dakota, and the Secretary of the Department of Agriculture of the United States.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 61

(Becker, Torgerson)

## STUDY OF NORTH DAKOTA TAX SYSTEM

A concurrent resolution providing for a comprehensive study of the North Dakota tax system by the Legislative Research Committee, with the participation and cooperation of the State Tax Department.

WHEREAS, no basic tax study has been conducted in the State of North Dakota for a period of ten years, and no overall study of tax administration has ever been made in the State of North Dakota; and

WHEREAS, numerous leaders and citizens of the State have expressed an interest in reviewing the State's current and projected tax producing capability; and

WHEREAS, the State recognizes the need for maintaining a tax structure which encourages economic growth and also the necessity of maintaining a system of tax administration which maximizes the revenue producing capacity of existing tax structures; and

WHEREAS, at the invitation of the State, a national accounting and management firm has submitted a proposal indicating the feasibility of developing a tax planning system; and

WHEREAS, it is essential to the State of North Dakota that a study be made for the following purposes:

1. To determine the extent to which the State's current tax structure is responsive to the revenue needs of the State of North Dakota;
2. To determine the impact of the State's current tax structure on various major segments of the State's population;
3. To identify alternative tax adjustments giving due consideration to matters of equity, impact, access, and responsiveness;

4. To design an early warning system that will enable State officials to detect changes in revenue availability in sufficient time to avoid revenue-expenditure imbalances; and
5. To determine the benefits that might accrue to the State from the centralization of tax collection functions;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Legislative Research Committee, with the participation and cooperation of the State Tax Department, shall conduct a detailed study which shall so far as practical and feasible include the following elements:

1. A review of the legal basis of the current tax structure;
2. A review of the current and potential productivity of the existing tax structure, which review would involve both an historical as well as a projected analysis of revenue from current tax sources and the correlation of such actual and projected revenue with significant economic indicators;
3. The measurement of the impact of the present North Dakota tax structure on various classes and segments of the North Dakota population;
4. Documentation of significant differences between the North Dakota tax structure and those of the other forty-nine states;
5. The analysis of alternative changes in the current tax structure and the identification of the impact of these changes on the various segments of the population;
6. The development of tax planning guidelines to facilitate the evaluation of tax structure changes;
7. The design of a revenue estimating system to identify expenditure-revenue imbalances, which system would be automated to a major degree and fully integrated



with the State's accounting system as well as actual testing and operational debugging of the system; and

8. An analysis and evaluation of the benefits to be derived from the centralization of tax collection functions in the State of North Dakota.

The above-described tax study shall have the following major benefits as its objective:

1. The State of North Dakota will be able to definitely identify all alternatives and their respective impacts on the State of North Dakota and major population segments on all major tax changes that may reasonably be considered.
2. The State of North Dakota shall have a capability, heretofore absent, to make decisions relative to tax policies which will achieve certain identified results relative to the State's economy.
3. The State of North Dakota will be able to confidently pursue its desired tax program knowing how it compares with each or all of the other forty-nine states.
4. The State of North Dakota will have a tax planning capability that will enable it to apply established meaningful criteria to assess future tax systems adjustment.
5. The State of North Dakota will possess an unprecedented capability of measuring projected revenues from its current or proposed tax sources as a tool for effective budget and financial planning.
6. The State will have an advanced capability of identifying revenue declines in advance of any expenditure imbalances, thereby being able to plan for such developments and minimizing adverse effects.
7. The State of North Dakota will have a basis for optimizing its tax administration and thereby minimizing any revenue losses that may accrue because of divided revenue collection procedures.

8. The State of North Dakota, both at the administrative, legislative, and citizen levels, can expect a knowledge of the State's tax structure and fiscal problems that will make for better understanding and, consequently, responsible action in meeting problems of the State in the areas of revenue and taxation; and

**Be It Further Resolved**, that such study shall be a three-phase study and during the biennium ending June 30, 1971, the Committee shall study and report upon the following elements:

1. A review of the legal basis of the current tax structure;
2. A review of the current and potential productivity of the existing tax structure, which review would involve both an historical as well as a projected analysis of revenue from current tax sources and the correlation of such actual and projected revenue with significant economic indicators; and
3. The measurement of the impact of the present North Dakota tax structure on various classes and segments of the North Dakota population.

The Committee on Appropriations shall add the sum of \$26,000.00 to the budget of the Legislative Research Committee for the purpose of implementing Phase I of the study.

The Committee shall contract with such consultants as may be necessary to conduct such study and shall make its report and recommendations, together with the findings and recommendations of the consultants and other personnel employed by it to aid in carrying out the study, with any legislation necessary to carry out such recommendations, to the Forty-second Legislative Assembly.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 65

(Becker, Coughlin, G. Larson, Decker, Doherty, Kelly, Sands)  
(Strinden, Thoreson, Lowe, Pyle, Melland, Morgan, Butler)  
(Trenbeath, Stafne, Goldberg, Ringsak, Torgerson, Jacobson)  
(Lips, Robinson, Schultz, Wenstrom, Freed, Nasset)

## INTERSTATE TAXATION PROPOSALS

A concurrent resolution advising the Congress of the United States that the Legislative Assembly of North Dakota cannot support any of the interstate taxation proposals, which are derivations of the "Willis Bill", which are now before the Congress.

WHEREAS, the Congress of the United States has under consideration several proposals regarding interstate taxation, which are derivations of the "Willis Bill", which provide, in part, for the creation of a uniform jurisdictional standard with respect to the imposition of certain state taxes, a two-factor apportionment formula for state and local net income and corporate franchise taxes, a federally defined net income tax base, and a uniform rule for the imposition of sales and use taxes; and

WHEREAS, this country has consistently maintained a Federal system which emphasizes and insists upon primarily state and local responsibility for financing domestic services; and

WHEREAS, the interstate taxation proposals before the Congress would limit the right of a state to impose an income, capital stock, or gross receipts tax on a multistate firm to situations where the firm has a "business location" in the state and would restrict the right of states and political subdivisions to require that sellers collect sales and use taxes to those sellers having "business locations" within the jurisdiction; and

WHEREAS, the interstate taxation proposals, because of the "business location" test, drastically restrict state jurisdiction, open the way to easy tax avoidance, and ignore the equitable view almost universally accepted by all the states and upheld by the United States Supreme Court, that a state which provides a market for goods sold by a business firm across state lines has a just claim to tax a fairly apportioned part of the firm's net

income, capital stock or gross receipts and also to hold it responsible for collecting sales and use taxes; and

WHEREAS, the interstate taxation proposals would make it possible for many vendors to organize their merchandising activities so that employees' activities could be localized or their bases of operations could be located in states in which minimal or no tax liabilities will be incurred and with no tax obligation to North Dakota, thereby obtaining a distinct competitive advantage over local businesses in North Dakota which are obligated to pay such taxes to this State; and

WHEREAS, the several states are assuming their proper role and responsibility in achieving uniformity and equity in interstate taxation through revision of their tax laws and through such means as the Multi-state Tax Compact;

**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 advised that the Legislative Assembly of the State of North Dakota cannot support and urges the rejection of the interstate taxation proposals, which are derivations of the "Willis Bill", which are now before the Congress; 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 21, 1969.

## SENATE CONCURRENT RESOLUTION NO. 67

(Meschke, Longmire, Melland, Van Horn)

NATIONAL POLICY FOR CORRECTION OF  
PROBLEMS CAUSED BY POPULATION IMBALANCE

A concurrent resolution seeking a National Policy under which programs for the correction of the social and economic ills of our State and Nation caused by population imbalance could be undertaken.

WHEREAS, great and growing social and economic problems face our states, our nation and all the countries of the world; and

WHEREAS, these problems include rising crime rates, a widening gap between the poverty stricken and those who are not, transportation congestion on land and in the air, racism and rioting, water and air pollution, destruction of natural resources, inadequate health care, insufficient recreation facilities and overcrowded institutions of higher education; and

WHEREAS, nearly all of these grave social and economic problems are caused by or are closely related to increasing population and the shift of population from rural areas and underpopulated states to urban areas and overpopulated states; and

WHEREAS, this population shift is not only causing overpopulation problems, but is creating different but equally serious social and economic problems in the rural and underpopulated states of the union, such as reduced tax bases, and reduced numbers of people to form schools, churches, and other social institutions necessary for an acceptable quality of life; and

WHEREAS, the Federal Government is contributing massively to population imbalance by inadvertent and uncoordinated programs such as the distribution of higher education grants, awarding of defense contracts, ICC controlled freight rate structures, major public works installations, etc.; and

WHEREAS, there will be no concerted and successful drive to treat the economic and social ills caused by population imbalance until Congress, the federal government, state and



local government, and the private sector recognize the cause and effect of population imbalance in the United States and around the world;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the North Dakota Legislature, in its Forty-first Session, does petition our national leaders in government and in the private sector to join with the citizens of our states to formulate a national policy for the United States to recognize the need for population distribution and to coordinate all federal programs toward the end of raising the quality of life for all our citizens in both underpopulated and overpopulated areas so that the crush of urbanization and the dilution of rural living might be eased, through such possible devices as more equitable apportionment of higher education grants, defense contracts, recreational grants, highway construction, freight rate adjustment, or by such possible job opportunity incentives as low-cost industrial loans, federal industrial tax incentives, on-the-job training, etc., for those industries who would locate out of congested areas.

**Be It Further Resolved,** that this resolution be sent to President Richard Nixon, Vice President Spiro Agnew, all members of Congress, the Governors of our 50 states, and to the President of the National Chamber of Commerce and the President of the National AFL-CIO.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 69

(Committee on Education)

## STANDARDS FOR STUDENT PUBLICATIONS

A concurrent resolution directing the Board of Higher Education, college officials, and boards of publications to develop and enforce standards of decency and codes of fair play for student publications.

WHEREAS, the citizens of North Dakota have expressed substantial concern in regard to the content of student publications of the publicly supported colleges and universities of this State; and

WHEREAS, this public concern has been reflected in the introduction of Senate Bill No. 325, which would have required each university or college or an appropriate department of the institution to assume responsibility for the content of such student publications; and

WHEREAS, because of mechanical and administrative difficulties of the institutions involved and the rigidity that might result from the passage of a law for the purpose of ensuring compliance with reasonable standards of decency and fair play, the Legislative Assembly is most reluctant, except as a matter of last resort, to ensure such standards through the full force and effect of law;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Board of Higher Education, the presidents of each college and university, the dean and faculties of each college and department, and boards of publications are most strongly urged and directed to immediately develop effective and enforceable standards of decency and fair play acceptable to the citizens of North Dakota and which meet the standards of the professional news media of this State, and to vigorously enforce such codes and standards to the full extent of all administrative powers available in the Board of Higher Education, and the respective offices of president, dean, and faculty member, and in the respective boards of publications and, in the event of necessity, that there be no hesitancy in the removal of offending

---

parties from any position in connection with student publications or, if no other course is available, that action be instituted for their removal from the institution, and in appropriate cases where the action is a violation of criminal laws that they institute prosecution under the regular criminal laws of this State; and

**Be It Further Resolved,** that copies of this resolution be forwarded by the Secretary of State to the Board of Higher Education, the president of each college and university, and all college and university boards of publications.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 70

(Committee on Delayed Bills)

## IMPORTATION OF CRUDE OIL

A concurrent resolution relating to the import of crude oil and the determination of available supplies for national defense purposes.

WHEREAS, it is recognized by the government of the United States and all responsible parties that a firm, reliable domestic source of crude oil is essential for our national defense; and

WHEREAS, United States import policies have recognized that in the event of a national emergency crude oil supplies on the North American Continent are a more reliable source of supply than those located in South America or the far-off Middle East and, consequently, unlimited overland import of crude oil has been permitted from Canada and Mexico; and

WHEREAS, the Dominion of Canada exported in excess of an average of five hundred thousand barrels of crude oil each day last year to the United States and imported in excess of an average of four hundred eighty-five thousand barrels daily from overseas for its own domestic needs, thereby leaving Canada with an actual available surplus of fifteen thousand barrels of oil per day that was over and above its domestic needs; and

WHEREAS, it must be recognized that if the United States should become involved in an international crisis, in all probability the source of crude oil imports to both the United States and Canada would be eliminated, thereby forcing the Canadian Government in its national interest to retain all of its domestic crude oil supply that it presently exports to the United States, which retention would then force the United States to rely only on its presently inadequate daily crude oil productive capacity; and

WHEREAS, the export of Canadian-produced oil to the United States' market and the import of overseas oil for Canadian domestic consumption results in an undeserved advantage to the

Canadian economy of approximately five hundred thousand dollars daily;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Legislative Assembly urge the government of the United States to permit the import by overland routes from any other country only in such amount as such country's crude oil production exceeds its domestic consumption, and then only if such country is relying solely on overland crude oil for supplying its domestic needs, thereby assuring the development of domestic supplies of crude oil to meet the requirements of the United States in a national emergency; and

**Be It Further Resolved,** that copies of this resolution be forwarded by the Secretary of State to the United States Secretary of Interior, the United States Secretary of State, the United States Secretary of Defense, and each member of the North Dakota Congressional Delegation.

Filed March 27, 1969.



## SENATE CONCURRENT RESOLUTION NO. 72

(Committee on Delayed Bills)

LEGISLATIVE INTENT IN REGARD TO  
STATE EMPLOYEES' SALARIES

A concurrent resolution relating to the intent of the Legislative Assembly in the allocation of moneys appropriated for salaries of employees of the State.

WHEREAS, it is the desire of the Legislative Assembly to express its intent in regard to the expenditure of funds appropriated by the Legislative Assembly for the payment of salaries and salary increases to the employees of the various executive departments, agencies, and institutions of the State;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That, in accordance with subsection 3 of section 54-44.1-12, the Legislative Assembly does hereby express its intent in regard to the expenditure of funds appropriated by the Legislative Assembly for the payment of salaries and salary increases to the employees of the various executive departments, agencies, and institutions of the State.

Section 1.) Whereas, the cost of living increased by 4.7 percent in 1968, it is the intent of the legislature to increase salaries of employees of state institutions, departments, and agencies. It is the intent of the legislature that salary increases be extended at the discretion of the administrator or department head. The legislature is especially concerned about salaries of employees in the lower salary brackets because of increased costs of living, and recommends that salary increases of equal or greater percentage be granted in areas where the increased cost of living is most significant to the economic welfare of the employee and his family.

Section 2.) If a department, agency, or institution through more efficient personnel procedures and office practices is able to provide equal or greater service to the State with a reduced

number of personnel, the personnel savings, except those amounts which shall be saved through the implementation of the centralized data processing system, shall be considered as distinguished service on the part of all employees of that department, thus making all employees of that department eligible for salary increments greater than as provided for in this resolution, but limited to the amount of savings incurred by the dismissal of other personnel.

**Section 3.)** Prior to July 1, 1969, each department, agency, and institution shall file with the Executive Office of the Budget a payroll plan which may be amended from time to time during the next biennium in accordance with the intent of this resolution. Only upon approval of this plan by the Executive Office of the Budget may any department, institution, or agency increase any salary, and such plan shall be approved only as it conforms to the legislative intent of this resolution.

**Section 4.)** All salary increments shall be made only in accordance with such plan or amended plan, and the Executive Office of the Budget shall periodically audit all payrolls to determine compliance with the payroll plans as approved by the Executive Office of the Budget. The Executive Office of the Budget shall discontinue payment of any amounts not in accordance with the intent of this resolution and shall report all exceptions to the approved payroll plans in detail to the Legislative Audit and Fiscal Review Committee at its next regular meeting.

**Section 5.)** Funds appropriated by the Forty-first Legislative Assembly for salaries and wages, but not expended because of this resolution, shall remain in the various departmental budgets and on June 30, 1971, shall revert back to the general fund or such other funds from which appropriations were made.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 73

(Committee on Delayed Bills)

STATEWIDE PLANNING FOR PUBLIC WELFARE  
PROGRAMS

A concurrent resolution relating to public welfare costs; the need for operating within given appropriations; the development of certain health-welfare services; and requesting the Governor to initiate community and statewide planning for the health and medical needs of the aged and children.

WHEREAS, appropriations from the State General Fund to the Public Welfare Board of North Dakota for grants to and for recipients have continued to increase; and

WHEREAS, 43.5 percent of proposed expenditures is allocated to medical services; and

WHEREAS, 40.2 percent of the medical budget is allocated to nursing homes; and

WHEREAS, 27 percent of the medical budget is allocated to hospitals; and

WHEREAS, many nursing homes and some hospitals are finding it increasingly difficult to remain financially solvent under the existing rate of reimbursement for welfare recipients; and

WHEREAS, there is no legal basis for effective community and statewide planning and control of the building and expansion of group care facilities and hospitals; and

WHEREAS, the public welfare formula for reimbursing nursing homes for services on a cost basis does not recognize efficiency of operation, nor prevent possible overbuilding in terms of number, location, and quality of a particular facility in relation to the state's resources; and

WHEREAS, screening and medical classification of the type of care required by a patient on an individual basis appear inadequate; and

WHEREAS, services for the aged geared to the home, such as Home Health Care Services, Homemaker Services, and Fam-

ily Foster Care for Adults, are largely undeveloped even though they may be less costly; and

WHEREAS, the Forty-first Legislative Assembly is confronted with a deficiency request for all medical services for the last quarter of the biennium and a deficiency request for nursing homes and hospitals on a retroactive basis; and

WHEREAS, it appears that the State will be required within the next several years to participate in a federally sponsored program for children in need of medical care and there are indications that such a program is needed, which need, if actually existing, should be the subject of research and study prior to the implementation of any such program; and

WHEREAS, it is generally recognized that relatives of welfare recipients should share at least a portion of the cost of providing welfare assistance and it appears that this area of State law and regulations may require study and clarification; and

WHEREAS, the public welfare programs are funded at Federal, State, and county levels of government and call for cooperative and coordinated action of all health and welfare programs with the full cooperation of all providers of medical services;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Public Welfare Board of North Dakota adopt whatever policies it deems prudent to limit or restrict expenditures in order to operate the public welfare programs with minimum hardship to the people of North Dakota for the entire biennium within the limits of the appropriation made by the Forty-first Legislative Assembly of North Dakota; and

That the Public Welfare Board of North Dakota promote and encourage the development of Family Foster Care for Adults and Homemaker Services; and

That the Public Welfare Board of North Dakota encourage and cooperate with the State Health Department in its effort to expand Home Health Care Services;

**Be It Further Resolved**, that the Governor of North Dakota is requested to periodically bring together representatives of the Public Welfare Board of North Dakota, the State Department of Health, the County Commissioners Association, the North Dakota Medical Association, the North Dakota Hospital Association, the State Hospital at Jamestown, representatives of other providers of medical services, representatives of recipients of assistance, and interested citizens for the purpose of receiving the findings and recommendations of the various planning agencies and studying and making suggestions as to their implementation; and

**Be It Further Resolved**, that copies of this resolution be forwarded by the Secretary of State to the office of the Governor, the Legislative Council, the Public Welfare Board of North Dakota, the North Dakota Health Department, the North Dakota Medical Association, the North Dakota Hospital Association, the County Commissioners' Association of North Dakota, the State Hospital at Jamestown, and the Department of Health, Education, and Welfare.

Filed March 27, 1969.

---

SENATE CONCURRENT RESOLUTION NO. 74

(Committee on Delayed Bills)

APPRECIATION TO UNITED STATES  
SECRETARY OF THE INTERIOR

A concurrent resolution expressing appreciation to the Honorable Walter J. Hickel, Secretary, Department of the Interior, Washington, D. C., for his first major visit to North Dakota, February 11 and 12, 1969.

**WHEREAS**, soil and water resources development is one of the major objectives that the citizens of North Dakota are seeking to assure a more balanced agricultural and business economy; and

**WHEREAS**, the Garrison Diversion Unit is a multipurpose project presently under construction, when complete will irri-



gate one million acres including other beneficial features such as municipal and industrial water supply, fish and wildlife enhancement, recreational development and other salient features; and

WHEREAS, the proposed Pembina River Development Project in northeastern North Dakota, which will soon be considered for authorization by the United States Congress and the Dominion of Canada will assure similar multipurpose features; and

WHEREAS, there are innumerable other water resources projects in North Dakota necessitating Federal and State cooperation for development; and

WHEREAS, the Honorable Walter J. Hickel was recently named Secretary of the Department of the Interior by President Richard M. Nixon; and

WHEREAS, Mr. Hickel honored the State of North Dakota by making his first major public appearance following confirmation by the United States Senate in delivering a major address to the sixth annual joint convention dinner of the North Dakota Water Users' Association and the North Dakota Water Management Districts' Association, Incorporated, in Bismarck, North Dakota, February 11, 1969;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Forty-first Biennial Legislative Assembly of the State of North Dakota does hereby express appreciation to the Honorable Walter J. Hickel for honoring the State of North Dakota in his first major public appearance and expressing the interest of his Department and the National Administration in accelerating water resources development in North Dakota and the nation during his visit on February 11 and 12, 1969;

**Be It Further Resolved,** that a copy of this resolution be transmitted by the Secretary of State to the Honorable Walter J. Hickel, Secretary, Department of the Interior, Washington, D. C.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 75.

(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-first Legislative Assembly a complete record with index of the senate and house 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-first Legislative Assembly, and the said Roy Gilbreath and Leo Leidholm are hereby directed to arrange for and procure sufficient assistance to insure that the said work shall be completed within twenty days after the adjournment of the session; and

Be It Further Resolved, that for the expenses of the said Roy Gilbreath and Leo Leidholm, as above set forth, there shall be allowed the sum of \$1,200.00 each, which shall include compensation for any assistance deemed necessary by them, all to be paid as other legislative expense, and paid when the respective claims are verified by the affidavits of the said Roy Gilbreath and Leo Leidholm showing completion of such work.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 76

(Committee on Delayed Bills)

## COMMENDATION OF SENATOR BECKER

A concurrent resolution commending and congratulating Senator Edwin C. Becker on his selection as Chairman of the Council of State Governments.

WHEREAS, Senator Edwin C. Becker has been selected by the representatives of the fifty States as Chairman of the Council of State Governments for the year 1969; and

WHEREAS, the distinction accorded Senator Becker in his selection to receive this well-earned recognition and position not only honors Senator Becker, but also honors the North Dakota Legislative Assembly in which he serves and the State which he represents; and

WHEREAS, the selection of Senator Becker to serve as Chairman of this national organization supported by all fifty States reflects credit upon him and is an occurrence in which all the citizens of the State take pride;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Legislative Assembly expresses its pleasure in the selection of Senator Becker as Chairman of the Council of State Governments and commends him for his outstanding service not only to North Dakota but to all the States of the Nation in his work in the field of intergovernmental cooperation and in his efforts in the office of Chairman to strengthen State and local government; and

Be It Further Resolved, that an enrolled copy of this resolution be presented to Senator Becker by the Secretary of the Senate.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 77

(Committee on Delayed Bills)

## COMMENDATION OF SENATOR YOUNG

A concurrent resolution commending Senator Milton R. Young for his record of service in the United States Senate and his service to the State of North Dakota.

WHEREAS, on March 12, 1969, Senator Milton R. Young commenced his twenty-fifth year of consecutive service in the United States Senate; and

WHEREAS, Senator Young has now served in Congress longer than anyone in North Dakota history; and

WHEREAS, Senator Young has ably served this State as a legislator for thirty-six consecutive years, having served ten years in the State Senate and two years in the State House of Representatives; and

WHEREAS, Senator Young ranks eighth in seniority in the United States Senate, and is the ranking Republican member of the Senate Appropriations Committee, and second ranking Republican member of the Senate Agriculture and Forestry Committee; and

WHEREAS, Senator Young is one of the leading exponents of the cause of the agricultural segment of our society and State;

**Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:**

That the Forty-first Legislative Assembly extends congratulations to Senator Milton R. Young upon commencement of his twenty-fifth consecutive year of service in the United States Senate, and commends him for his able representation of the people of the State of North Dakota during his thirty-six consecutive years as a legislator; and

**Be It Further Resolved,** that an enrolled copy of this resolution be forwarded to Senator Young by the Secretary of State.

Filed March 27, 1969.

## SENATE CONCURRENT RESOLUTION NO. 78

(Committee on Delayed Bills)

COMMENDATION OF GRAND FORKS RED RIVER  
AND SAINT JAMES BASKETBALL TEAMS

A concurrent resolution commending the Grand Forks Red River and Grand Forks Saint James High School basketball teams for their performance during the State Class "A" Basketball Tournament.

WHEREAS, the game of basketball is a nationally famous high school competitive sport entered into by hundreds of teams within this State; and

WHEREAS, the people of North Dakota take great pride in those teams of the State that receive Statewide recognition for their efforts in high school basketball; and

WHEREAS, the Grand Forks Red River and Grand Forks Saint James High School basketball teams received such recognition by placing as champion and runner-up, respectively, of the 1969 State Class "A" Basketball Tournament; and

WHEREAS, the Red River High School basketball team distinguished itself further by being selected as the recipient of the Tournament Sportsmanship Award;

Now, Therefore, Be It Resolved by the Senate of the State of North Dakota, the House of Representatives Concurring Therein:

That the Forty-first Legislative Assembly takes great pleasure in commending the Grand Forks Red River and Grand Forks Saint James High School basketball teams and their respective coaches, Ken Towers and Al Bortke, for the honors they have received in the State Class "A" Basketball Tournament; and

Be It Further Resolved, that copies of this resolution be forwarded by the Secretary of State to the Grand Forks Red River and Grand Forks Saint James High Schools and Coaches Ken Towers and Al Bortke.

Filed March 27, 1969.



# SENATE MEMORIAL RESOLUTIONS

---

## SENATE MEMORIAL RESOLUTION NO. 1

(Decker, Meschke)

MR. RICHARD J. COUGHLIN, JR.

A memorial resolution extending sympathy and condolence to Senator John D. (Jack) Coughlin upon the death of his brother.

WHEREAS, God in His infinite wisdom has seen fit to summon from our midst Richard J. Coughlin, Jr., the brother of our colleague, Senator John D. (Jack) Coughlin; and

WHEREAS, Senator John D. (Jack) Coughlin is held in the highest esteem by all members of the Legislative Assembly, who share with him his great sorrow;

**Now, Therefore, Be It Resolved By The Senate of the State of North Dakota:**

That we express our deepest sorrow and extend to Senator John D. (Jack) Coughlin and all members of his family our sincere sympathy and condolence in this their time of sorrow; and

**Be It Further Resolved,** that this resolution be entered in the Journal and the Secretary of State is hereby directed to present an enrolled copy to Senator John D. (Jack) Coughlin and members of his family.

Filed February 10, 1969.

## SENATE MEMORIAL RESOLUTION NO. 2

(Committee on Senate Memorial Resolutions)

A memorial resolution for deceased members of the Senate of the state of North Dakota.

WHEREAS, since the adjournment of the Fortieth Legislative Assembly, God in His wisdom has seen fit to summon to eternal rest His servants and our former colleagues:

HENRY O. BECK, who served in the Thirty-ninth and Fortieth Legislative Assemblies, from the thirty-second district, died July 31, 1968.

ROBERT BYRNE, who served in the Seventeenth and Eighteenth Legislative Assemblies, from the forty-first district, died December 31, 1967.

ALBERT DUBAY, who served in the Twenty-third and Twenty-fourth Legislative Assemblies, from the nineteenth district, died November 16, 1968.

GEORGE I. FETON, who served in the Twenty-seventh to the Thirty-second Legislative Assemblies, from the twenty-third district, died November 16, 1968.

DUNCAN FRASER, who served in the Thirty-first to the Thirty-fifth Legislative Assemblies, from the twenty-eighth district, died December 2, 1967.

FRED FREDERICKSON, who served in the Twenty-fifth and Twenty-sixth Legislative Assemblies, from the fifteenth district, died June 25, 1968.

BENCER N. KJOS, who served in the Thirty-eighth and Thirty-ninth Legislative Assemblies, from the thirty-fourth district, died March 23, 1967.

A. S. MARSHALL, who served in the Nineteenth to the Twenty-fourth Legislative Assemblies, from the twenty-fifth district, died March 17, 1968.

FRED W. MEES, who served in the Sixteenth and Seventeenth Legislative Assemblies, from the thirtieth district, died January 10, 1968.

ALEX MILLER, who served in the Thirty-fifth, Thirty-sixth, Thirty-seventh, and Thirty-eighth Legislative Assemblies, from the seventeenth district, died September 4, 1967.

AXEL OLSON, who served in the Twenty-fifth to the Thirty-fifth Legislative Assemblies, from the forty-fourth district, died October 20, 1967.

WILLIAM R. REICHERT, who served in the Thirty-seventh to the Thirty-ninth Legislative Assemblies, from the thirty-first district, died September 25, 1967.

MILTON L. RUE, SR., who served in the Twenty-seventh to the Thirty-fourth Legislative Assemblies, from the twenty-seventh district, died May 29, 1968.

P. O. SATHRE, who served in the Twentieth to the Twenty-second Legislative Assemblies, from the sixteenth district, died January 23, 1968.

GUST TWETEN, who served in the Twenty-sixth and Twenty-seventh Legislative Assemblies, from the twentieth district, died October 6, 1968.

JOHN E. YUNKER, who served in the Thirty-fourth to the Thirty-seventh Legislative Assemblies, from the tenth district, died April 15, 1968.

WHEREAS, today, we as members of the Senate of the Forty-first 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 men rendered outstanding service to the people of this state by their contribution to their fellow men and their communities;

Now, Therefore, Be It Resolved by the Senate of the Forty-First 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;

**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 7, 1969.