

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.