

PUBLIC UTILITIES

CHAPTER 471

HOUSE BILL NO. 1186

(Committee on Natural Resources)

(At the request of the Public Service Commission)

INTRASTATE PIPELINE FACILITY SAFETY STANDARDS

AN ACT to create and enact a new subsection to section 49-02-02 of the North Dakota Century Code, relating to commission cooperation with the federal government on pipeline safety regulation; to amend and reenact sections 49-02-01.2 and 49-07-05.1 of the North Dakota Century Code, relating to commission jurisdiction of pipeline safety and violations of pipeline safety standards; and to provide penalties.

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

SECTION 1. AMENDMENT. Section 49-02-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-02-01.2. ~~GAS-DISTRIBUTION-SYSTEMS PIPELINE SAFETY - PUBLIC SERVICE COMMISSION JURISDICTION. The---commission---shall---have jurisdiction-over-the-design,-construction,-and-operation-of-all-gas distribution-facilities-in-the-state-of-North-Dakota~~ The commission, by rule, may establish and enforce minimum safety standards for the design, construction, and operation of gas distribution facilities and intrastate pipeline facilities used for the distribution and intrastate transportation of gas, liquified natural gas, or hazardous liquids, regardless of whether they are owned or operated by a public utility, in order to ensure the reasonable safety thereof. Any rule issued under this section affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence on the date such rule is adopted. Such rules shall not be more stringent than the corresponding federal regulations applicable to interstate pipelines and related facilities.

SECTION 2. A new subsection to section 49-02-02 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

The commission shall have the authority to cooperate with and receive technical and financial assistance from the United States, any state, or any department, agency, or

officer thereof, and to file such reports and promulgate rules as required by federal law or regulation for any purposes relating to the regulation of safety standards for pipeline facilities and the transportation associated with those pipeline facilities.

SECTION 3. AMENDMENT. Section 49-07-05.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-07-05.1. VIOLATIONS OF GAS PIPELINE SAFETY STANDARDS - PENALTIES. Any person who violates ~~any law or rule of the public service commission enacted pursuant to the Natural Gas Pipeline Safety Act {Pub. L. 90-401, 82 Stat. 720, 49 U.S.C. 1671 et seq.}~~ any rule or order issued by the commission pursuant to section 49-02-01.2, shall be subject to a civil penalty to be imposed by the commission of not to exceed one thousand dollars for each such violation for each day that such violation persists, except that the maximum penalty shall not exceed two hundred thousand dollars for any related series of violations. However for a reasonable period of time, not to exceed one year after the date of enactment of this section, such civil penalties shall not be applicable to pipeline facilities existing on such date of enactment. Any such civil penalty may be compromised by the commission. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged, the nature, circumstances, and gravity of the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, the ability to pay the penalty, and the good faith of the person charged in attempting to achieve compliance, after notification of a violation, and such other matters as justice may require, shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of North Dakota to the person charged or may be recovered in a civil action in the district court of Burleigh County.

Approved March 11, 1981

CHAPTER 472

HOUSE BILL NO. 1176
(Committee on State and Federal Government)
(At the request of the Public Service Commission)

PUBLIC UTILITY VALUATION REVOLVING FUND

AN ACT to amend and reenact section 49-06-23 of the North Dakota Century Code, relating to payment of costs by public utilities into public utility valuation fund.

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

SECTION 1. AMENDMENT. Section 49-06-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-06-23. EXPENSES OF VALUATION OR REVALUATION PAID INTO GENERAL PUBLIC UTILITY VALUATION REVOLVING FUND. All costs and expenses of valuation or revaluation collected by the commission under the provisions of section 49-06-18, shall be paid into the general public utility valuation revolving fund of the state treasury. All moneys deposited to the public utility valuation revolving fund are hereby appropriated. The fund shall not be subject to the provisions of section 54-44.1-11.

Approved February 18, 1981

CHAPTER 473

SENATE BILL NO. 2227
(Senator Adams)
(Representative Whalen)

ABANDONED RAILWAY MATERIAL REMOVAL

AN ACT to create and enact a new section to chapter 49-09 of the North Dakota Century Code, relating to abandoned railway lines and the removal of abandoned materials.

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

SECTION 1. A new section to chapter 49-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

ABANDONED RAILWAY LINES - REMOVAL OF ABANDONED MATERIALS. Unless otherwise allowed by the commission, any railroad corporation abandoning the use of any railway line in North Dakota shall remove and clear all rail, ties, materials, supplies, and debris from the railway line right of way within a reasonable time. The commission may take all action necessary and appropriate, including the adoption of rules pursuant to chapter 28-32, to enforce this section.

Approved March 18, 1981

CHAPTER 474

SENATE BILL NO. 2168
(Committee on Industry, Business, and Labor)
(At the request of the Public Service Commission)

INTRASTATE RAIL RATE REGULATION

AN ACT to amend and reenact section 49-10.1-01 of the North Dakota Century Code, relating to public service commission jurisdiction over the intrastate regulation of railroads.

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

SECTION 1. AMENDMENT. Section 49-10.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-10.1-01. AUTHORITY OF PUBLIC SERVICE COMMISSION. The commission to the extent hereinafter provided shall have authority and power to regulate railroads within this state to the extent railroad activities constitute intrastate commerce. The commission shall exercise its jurisdiction over intrastate rail rates consistent with federal law so as to obtain certification of such jurisdiction from the federal government. All provisions of the North Dakota Century Code inconsistent with federal requirements for certification of intrastate rail jurisdiction shall be deemed inapplicable to the regulation of intrastate rail rates. All references to railroads in the North Dakota Century Code are subject to this provision without any requirement that such references specifically mention this limited jurisdiction of the state of North Dakota.

Approved March 18, 1981

CHAPTER 475

SENATE BILL NO. 2173
(Committee on Industry, Business, and Labor)
(At the request of the Public Service Commission)

RAILROAD TRACK CLEARANCE REQUIREMENTS

AN ACT to amend and reenact section 49-10.1-13 of the North Dakota Century Code, relating to clearance requirements from railroad tracks.

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

SECTION 1. AMENDMENT. Section 49-10.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-10.1-13. CLEARANCE REQUIRED FOR TRACKS. No person unless authorized by the commission shall erect or maintain on any railroad track or railroad right of way any:

1. Fixed or permanent structure or obstruction at a distance of less than eight feet [2.44 meters] from a railroad track, measured from the center line of the track.
2. ~~Overhead--wires,--bridges~~ Bridges, viaducts, or any other obstructions passing over and above a railroad track at a height less than twenty-one feet [6.40 meters], measured from the top of the track rail. The commission, upon application and after a thorough investigation ~~and hearing in any particular case,~~ may permit any railroad person to which this section applies to erect or reconstruct and maintain any such ~~railroad~~ facility at a lesser clearance than herein provided for when in the judgment of the commission the compliance with the clearance prescribed herein would be unreasonable or unnecessary and when a lesser clearance than that hereinbefore provided for would not create a condition unduly hazardous to the employees of such railroad or any other person. Station freight house platforms which have a vertical height of not more than four feet [1.22 meters], measured from the top of the track rail, may be erected and maintained at a less distance from the center of the track which they adjoin than herein specified.

Approved March 11, 1981

CHAPTER 476

SENATE BILL NO. 2155
(Committee on Industry, Business, and Labor)
(At the request of the Public Service Commission)

RAILROAD CROSSINGS

AN ACT to create and enact a new section to chapter 49-11 of the North Dakota Century Code, relating to obstructing alternative railroad crossings; to amend and reenact sections 24-09-04, 49-11-01, 49-11-06, and 49-11-19 of the North Dakota Century Code, relating to temporary way and crossing during railroad alterations, construction and maintenance of railroad crossings, obstructing a railroad crossing, and advance warning signs; to repeal sections 49-11-13, 49-11-14, and 49-11-15 of the North Dakota Century Code, relating to safety determination of railroad grade crossings, notice to railroad of investigation of grade crossing, and the penalty for violation of an order; and to provide a penalty.

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

SECTION 1. AMENDMENT. Section 24-09-04 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

24-09-04. ADVANCE WARNING SIGNS - EXCEPTIONS. The sole signing duty of the road authority, except as otherwise designated by the commission, at each public grade ~~ex~~ crossing crossings in the state shall be the erection and maintenance of advance warning signs in accordance with the manual on uniform traffic control devices. The road authorities shall have a reasonable length of time, not exceeding ~~four~~ two years, in which to fully implement this requirement.

SECTION 2. A new section to chapter 49-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

BLOCKING OR OBSTRUCTING ALTERNATIVE CROSSINGS - PENALTY. Any person operating a train who shall block or obstruct a public railroad crossing and who has the alternative of blocking or obstructing a crossing with active grade crossing traffic control devices or a crossing without such device shall, where feasible, and subject to the exception set forth in section 49-11-19, leave open

the crossing with active grade crossing control devices. Any person who violates this section is guilty of an infraction.

SECTION 3. Section 49-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-01. ~~CHANGING---HIGHWAY~~ OBSTRUCTION OF CROSSING BY RAILROAD - PROVISION FOR TEMPORARY WAY. Every railroad corporation while engaged in raising or lowering any ~~public-highway railroad track~~ or in making any other alterations, by means of which ~~such highway a railroad crossing~~ may be obstructed, shall provide and keep in good order a suitable temporary ~~highways way and crossing with adequate protection~~ to enable travelers to avoid or pass such ~~obstructions~~ obstruction.

SECTION 4. AMENDMENT. Section 49-11-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-06. RAILROAD CROSSINGS - CONSTRUCTION AND MAINTENANCE.

1. A public highway-railroad crossing at grade shall be constructed of a grade of earth on one or both sides of the railroad track, as the location may require, for the entire width of the highway grade but in no case less than twenty feet [6.10 meters] in width, the middle point of which shall be as nearly as practicable at the middle point of the highway and such grade shall be of such slope as shall be necessary for the safety and convenience of the traveling public.
2. Firmly fastened planks, concrete, asphalt, or other suitable material for highway construction shall be used on and for the full length of the ties used in the roadbed of such railway where such crossing occurs. The highway material next inside of the rail shall not be more than two and one-half inches [6.35 centimeters] from the inside surface of such rail. The highway material used in the crossing shall not be less than three inches [7.62 centimeters] in thickness, and shall be laid so that the upper surface of the highway material shall be on a level with the upper surface of the rail. ~~Such highway material shall extend along the railway the entire width of the highway grade and in no case less than twenty feet [6.10 meters]~~
3. At such time as tracks through a railroad crossing are raised or otherwise altered by the railroad, the railroad shall, unless otherwise ordered by the commission, adjust and restore the crossing and the highway approaches, surfaces and grades as shall be necessary for the safety and convenience of the traveling public. At such time as a public highway at a railroad crossing is altered by the road authority, the road authority at its expense shall adjust and restore the crossing and the highway

approaches, surfaces and grades as shall be necessary for the safety and convenience of the traveling public.

4. It shall be the duty of the railroad to maintain all railroad crossings in a safe and convenient condition for the traveling public. Such responsibility for maintenance shall be limited to that portion of the crossing lying between the tracks and for two feet [.61 meters] beyond the ends of the cross ties on each side of the crossing.

SECTION 5. AMENDMENT. Section 49-11-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-11-19. ~~BLOCKING OR OBSTRUCTING CROSSING WITH TRAIN - PENALTY. Any person in charge or in control of any railroad car, engine, or train of cars, who, for a period of more than fifteen consecutive minutes, shall obstruct or block any railroad crossing, rural highway, or city street, by placing or permitting any car, engine, or train of cars to stand or remain stationary thereon, is guilty of an infraction.~~

No person shall operate any train in such a manner as to prevent vehicular use of any roadway for a period of time in excess of ten consecutive minutes except:

1. When necessary to comply with safety signals affecting the safety of the movement of trains;
2. When necessary to avoid striking any object or person on the track;
3. When the train is disabled, by accident or otherwise;
4. When the train is in motion except when engaged in switching operations;
5. When there is no vehicular traffic waiting to use the crossing; or
6. When necessary to comply with a government statute or regulation.

Any person who violates this section is guilty of an infraction. The provisions of this section do not apply to cities which have or may have on the date of such obstruction ordinances covering the same subject matter.

SECTION 6. REPEAL. Sections 49-11-13, 49-11-14, and 49-11-15 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1981

CHAPTER 477

SENATE BILL NO. 2204
(Erickson, Solberg)

REGIONAL RAILROAD AUTHORITIES

AN ACT to provide for the creation of regional railroad authorities and to empower these authorities to plan, acquire, and operate railroad lines.

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

SECTION 1. DEFINITION OF TERMS. As used in this Act, unless the context plainly otherwise requires:

1. "Bonds" means any bonds, notes, interim certificates, debentures, or similar obligations issued by an authority pursuant to this Act.
2. "Governing body" means the official or officials authorized by law to exercise ordinance making or other lawmaking powers of a political subdivision.
3. "Political subdivision" or "subdivision" means any county, municipality, or other body politic of this state.
4. "Project" means any railroad or related facilities operated or owned by an authority, including all real and personal property, structures, machinery, equipment, and appurtenances or facilities which are part of the railroad and useful in connection therewith, including facilities for the convenience of handling passengers and freight or as part of railroad operations.
5. "Railroad authority" or "authority" means an authority created pursuant to this Act.
6. "Real property" means lands, structures, and interests in land, including lands under water and riparian rights, and including any and all lesser interests, legal or equitable, pertaining to real property.

SECTION 2. CREATION OF AUTHORITY BY AGREEMENT OF SUBDIVISIONS. Two or more political subdivisions may form a regional railroad authority by execution of an agreement authorized by resolution of the governing body of each subdivision and approved by a sixty percent majority of the electors of the subdivisions voting on the question of adoption of the resolution.

SECTION 3. CONTENTS OF AGREEMENT CREATING AUTHORITY. The agreement authorized in section 2 shall state all of the following:

1. That the railroad authority is created and incorporated under the provisions of this Act as a political subdivision of this state.
2. The name of the authority which shall include the words "regional railroad authority".
3. The names of the subdivisions which have approved the agreement and are the initial members of the regional railroad authority.
4. The names and addresses of the persons initially appointed by the resolutions approving the agreement to act as the representatives or alternate representatives of the subdivisions.
5. The address of the registered office of the authority and the name of its registered agent at such office.
6. That the subdivisions which are members of the regional railroad authority and its commissioners, officers, and agents are not liable for its obligations.
7. Any other provision for regulating the business of the regional railroad authority which may be agreed upon by the subdivisions.

SECTION 4. FILING OF AGREEMENT AND RESOLUTIONS - CERTIFICATE OF INCORPORATION - BEGINNING OF CORPORATE EXISTENCE. The agreement and a certified copy of the resolution of each subdivision shall be filed with the secretary of state. If the agreement conforms to the requirements of this Act, the secretary of state shall file it and issue a certificate of incorporation, which shall state the name of the authority and the date of incorporation. The existence of the authority as a political subdivision of this state shall begin upon the issuance of the certificate of incorporation. The certificate of incorporation shall be conclusive evidence of the existence of the authority.

SECTION 5. HEARING BEFORE ADOPTION OF RESOLUTION - PUBLICATION OF NOTICE. No resolution authorized by section 2 or section 11 shall be adopted without a public hearing in each subdivision involved. Notice of such hearing shall be given at least ten days prior thereto in the official newspaper of the

subdivision, or if the subdivision has no official newspaper, then in a newspaper having general circulation in the subdivision.

SECTION 6. APPOINTMENT OF COMMISSIONERS OF AUTHORITY - TERMS OF OFFICE - VACANCIES. The governing bodies of the subdivisions participating in a regional railroad authority shall appoint not less than five persons as commissioners of the regional railroad authority. The number to be appointed and their representation shall be provided for in the agreement. All commissioners of a regional railroad authority shall be appointed for a term of one year. Vacancies shall be filled for the unexpired term in the same manner as the original appointments. Each commissioner shall hold office until his successor has been appointed and qualified.

SECTION 7. POWER VESTED IN COMMISSIONERS - RULES FOR OPERATION. The power of each regional authority is vested in the commissioners. Each authority may adopt and amend rules for its own operations subject to the agreement of the subdivisions establishing the authority and subject to the provisions of this Act.

SECTION 8. CHAIRMAN AND SECRETARY-TREASURER OF AUTHORITY. Each regional authority shall elect a chairman and a secretary-treasurer, from among the commissioners.

SECTION 9. EXECUTIVE DIRECTOR AND OTHER AGENTS - DELEGATION OF POWERS AND DUTIES. A regional authority may appoint or elect an executive director, and such other officers, agents, and employees as it may determine. An authority may delegate its powers and duties to one or more of its officers, agents, or employees.

SECTION 10. REIMBURSEMENT OF COMMISSIONERS' EXPENSES. A commissioner shall receive no compensation for his services but shall be reimbursed for the necessary expenses incurred in the discharge of his duties at the rates provided in sections 44-08-04 and 54-06-09.

SECTION 11. ADDITION OF SUBDIVISIONS TO AUTHORITY. A regional authority may be increased to serve one or more additional subdivisions upon the approval by resolution of each such additional subdivision and of each of the subdivisions then parties to the agreement, and upon approval of a sixty percent majority of the electors, of each of the subdivisions to be added, voting on the question of the adoption of the resolution.

SECTION 12. WITHDRAWAL OF SUBDIVISION FROM AUTHORITY - DISPOSITION OF ASSETS AND LIABILITIES. A member subdivision may withdraw from the authority if the commissioners of the authority consent to the withdrawal. In such event, the commissioners shall provide for the retention or disposition of its assets and liabilities. However, if the authority has any bonds outstanding no withdrawal shall be effected unless one hundred percent of the holders of the bonds consent in writing to the withdrawal.

SECTION 13. FILING OF RESOLUTION INCREASING OR DECREASING AUTHORITY - AMENDED CERTIFICATE OF INCORPORATION. If the number of subdivisions participating in a regional authority is increased or decreased pursuant to section 11 or section 12, it shall forward to the secretary of state a certified copy of each resolution adopted pursuant thereto. Upon receipt of the resolution or resolutions, the secretary of state shall issue an amended certificate of incorporation.

SECTION 14. POWERS OF POLITICAL SUBDIVISIONS IN AID OF REGIONAL AUTHORITY. Any subdivision participating in an authority may:

1. Lend or donate money to the authority.
2. Provide that all or a portion of the taxes or funds available to the subdivision for railroad purposes, be transferred or paid directly to the authority.
3. Cause water, sewer, or drainage facilities, or any other facilities which it is authorized to provide, to be furnished adjacent to or in connection with railroads or facilities.
4. Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges therein to the authority.
5. Furnish, dedicate, close, pave, install, grade, regrade, plan, or replan, to the extent allowed by title 24, North Dakota Century Code, streets, roads, roadways, and walks from established streets or roads to such railroad facilities.
6. Aid and cooperate with the authority in the planning, undertaking, construction, or operation of railroad facilities.
7. Enter into agreements with the authority regarding action to be taken by the subdivision pursuant to the provisions of this section.

SECTION 15. CORPORATE POWERS OF AUTHORITY. A regional authority may:

1. Sue and be sued, have a seal, and have perpetual succession.
2. Execute such contracts, other instruments, and take such action as may be necessary to carry out the purposes of this Act.

Every authority may exercise such powers as are necessary or incidental to carry out the purposes of this Act.

SECTION 16. PLANNING, ACQUISITION, AND OPERATION OF RAILROADS AND FACILITIES - ACQUISITION OF PROPERTY. A regional authority may plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect its railroads, and railroad facilities used or useful in the operation of a railroad. For these purposes an authority may acquire by purchase, gift, devise, lease, or condemnation any real or personal property or any interest therein.

SECTION 17. USE OF PUBLIC WATERS BY AUTHORITY - BUILDINGS, ROADWAYS, AND BRIDGES. A regional authority may establish or acquire and maintain railroads over any public waters of this state and any submerged lands under such public waters. It may construct and maintain terminal buildings, causeways, roadways, and bridges for approaches to or connecting with any such railroads.

SECTION 18. POWER OF EMINENT DOMAIN - RESTRICTIONS ON ACQUISITION OF PUBLIC OR RAILROAD PROPERTY. An authority may acquire all real or personal property that it deems necessary for carrying out the purposes of this Act, whether in fee simple absolute or lesser interest, by condemnation and the exercise of the power of eminent domain in accordance with chapter 49-09. An authority shall have no power of eminent domain with respect to property owned by another authority or subdivision or public agency of this or any other state without the consent of such authority, subdivision, or public agency. The authority shall not condemn property owned or used by a railroad corporation unless the interstate commerce commission, or other authority with power to make the finding, has found that the public convenience and necessity permit discontinuance of the rail service on the property.

SECTION 19. PUBLIC PURPOSE AND NECESSITY FOR ACQUISITIONS. All land and other property and privileges acquired and used by or on behalf of any authority are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity.

SECTION 20. EXEMPTION FROM TAXATION OF PROPERTY AND INCOME OF AUTHORITY. Any property acquired by an authority and any income derived by the authority shall be exempt from taxation.

SECTION 21. ANNUAL CERTIFICATION OF TAX LEVY FOR AUTHORITY - LEVY OF TAX - COLLECTION. An authority may certify annually to the governing bodies the amount of tax to be levied by said governing bodies for railroad purposes. Each subdivision shall levy the amount certified, pursuant to provisions of law authorizing political subdivisions of this state to levy property taxes. The levy may not exceed the maximum levy permitted by section 23. Each subdivision shall collect the taxes certified by a railroad authority in the same manner as other taxes are levied and collected and shall pay the revenues to the railroad authority.

SECTION 22. ZONES OF BENEFIT - TAX LEVY APPLIED TO. The authority may, in connection with the certification of an annual tax

levy pursuant to section 21, designate various zones of benefit or geographical portions of the member subdivisions which, in the judgment of the authority, will be or have been benefited by projects. The authority may then certify that such annual levy be applied only to such benefited area.

SECTION 23. MAXIMUM TAX LEVY - COUNTY LEVY NOT APPLIED IN SUBDIVISION MAKING LEVY. In subdivisions which are parties to an agreement creating a regional railroad authority, a levy, in addition to all other levies authorized by law, not to exceed four mills on the taxable valuation of property in such subdivisions, may be made for such purposes. A county levy pursuant to section 21 shall not apply to any other subdivision within that county making a levy under section 21.

SECTION 24. DEPOSIT OF TAX PROCEEDS - EXPENDITURE. The proceeds of taxes for support of a railroad authority shall be deposited in such account or accounts in which other revenues of the authority are deposited and may be expended by the authority as provided in this Act.

SECTION 25. COVENANT TO LEVY TAXES UNTIL BONDS PAID. Prior to the issuance of bonds, the authority may by resolution covenant and agree that the total amount of such taxes authorized or any portion thereof will be certified, levied, and deposited annually as herein provided, until the bonds and interest thereon are fully paid.

SECTION 26. ACCEPTANCE AND EXPENDITURE OF FEDERAL AND OTHER GRANTS AND LOANS. An authority may accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this Act.

SECTION 27. DESIGNATION OF HIGHWAY COMMISSIONER AS AGENT OF AUTHORITY - FUNDS HELD IN SEPARATE ACCOUNT - VOUCHERS AND WARRANTS. An authority may designate the highway commissioner as its agent to accept, receive, receipt for, and disburse federal and state moneys, and other moneys, public or private, made available by grant or loan or both, to accomplish in whole or in part, any of the purposes of this Act. It may designate the highway commissioner as its agent to contract for and supervise the planning, acquisition, development, construction, improvement, maintenance, equipping, or operation of any railroad or railroad facility.

All funds received by the highway commissioner pursuant to this section shall be deposited in the state treasury. Unless otherwise prescribed by the agency from which such funds were received, the funds shall be kept in separate accounts according to the purposes for which the funds were made available. Such funds shall be held by the state in trust for such purposes, and paid on warrants drawn by the state auditor on vouchers approved by the highway commissioner.

SECTION 28. ISSUANCE OF BONDS AND NOTES - PURPOSES FOR WHICH PROCEEDS USED. An authority may from time to time issue its bonds or notes in such principal amounts as the authority shall deem necessary to carry out any of its corporate purposes and powers, including, but not limited to the funding or refunding of the principal of or interest or redemption premiums on, any bonds or notes issued by it whether or not the bonds or notes or interest to be funded or refunded have or have not become due, the establishment or increase of reserves to secure or to pay the bonds or notes or interest thereon, and the payment of or establishment of reserves for all other costs or expenses of the authority incident to and necessary to carry out its corporate purposes and powers.

SECTION 29. REVENUES AND FUNDS PLEDGED TO PAYMENT OF BONDS AND NOTES - NEGOTIABILITY. Every issue of bonds or notes of the authority shall be payable out of revenues or funds of the authority, subject only to agreements with the holders of particular bonds or notes pledging any particular revenues or funds. An authority may issue types of bonds or notes as it may determine, including those payable as to principal and interest solely from one or more revenue producing contracts made by the authority or from its revenues generally. Any bonds or notes may additionally be secured by a pledge of any grant, subsidy, or contribution from any public agency, or other person, or a pledge of revenue, income, or funds from any source whatsoever. All such bonds and notes shall be negotiable within the meaning of the Uniform Commercial Code, subject only to any registration requirement.

SECTION 30. RESOLUTIONS FOR BONDS OR NOTES - SECURITY AGREEMENT - TERMS AND CONDITIONS. Bonds or notes of the authority shall be authorized by resolution of the commissioners and may be issued under the resolution or under a trust indenture or other security agreement, in one or more series, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such conversion, exchange, and registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment at such place or places within or outside the state, be subject to such terms of redemption with or without premium, and contain or be subject to such other terms as the resolution, trust indenture, or security agreement may provide, and shall not be restricted by any other law limiting amounts, maturities, interest rates, or other terms or obligations of public agencies or private persons.

SECTION 31. MORTGAGES AND DEEDS OF TRUST TO SECURE OBLIGATIONS - FILING. For the security of such bonds or notes the authority may execute and make mortgages or deeds of trust of the whole or any part of its property in the same manner and with the same effect as provided for railroads in section 49-09-08 which, together with any assignments or release thereof, shall be filed in the office of the secretary of state with the same force and effect as provided in section 49-09-14.

SECTION 32. BOND RECITAL CONCLUSIVE AS TO AUTHORITY AND PURPOSE. Any bond reciting that it has been issued by the authority pursuant to the provisions and for the purposes of this Act shall be conclusively deemed to have been issued pursuant to such provisions and for such purposes.

SECTION 33. CONTINUING VALIDITY OF SIGNATURES ON BONDS AND NOTES - TEMPORARY BONDS. Any bonds or notes may be issued and delivered notwithstanding that any of the commissioners or officers executing them shall have ceased to hold office at the time of actual delivery. Pending preparation of definitive bonds, an authority may issue temporary bonds which shall be exchanged for definitive bonds.

SECTION 34. SALE OF BONDS. Bonds issued shall be sold at public or private sale for a price and in a manner determined by the authority.

SECTION 35. BONDS EXEMPT FROM TAXATION. Bonds issued by an authority pursuant to the provisions of this Act, together with interest and income therefrom, shall be exempt from all taxes.

SECTION 36. PERSONS EXECUTING BONDS NOT PERSONALLY LIABLE. The commissioners of an authority or any person executing such bonds shall not be liable personally by reason of their issuance.

SECTION 37. ARRANGEMENTS FOR OPERATING AND PROVIDING RAILROAD SERVICE. The authority may enter into contracts, leases, and other arrangements for such term as the authority may determine with any persons:

1. Granting the privilege of using or improving the railroad or any portion or facility or space for commercial purposes.
2. Conferring the privilege of supplying goods, commodities, things, services, or facilities along the railroad.
3. Making available services, to be furnished by the authority or its agents.

In each case the authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service.

SECTION 38. GRANT OF OPERATING PRIVILEGES AND USE OF RAILROAD AND FACILITIES. Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by this Act, an authority may by contract, lease, or otherwise, for such consideration and term as it may determine, grant to any person the privilege of operating or using any railroad or railroad facilities or property, owned or controlled by the authority. No person may be

granted any authority to operate a railroad other than as a common carrier.

SECTION 39. PAYMENTS IN LIEU OF PROPERTY TAXES BY CONTRACTORS USING RAILROAD AND FACILITIES. All contracts, leases, or other arrangements entered into by an authority pursuant to sections 37 and 38 shall provide for payment of a sum equal to the amount of property taxes which would be due if the property were owned by the person contracting with the authority, to be prorated by the authority among the taxing districts involved, which payment shall be limited, however, so as not to exceed the net income earned by such person from the use of such property.

SECTION 40. DISPOSITION OF PROPERTY OF AUTHORITY. Except as may be limited by the terms and conditions of any grant, loan, or agreement, made or received by the authority, an authority may, by sale, lease, or otherwise, dispose of any of its property, or portion thereof or interest therein.

SECTION 41. CITATION OF ACT. This Act may be cited as the "Regional Railroad Authorities Act".

Approved April 8, 1981

CHAPTER 478

SENATE BILL NO. 2266
(Senator Erickson)
(Representative B. Larson)

INTERCORPORATE HAULING REGULATION

AN ACT to create and enact a new subsection to section 49-18-01 of the North Dakota Century Code, relating to the definition of corporate family and a new subsection to section 49-18-02 of the North Dakota Century Code, relating to inapplicability of provisions of law to intercorporate hauling.

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

SECTION 1. A new subsection to section 49-18-01 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

"Corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a one hundred percent interest.

SECTION 2. A new subsection to section 49-18-02 of the 1979 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To the transportation of property provided by a person who is a member of a corporate family for other members of such corporate family if:

- a. The parent corporation notifies the commission of its intent or one of its subsidiaries' intent to provide the transportation;
- b. The notice contains a list of participating subsidiaries and an affidavit that the parent corporation owns directly or indirectly a one hundred percent interest in each of the subsidiaries;
- c. The commission has issued an order stating that it has received and approved such notice; and
- d. A copy of the order is carried in the cab of all vehicles conducting the transportation.

Approved March 11, 1981

CHAPTER 479

HOUSE BILL NO. 1138
(Committee on Transportation)
(At the request of the Public Service Commission)

MOTOR CARRIER REGULATION

AN ACT to amend and reenact sections 49-18-02, 49-18-06, 49-18-07, 49-18-08, 49-18-09, 49-18-11, 49-18-13, 49-18-14, 49-18-15, 49-18-20, 49-18-21, 49-18-32, 49-18-33, 49-18-41, and 49-18-47 of the North Dakota Century Code, relating to exempt transportation, motor carrier public policy, commission supervision of common motor carriers, notice of opportunity for hearing, regulation of contract motor carriers by the commission, temporary authority for contract motor carriers, fees, and insurance; and to repeal sections 49-18-03, 49-18-04, and 49-18-10 of the North Dakota Century Code, relating to exempt transportation and commission supervision of common motor carriers.

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

SECTION 1. AMENDMENT. Section 49-18-02 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-02. INAPPLICABILITY OF PROVISIONS OF CHAPTER. The provisions of this chapter shall not apply:

1. To any person transporting his own property with his own vehicle when such person is the bona fide owner of the property so transported.
2. To an association of farmers owning or controlling a motor vehicle transporting for its farmer members agricultural commodities and farm supplies of all kinds, ~~livestock and farm supplies~~ from the farms where such commodities and supplies are produced, grown or processed to the market or place where such commodities and supplies are sold, stored, or otherwise disposed of, and the transportation of such commodities and supplies from the market or place where the same are purchased or acquired to the farms where the same are to be used, consumed, or processed.

3. Te-the-transportation-of-property,-except-that-compensated-for-in-money,-between-the-farms-and-the-usual-local trading-places-of-the-farmer-for-whom-the-transportation is-performed-ex-between-farms-locally. To the transportation of property as part of a continuous movement which, prior or subsequent to such part of the continuous movement, has been or will be transported by an air carrier.
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.
5. Te---the---transportation,---for---hire,---of---samples---of agricultural-exeps-moving-to-inspection-laboratories--for the--purpose--of--establishing-the-official-grade-ex-ether laboratory-tests. To the transportation of livestock and poultry feeds if transported to a site of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.
6. To the transportation, for hire, of nonliquid fertilizers or unmanufactured agricultural commodities, including dairy commodities, poultry, and livestock.
7. To the transportation of school children, supervisory personnel, and teachers to or from school or school related activities which are sponsored or supervised by school authorities.
8. To the transportation of newspapers, newspaper supplements, periodicals, or magazines.
9. To the towing of abandoned, wrecked, or disabled motor vehicles or replacement vehicles for such abandoned, wrecked, or disabled motor vehicles.
10. To the transportation of water for domestic purposes.
11. To the transportation provided by ambulances.
12. To the transportation of pit run or processed sand and gravel, concrete mix, plant mix asphalt pavement, aggregate mix, dirt, rock, material from demolished buildings and structures, and material transported solely for the purpose of excavation or fill.
13. To the transportation of rubbish or garbage.
14. To the transportation of passengers in a motor vehicle which is used principally to provide prearranged transportation of persons to or from their place of employment, which vehicle is operated by a person who does

not drive the vehicle for his principal occupation but is driving it only to or from his principal place of employment or for personal use at other times.

15. To the transportation of the United States mails.
16. To the transportation of coal and lignite.
17. To the transportation of persons provided by a nonprofit organization if the transportation:
 - a. Is used exclusively for the transportation of elderly, handicapped or economically disadvantaged persons; or
 - b. Is not in competition with the scheduled regular route service of a carrier of persons that is subject to the provisions of this chapter.
18. To the transportation of commodities of unusual value including but not limited to the transportation of gold, silver, currency, valuable securities, and jewels, when such transportation is:
 - a. Provided in specially constructed armored trucks; or
 - b. Accompanied by guards or police protection to safeguard the commodity while it is being transported and delivered.
19. To transportation provided:
 - a. Wholly within a city in this state; or
 - b. Such distance beyond the corporate limits of a city as the public service commission may determine.

SECTION 2. AMENDMENT. Section 49-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-06. PUBLIC POLICY AFFECTING MOTOR TRANSPORTATION. All common motor carriers, special common motor carriers of buildings, and contract motor carriers,--and-agricultural-motor-carriers are hereby declared to be affected with a public interest and to be subject to regulation as prescribed by this chapter and other applicable provisions of law. Among the purposes to be served are:

1. To relieve the existing and future undue burdens upon the highways arising by reason of the use of such highways by motor vehicles for hire.
2. To protect the safety and welfare of the traveling and shipping public in their use of the highways.

3. Carefully to preserve, foster, and regulate transportation and to permit coordination of transportation facilities, and to enforce the provisions of this chapter. To encourage sound economic conditions of efficient and well-managed carriers.
4. To promote safe, adequate, economical and efficient transportation.
5. To encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices.
6. To encourage the most productive use of equipment and energy resources.
7. To encourage the establishment and maintenance of a sound, safe, and competitive privately-owned motor carrier transportation system.

SECTION 3. AMENDMENT. Section 49-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-07. CARRIERS MUST OPERATE IN ACCORDANCE WITH LAW AND RULES. It shall be unlawful for any common motor carrier, or contract motor carrier, or agricultural carrier to transport persons or property for hire unless:

1. He The carrier shall have obtained the certificate or permit required by this chapter; and
2. He The carrier shall comply with the provisions of this chapter and with any applicable rules, regulations, or restrictions adopted by the commission.

SECTION 4. AMENDMENT. Section 49-18-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-08. REGULATION OF COMMON MOTOR CARRIERS BY COMMISSION. The commission shall supervise and regulate all common motor carriers of property or passengers as defined in section 49-18-01 and after hearing thereon shall:

1. Fix, alter, regulate, and determine just, fair, reasonable, and sufficient rates, fares, charges, and classifications;
2. Regulate the facilities, accounts, service, and safety of operations of each such carrier;
3. Regulate operating and time schedules so as to meet the needs of any community and so as to ensure adequate

transportation service to the territory traversed by such carrier;

4. ~~Prevent unfair competition between common motor carriers and between them and the lines of competing railroads and unjust discrimination or preferences between common motor carriers;~~
5. ~~Prevent unjust discrimination or preferences between common motor carriers and between them and competing railroads, and may require the coordination of motor service and schedules of such carriers with rail service;~~
6. Require the filing of annual and other reports, tariffs, schedules, and other data by such common motor carriers;
7. 6. Supervise and regulate such common motor carriers in all matters affecting the relation between such carriers and the public to the end that the provisions of this chapter may be fully and completely carried out; and
8. 7. Have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter applicable to any and all such common motor carriers, and to do all things necessary to carry out and enforce the provisions of this chapter.

SECTION 5. AMENDMENT. Section 49-18-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-09. ~~CLASS--A COMMON MOTOR CARRIERS - TRANSPORTATION OF COMMODITIES. Class-A common motor carriers shall transport, within their authority, commodities in any quantity or quantities offered them for shipment.~~ Common motor carriers may, by tariff publication subject to commission approval, specify the quantity or quantities of commodities they shall be obliged to transport.

SECTION 6. AMENDMENT. Section 49-18-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-11. ~~RATES-MUST-BE-UNIFORM-FOR-ALL-CLASSES-OF-CARRIERS. The rates and tariffs prescribed by the commission shall be uniform for similar service for all classes of carriers affected by this chapter. The use of a tariff bureau to promulgate and file a proposed tariff will create no presumption that the carrier using the bureau is violating section 146 of the Constitution of North Dakota.~~ UNIFORM RATES PERMISSIBLE FOR SIMILAR SERVICE. The commission may approve or prescribe uniform rates and tariffs for similar service provided in a similar manner under similar conditions.

SECTION 7. AMENDMENT. Section 49-18-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

~~49-18-13. HEARING-ON-APPLICATION-- NOTICE OF OPPORTUNITY FOR HEARING ON APPLICATION.~~ Upon the filing of an application for a certificate of public convenience and necessity, the commission shall ~~fix a time for hearing thereon which shall be not less than twenty days after such filing.~~ The commission shall cause notice of such opportunity for hearing to be served by registered or certified mail, ~~at least ten days before the day of hearing,~~ upon every railroad corporation or other common carrier which is operating, or which has applied for a certificate to operate, in the territory proposed to be served by the applicant, and on other interested parties as determined by the commission.

SECTION 8. AMENDMENT. Section 49-18-14 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-14. FACTORS TO BE CONSIDERED BY COMMISSION IN GRANTING CERTIFICATE. Before granting a certificate to a common motor carrier, the commission shall take into consideration:

1. ~~Existing travel upon the route of the carrier~~ The need for service proposed by the applicant;
2. The increased cost of maintaining the highway concerned; and
3. The effect on other existing transportation facilities ~~adequately serving the territory for which a certificate is sought;~~
4. The fitness and ability of applicant to provide service;
5. Adequacy of proposed service; and
6. Such other information as the commission may deem appropriate.

~~In case it appears from the evidence that the service furnished or that could be furnished by existing transportation facilities is reasonably adequate, the commission shall not grant such certificate.~~ If the commission finds that the transportation to be authorized by the certificate is not consistent with the public convenience and necessity the commission shall not grant such certificate.

SECTION 9. AMENDMENT. Section 49-18-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-15. TESTIMONY - ISSUANCE OF CERTIFICATE - CONDITIONS. Any common carrier or other party upon whom notice of opportunity for hearing shall be served ~~shall be deemed an interested party to the proceedings and may request an oral evidentiary hearing and may offer testimony for or against the granting of a certificate.~~ However, as a condition for offering testimony ~~at the hearing~~

opposing an application at an oral evidentiary hearing, such interested party must file a protest and a request for an oral evidentiary hearing with the commission and the applicant within twenty days of receipt of the notice for opportunity for hearing and must indicate the nature of the protest, along with a list of witnesses to be called by the protestant and the approximate time needed to present the protestant's case. Any other interested person may offer testimony for the granting of a certificate at such hearing. If the commission finds from the evidence that the public convenience and necessity require the proposed service or any part thereof, it may issue the certificate as prayed for, or may issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the right granted by the certificate such terms and conditions as in its judgment the public convenience and necessity may require. Otherwise such certificate shall be denied.

SECTION 10. AMENDMENT. Section 49-18-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-20. CONTRACT MOTOR CARRIERS - PERMIT - APPLICATION. The commission shall prescribe a form of application for a permit to operate as a contract motor carrier for the use of prospective applicants and shall make regulations for the filing thereof. Application for such permit shall be made in writing, stating the ownership, financial condition, equipment to be used, and physical property of the applicant, and shall contain a copy of the contract agreement and such other information as the commission may require. However, upon receipt of such an application and when there is an immediate and urgent need the commission shall have authority to grant a temporary permit for service by a contract carrier. Such temporary permit shall be granted without a hearing and, unless suspended or revoked for good cause, shall be valid for such time as the commission shall specify but for not more than an aggregate of one hundred and eighty days.

SECTION 11. AMENDMENT. Section 49-18-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-21. CONTRACT MOTOR CARRIERS - NOTICE OF OPPORTUNITY FOR HEARING FOR PERMIT. ~~The commission, upon~~ Upon the filing of an application for a permit, as provided by section 49-18-20, may fix a time for hearing thereon, which shall be not less than ten days after such filing. ~~The~~ The the commission shall cause notice of such opportunity for hearing to be served by registered or certified mail ~~at least five days before the hearing~~ upon every railroad corporation or other common carrier which is operating or which has applied for a certificate or permit to operate in the territory proposed to be served by the applicant and on other interested parties as determined by the commission. Any such common carrier, and any other interested person, may request an oral evidentiary hearing and may offer testimony for or against the granting of such permit, provided, however, that no testimony against the granting of such application shall be considered unless such party files a protest with the commission and the applicant within twenty days of

~~receipt--of--notice--of--the--scope--of--the--application--indicating--the--grounds--for--the--protest. However, as a condition for offering testimony opposing an application at an oral evidentiary hearing, such interested party must file a protest and a request for an oral evidentiary hearing with the commission and the applicant within twenty days of receipt of the notice for opportunity for hearing and must indicate the nature of the protest, along with a list of witnesses to be called by the protestant and the approximate time needed to present the protestant's case. Any other interested person may offer testimony for the granting of a permit at such hearing.~~

SECTION 12. AMENDMENT. Section 49-18-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-32. FEES - COMMON OR CONTRACT MOTOR CARRIER. Every common motor carrier and every contract carrier of property or passengers now operating, or which hereafter shall operate, as such common or contract carrier in this state, at the time of making application for a certificate of public convenience and necessity or permit, and annually thereafter, on or before April fifteenth of each calendar year, shall pay a fee of not less than fifteen dollars nor more than one hundred fifty dollars, to be fixed by the commission in each instance. Miscellaneous nonrefundable fees shall be as follows:

- | | | |
|--------------------------------------------------------------------------------------------------------------------------------------|--------------------|----------------|
| 1. Application for transfer of certificate of public convenience and necessity --- | \$10.00 | <u>\$50.00</u> |
| 2. Application for the mortgaging of a certificate of public convenience and necessity ----- | 5.00 | <u>10.00</u> |
| 3. Application for the issuance of a duplicate certificate of public convenience and necessity ----- | 3.00 | <u>5.00</u> |
| 4. Copy of all records of the commission pertaining to auto transportation companies, per one hundred words or portion thereof ----- | .15 | <u>.50</u> |

SECTION 13. AMENDMENT. Section 49-18-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-33. ~~INSURANCE OR BOND REQUIRED OF COMMON,--AGRICULTURAL OR CONTRACT CARRIER - LIABILITY OF INSURER AND SURETY - TRIAL.~~ The commission in granting a certificate or permit to any common motor carrier ~~and in granting a permit to any agricultural~~ or contract carrier shall require the owner or operator first to procure either liability and property damage insurance or a surety bond to be approved by the commission as to the form, sufficiency, and surety thereof and written by a company authorized to write such insurance in this state in an amount to be designated by the commission. The conditions of such liability insurance or surety bond shall be such as to guaranty the payment of any loss or damage to property, or on account of the death of or injury to persons, resulting from the

negligence of such carrier. In any action for damages resulting from the negligence of such carrier, the insurer or surety shall not be joined as a party defendant nor shall the fact of the ultimate liability of such insurer or surety be disclosed or commented on to the jury. Upon final judgment the insurer or surety shall become liable directly to the owner of such judgment for the full amount thereof but not exceeding the amount of the policy of insurance or surety bond applicable to such loss. Each insurance policy or bond so required shall be filed with the commission and shall be kept in full force and effect, and upon the failure to do so the certificate or permit shall be revoked and canceled; provided that, a certificate of any company authorized to write liability or property damage insurance in the state, in a form approved by the commission and certifying that there is in effect a liability insurance policy required by this section, may be filed in lieu of the policy itself. The commission also shall require the owner or operator first to procure a surety bond, written by a company authorized to write such bond in this state, in an amount to be designated by the commission, to guaranty the payment by the carrier to the shipper or its agent, of all cash or collect on delivery charges collected by said carrier in connection with the operation or conduct of his business as such common motor carrier or contract carrier.

SECTION 14. AMENDMENT. Section 49-18-41 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-41. IDENTIFICATION TAG TO BE SECURED BY MOTOR CARRIER. Every motor carrier who under the statutes of this state must register with or secure a permit or certificate of public convenience and necessity from the commission, except a common carrier of passengers ~~who pays the motorbus seat tax provided for under the provisions of chapter 39-04,~~ at the time of securing such certificate or permit, and annually thereafter on or before April fifteenth of each calendar year, shall secure from the commission an identification tag for each motor vehicle operated within this state, which shall be in the form, color combination, lettering, and numbering prescribed by the commission. The identification tag for each type of carrier licensed by the commission shall be identified in a manner different from that of each other type of carrier. The commission shall collect a fee of ~~fifteen~~ twenty dollars for each identification tag. No motor carrier shall operate in this state without having an identification tag attached to each vehicle owned and operated by such carrier. The identification plate shall be secured from the registrar of motor vehicles upon request from the commission.

SECTION 15. AMENDMENT. Section 49-18-47 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-47. SPECIAL COMMON MOTOR CARRIERS OF BUILDINGS SHALL BE EXEMPT FROM CERTAIN REQUIREMENTS. Special common motor carriers of buildings shall be exempt from the requirements of common motor carriers to file tariffs, and annual reports, ~~and--proof--of--cargo insurance,~~ but for all other purposes shall be treated as common motor carriers.

SECTION 16. REPEAL. Sections 49-18-03, 49-18-04, and 49-18-10 of the North Dakota Century Code are hereby repealed.

Approved March 11, 1981

CHAPTER 480

HOUSE BILL NO. 1154
(Committee on Transportation)
(At the request of the Public Service Commission)

CONTRACT MOTOR CARRIERS

AN ACT to amend and reenact sections 49-18-19 and 49-18-25 of the North Dakota Century Code, relating to regulation of contract motor carriers; and to provide an expiration date.

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

SECTION 1. AMENDMENT. Section 49-18-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-19. REGULATION OF CONTRACT MOTOR CARRIERS BY COMMISSION
~~--MINIMUM-RATES.~~ The commission shall:

1. Supervise and regulate every contract motor carrier of property or passengers for the purpose of promoting safety upon the highways and the conservation of their use.
2. Supervise and regulate the accounts and methods of operation of the same.
3. Prescribe such rules and regulations as it may deem necessary in carrying out the provisions of this chapter.
4. Supervise and regulate all contract motor carriers of property or passengers in all matters affecting the relationship between such motor carriers and the traveling and shipping public.
5. ~~Prescribe rules and regulations covering the operations of contract motor carriers in competition with common carriers of this state.~~ Supervise and regulate any contract, including but not limited to supervision and regulation of provisions related to rates and service, entered into by a contract motor carrier of property or passengers so as to prevent unfair or unjust competition, discrimination, or preference between any contract motor carrier and any common motor carrier and between the

patrons of any contract motor carrier and the patrons of any common motor carrier.

~~6. Prescribe minimum rates, fares, and charges to be collected by such contract motor carriers, which shall not be less than the rates prescribed for common carriers for substantially the same service.~~

SECTION 2. AMENDMENT. Section 49-18-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

49-18-25. UNREASONABLE PREFERENCE BY CONTRACT MOTOR CARRIER PROHIBITED. ~~No contract motor carrier shall~~

~~1. Give or cause any undue or unreasonable advantage or preference to those whom he serves as compared with the patrons of any common motor carrier, as that term is used in this chapter, or the patrons of any other common carrier.~~

~~2. Subject the patrons of any such common carriers to any undue or unreasonable discrimination or disadvantage.~~

~~3. By unfair competition, destroy or impair the service or business of any common motor carrier or of any other common carrier, or the integrity of the state's regulation of any such service or business.~~

~~The commission may enforce these requirements.~~ CONTRACT CARRIERS TO FILE WITH THE COMMISSION. Each such contract motor carrier shall maintain on file with the commission a statement of his charges and of such other matters as the commission may require.

SECTION 3. EXPIRATION DATE. The provisions of this Act shall be effective from July 1, 1981, through June 30, 1983, and shall thereafter be ineffective.

Approved April 6, 1981

CHAPTER 481

HOUSE BILL NO. 1634

(Thompson, R. Anderson, Jacobson, Mattson, Murphy)

SITE OR CORRIDOR DESIGNATION

AN ACT to amend and reenact subsection 5 of section 49-22-08 and subsection 1 of section 49-22-13 of the North Dakota Century Code, relating to public service commission designation of a site or corridor for an energy conversion or transmission facility and to public hearings on site, route, or corridor proposals.

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

SECTION 1. AMENDMENT. Subsection 5 of section 49-22-08 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The commission ~~shall~~ may designate a site or corridor for a proposed facility following the study and hearings provided for in this chapter. ~~This~~ Any designation shall be made in accordance with the evidence presented at the hearings, an evaluation of the information provided in the application, the criteria established pursuant to section 49-22-05.1, and the considerations set out in section 49-22-09 in a finding with reasons for the designation, and shall be made in a timely manner no later than six months after the filing of a completed application for a certificate of site compatibility or no later than three months after the filing of a completed application for a certificate of corridor compatibility. The time for designation of a site or corridor may be extended by the commission for just cause. The failure of the commission to act within the time limits provided in this section shall not operate to divest the commission of jurisdiction in any certification proceeding. The commission shall indicate the reasons for any refusal of designation. Upon designation of a site or corridor, the commission shall issue a certificate of site compatibility or a certificate of corridor compatibility with such terms, conditions, or modifications deemed necessary.

SECTION 2. AMENDMENT. Subsection 1 of section 49-22-13 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The commission shall hold a public hearing in each county in which any portion of a site, corridor, or route is proposed to be located in an application for a certificate or a permit. At the public hearing, any person may present testimony or evidence relating to the information provided in the application, the criteria developed pursuant to section 49-22-05.1, and the factors to be considered pursuant to section 49-22-09. Where more than one county is involved the commission may hold a consolidated hearing in one or more of the affected counties. A hearing for any county shall not be consolidated if five or more affected landowners in such county file a petition with the commission within ten days of the publication of the notice of hearing.

Approved March 20, 1981

CHAPTER 482

HOUSE BILL NO. 1612
(E. Pomeroy, Horgan)

ENERGY FACILITY PUBLIC HEARING NOTICE

AN ACT to amend and reenact subsection 4 of section 49-22-13 of the North Dakota Century Code, relating to notice of public hearings on construction of energy conversion facilities and transmission facilities.

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

SECTION 1. AMENDMENT. Subsection 4 of section 49-22-13 of the 1979 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Notice of a public hearing shall be given by the commission by service on such persons and agencies that the commission may deem appropriate and twice by publication, once at least twenty days prior to such hearing and a second time within twenty days prior to such hearing. Notice of a public hearing and notice of opportunity for a public hearing on an application for a certificate, a permit, a transfer, or a waiver shall be given at the expense of the applicant. In an emergency the commission, in its discretion, may notice a hearing upon less than twenty days.

Approved March 11, 1981