

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2114  
(Government and Veterans Affairs Committee)  
(At the request of the Central Personnel Division)

AN ACT to create and enact two new sections to chapter 54-44.3 and a new subsection to section 54-44.3-12 of the North Dakota Century Code, relating to federal grants for merit systems, agencies subject to the state merit system, and the rules for merit system compliance; to amend and reenact sections 39-03-03, 39-03-13, 52-02-01, 52-02-06, 54-44.3-06, 54-44.3-09, 57-01-05, and 65-02-01 of the North Dakota Century Code, relating to appeals of highway patrol disciplinary actions, job service North Dakota merit appointments, personnel board meetings, duties of the central personnel division director with respect to the merit system, tax commissioner merit appointments, and workers' compensation merit appointments; and to repeal chapter 54-42 of the North Dakota Century Code, relating to the merit system council.

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

**SECTION 1. AMENDMENT.** Section 39-03-03 of the North Dakota Century Code is amended and reenacted as follows:

**39-03-03. Patrolmen - Appointment - Removal - Duties.** The superintendent, the assistant superintendent, and the patrolmen ~~shall~~ constitute the highway patrol. The highway patrol shall enforce the provisions of the laws of this state relating to the protection and use of highways and shall patrol ~~such~~ the highways and cooperate with sheriffs and police in enforcing the laws regulating the operation of vehicles and the use of highways. All patrolmen and the assistant superintendent must be appointed by the superintendent. Each patrolman so appointed ~~must be~~ is deemed a temporary appointee for a period of twelve months, during which period ~~he~~ the patrolman must be placed under probationary training and service and is subject to dismissal at the will of the superintendent. At the end of ~~such~~ the twelve-month period, ~~such~~ a temporary appointee must either be given a permanent appointment by the superintendent or must be automatically dismissed. The assistant superintendent and patrolmen who have received a permanent appointment are subject to removal for cause by the superintendent, but must be permitted to appeal a dismissal ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03 under chapter 54-44.3,~~ provided that the removal of the assistant superintendent from ~~his~~ that person's position does not entitle ~~him~~ that person to appeal ~~such~~ the removal unless ~~he~~ that person is also dismissed from the patrol.

**SECTION 2. AMENDMENT.** Section 39-03-13 of the North Dakota Century Code is amended and reenacted as follows:

**39-03-13. Additional powers of superintendent.** In addition to ~~his~~ the superintendent's powers as a member of the highway patrol, the superintendent of the patrol has the following powers as administrative head of the patrol:

1. ~~He~~ The superintendent may organize the patrol into ~~such~~ divisions, bureaus, and districts as ~~he~~ the superintendent deems necessary.
2. ~~He~~ The superintendent may designate ranks, fix salaries with appropriate allowances for those ranks, and establish promotional procedures.
3. ~~He~~ The superintendent may take reasonable disciplinary action against members of the patrol for inefficiency, misconduct, insubordination, or violation of an established rule ~~or regulation,~~ whenever ~~he~~ the superintendent deems ~~such~~ the actions necessary, provided that:

- a. Where demotion in rank is summarily ordered against a member of the patrol as a disciplinary measure, to be limited to a one-grade reduction in rank, ~~such the order is appealable to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03 under chapter 54-44.3.~~
  - b. Where a reduction in pay of a member of the patrol is summarily ordered as a disciplinary measure, it must be limited to one year's duration and ~~such the order is appealable to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03 under chapter 54-44.3.~~
  - c. Suspension of pay for a member of the patrol for a period not exceeding seven days may be summarily ordered as a disciplinary measure, but an order for suspension of pay for a longer period is appealable ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03 under chapter 54-44.3.~~
4. ~~Such~~ A suspension of pay for a member of the patrol may be summarily ordered not more than twice in one year as separate disciplinary measures, except that further suspensions are appealable ~~to the North Dakota merit system council in accordance with rules and regulations promulgated under subsection 7 of section 54-42-03 under chapter 54-44.3.~~

**SECTION 3. AMENDMENT.** Section 52-02-01 of the North Dakota Century Code is amended and reenacted as follows:

**52-02-01. Job service North Dakota created.** There is hereby created job service North Dakota which is ~~herewith~~ charged with administering the provisions of the North Dakota Unemployment Compensation Law and the provisions of the North Dakota state employment service, as set forth in chapter 52-08, which must be administered by a full-time salaried executive director, who is subject to the supervision and direction of the governor. The governor is authorized to appoint, fix the compensation of, and prescribe the duties of ~~such the~~ executive director, provided that ~~such the~~ appointment must be made on a nonpartisan, merit basis, ~~in accordance with the provisions set forth in chapter 54-42.~~ The duties and responsibilities of the executive director extend to and include the power of full administration of the provisions of the North Dakota Unemployment Compensation Law, and the provisions of chapter 52-08 relating to the North Dakota state employment service, including job insurance programs, and the establishment and maintenance of free public employment offices. The executive director may also establish ~~such~~ separate divisions and make ~~such~~ separate appointments as ~~he may deem~~ the executive director deems advisable for efficient administration of the duties and responsibilities imposed hereunder. Any ~~such~~ separate appointments must be on a nonpartisan, merit basis.

**SECTION 4. AMENDMENT.** Section 52-02-06 of the North Dakota Century Code is amended and reenacted as follows:

**52-02-06. Merit system and personnel.**

1. In accordance with chapter ~~54-42~~ 54-44.3 and rules adopted thereunder and on the basis of the authority granted under section 52-02-02, the bureau shall select and prescribe the duties and powers of ~~such~~ officers, employees, and other persons as may be necessary in the performance of its duties under the chapter; provided, that in cooperation with the ~~North Dakota merit system~~ central personnel division the bureau shall take such action as may be necessary to meet the personnel standards ~~promulgated~~ adopted by the secretary of labor pursuant to the Social Security Act [42 U.S.C. 301 et seq.] and the Wagner-Peyser Act [48 Stat. 113; 29 U.S.C. 49-49k], both as amended.
2. Notwithstanding any provision of law to the contrary, the bureau shall have authority to dismiss without notice any person employed in the administration of the North Dakota Unemployment Compensation Law upon receipt of notice of a determination by the United States civil service commission that ~~such~~ that person has violated the provisions of the Act

of the Congress of the United States entitled "An Act to prevent pernicious political activities", as amended [18 U.S.C. 61(a)] and that ~~such~~ the violation warrants the removal of ~~such~~ that person from ~~his~~ employment.

**SECTION 5. AMENDMENT.** Section 54-44.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-06. Meetings.** The board shall organize annually at the first meeting of each fiscal year. It shall meet at least ~~six times~~ once a year and at such times and places as are specified by call of the chairman or any three members of the board. All meetings must be open to the public. Three members ~~shall~~ constitute a quorum for the transaction of business. Three favorable votes are necessary for the passage of any resolutions or taking of any official action by the board at any meeting.

**SECTION 6. AMENDMENT.** Section 54-44.3-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-09. Board secretariat.** ~~The director shall serve as secretary to the board in a nonvoting capacity.~~ The division shall serve as the secretariat to the board.

**SECTION 7.** A new subsection to section 54-44.3-12 of the 1995 Supplement to the North Dakota Century Code is created and enacted as follows:

Adopt rules, subject to the approval of the board, to ensure compliance with and resolve compliance issues relating to agencies required by state or federal law or rule to be subject to a merit personnel system.

**SECTION 8.** A new section to chapter 54-44.3 of the North Dakota Century Code is created and enacted as follows:

**Acceptance of federal funds.** The director is authorized to accept federal funds through grant-aided agencies or directly for the purpose of operating or ensuring operation of a merit personnel system.

**SECTION 9.** A new section to chapter 54-44.3 of the North Dakota Century Code is created and enacted as follows:

**Agencies subject to merit system.** All personnel employed by the department of human services, the regional offices of that department, job service North Dakota, the central personnel division, the state department of health, and other agencies or political subdivisions as may by federal law or rule be required to be subject to a merit system in order to obtain federal grants-in-aid are covered by the merit system provided in this chapter. Merit system coverage must also be provided to personnel employed as purchasing agents or buyers in the purchasing division of the office of management and budget. Other agencies, departments, or divisions and positions must be placed under a merit system in the manner and to the extent required by law.

**SECTION 10. AMENDMENT.** Section 57-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**57-01-05. State supervisor of assessments.** The state tax commissioner shall appoint ~~from a list of qualified applicants forwarded to him by the North Dakota merit system council~~ a supervisor of assessments who must be a person trained and experienced in property appraisals and familiar with assessment and equalization procedures and techniques. ~~If the tax commissioner does not desire to appoint a supervisor of assessments from the list of candidates forwarded to him by the merit system council, he may request additional lists of qualified applicants from the council.~~ The supervisor of assessments ~~shall serve~~ serves at the pleasure of the state tax commissioner and office space must be furnished ~~him~~ to the supervisor of assessments by the commissioner.

The supervisor of assessments shall perform the following duties under the direction of the tax commissioner:

1. ~~He~~ The supervisor of assessments shall advise and give the various assessors in the state the necessary instructions and directions as to their duties under the laws of this state, to the end that a uniform assessment of all real and personal property in this state will be attained.
2. ~~He~~ The supervisor of assessments shall assist and instruct the various assessors in this state in the use of soil reconnaissance surveys, land classification methods, in the preparation and proper use of land maps and record cards, in the proper classification of real and personal property, and in the determination of proper standards of value.
3. ~~He has authority to~~ The supervisor of assessments may require the attendance of groups of assessors at meetings called by ~~him~~ the supervisor of assessments for the purpose of giving them further assistance and instruction as to their duties.
4. ~~He~~ The supervisor of assessments may make sales, market, and productivity studies and other studies of property assessments in the various counties and cities of this state for the purpose of properly advising the various assessors and directors of tax equalization in the state and for the purpose of recommending to the tax commissioner changes to be made by the state board of equalization in the performance of the equalization powers and duties prescribed for it by section 57-13-04. In any sales, market, and productivity study made according to section 57-01-06, the county directors of tax equalization or city assessors, as the case may be, are responsible for compiling a record of sales of property made in ~~such~~ the county or city, and in conjunction with the county commissioners shall analyze ~~such~~ the sales for the purpose of advising the state supervisors of assessments as to the value of using ~~such~~ the sales in any such study. ~~Such~~ The compilations must be forwarded to the state supervisor of assessments with the findings of the county director of tax equalization, city assessors, and the board of county commissioners. In any county or city or any part thereof where the number of sales of properties is insufficient for making a sales, market, and productivity study, the county director of tax equalization or city assessor, as the case may be, in cooperation with the state supervisor of assessments or ~~his~~ that person's assistants shall make appraisals of properties in order to determine the market value.
5. ~~He~~ The supervisor of assessments shall cooperate with ~~the~~ North Dakota state university of agriculture and applied science in the development of a soil mapping program, a land classification system, valuation studies, and other matters relating to the assessment of property, and shall provide for the use of such information and procedure at the earliest possible date by the assessors of this state.
6. ~~He~~ The supervisor of assessments has general supervision of assessors and county directors of tax equalization pertaining to methods and procedures of assessment of all property and has authority to require all county directors of tax equalization to do any act necessary to obtain uniform methods and procedures of assessment.
7. ~~He~~ The supervisor of assessments shall perform such other duties relating to assessment and taxation of property as the tax commissioner ~~shall direct~~ directs.

**SECTION 11. AMENDMENT.** Section 65-02-01 of the North Dakota Century Code is amended and reenacted as follows:

**65-02-01. Workers compensation bureau - Executive director.** The bureau must be maintained for the administration of this title. The governor shall appoint the director of the bureau who is subject to the supervision and direction of the governor and who ~~shall serve~~ serves at the pleasure of the governor. The appointment must be on a nonpartisan, merit basis, ~~in accordance with chapter 54-42.~~ The governor shall set the compensation and prescribe the duties of the director. The director may appoint the director of any division of the bureau which is established by the director. The appointment of a division director must be on a nonpartisan, merit basis.

**SECTION 12. REPEAL.** Chapter 54-42 of the North Dakota Century Code is repealed.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2114.

Senate Vote:      Yeas    43            Nays    0            Absent    6

House Vote:      Yeas    91            Nays    0            Absent    6

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State