

HOUSE BILL NO. 1089

Introduced by

Judiciary Committee

(At the request of the State Gaming Commission)

1 A BILL for an Act to create and enact a new subsection to section 12.1-30-03 and a new
2 section to chapter 50-06 of the North Dakota Century Code, relating to businesses allowed to
3 operate on Sunday and compulsive gambling services; to amend and reenact section
4 53-06.1-01, subsections 3 and 4 of section 53-06.1-01.1, subsections 1 and 4 of section
5 53-06.1-03, subsections 1, 3, and 5 of section 53-06.1-06, sections 53-06.1-07.2, 53-06.1-07.4,
6 and 53-06.1-10, subsection 2 of section 53-06.1-11.1, subsections 1 and 2 of section
7 53-06.1-14, subsections 3 and 8 of section 53-06.1-15.1, and subsection 2 of section
8 53-06.1-16 of the North Dakota Century Code, relating to games of chance; and to repeal
9 section 53-06.1-18 of the North Dakota Century Code, relating to compulsive gambling
10 services.

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

12 **SECTION 1.** A new subsection to section 12.1-30-03 of the North Dakota Century Code
13 is created and enacted as follows:

14 Bingo halls and onsite food concessions.

15 **SECTION 2.** A new section to chapter 50-06 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Compulsive gambling prevention, awareness, crisis intervention, rehabilitation,**
18 **and treatment services.** The department of human services shall contract with qualified
19 treatment service providers for the development and implementation of a program for gambling
20 prevention, awareness, crisis intervention, rehabilitation, financial counseling, and mental health
21 treatment services. The program may provide outpatient services, partial care services,
22 aftercare services, intervention services, financial counseling services, consultation services, or
23 other forms of preventive, rehabilitative, or treatment services for compulsive gamblers. An
24 individual who provides treatment services must meet the minimum standards for certification

1 as a gambling counselor as established by the national council on problem gambling and be a
2 mental health professional as defined in section 25-03.1-02. An individual who provides
3 financial counseling services must be a certified consumer credit counselor with an accredited
4 financial counseling agency. The department of human services may establish a sliding
5 payment scale for services under the program. The department of human services may
6 establish a centrally located repository of educational materials on identifying and treating
7 compulsive gambling. Any service fee collected by qualified treatment service providers for
8 services provided under the contract must be applied toward the program's compulsive
9 gambling services. The term "qualified treatment service provider" means an entity based in
10 North Dakota which is experienced in and capable of delivering compulsive gambling
11 education, prevention, awareness, crisis intervention, rehabilitation, financial counseling, and
12 mental health treatment services as defined by the department of human services. The term
13 "compulsive gambler" means an individual who is chronically and progressively preoccupied
14 with gambling and the urge to gamble and with gambling behavior that compromises, disrupts,
15 or damages personal, family, or vocational pursuits.

16 **SECTION 3. AMENDMENT.** Section 53-06.1-01 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **53-06.1-01. Definitions.** As used in this chapter:

- 19 1. "Adjusted gross proceeds" means gross proceeds less cash prizes, cost of
20 merchandise prizes, sales tax on bingo cards, pull tab excise tax, and federal
21 excise tax imposed under section 4401 of the Internal Revenue Code [26 U.S.C.
22 4401].
- 23 2. "Charitable organization" means an organization whose primary purpose is for
24 relief of poor, distressed, underprivileged, diseased, elderly, or abused persons,
25 prevention of cruelty to children or animals, or similar condition of public concern.
- 26 3. "Civic and service organization" means an organization whose primary purpose is
27 to promote the common good and social welfare of a community as a sertoma,
28 lion, rotary, jaycee, kiwanis, or similar organization.
- 29 4. "Closely related organization" means an organization that controls, is controlled by,
30 or is under common control with another organization. Control exists when an
31 organization has the authority or ability to elect, appoint, or remove a majority of

- 1 the officers or directors of another organization or, by policy, contract, or otherwise,
2 has the authority or ability to directly or indirectly direct or cause the direction of the
3 management or policies of another organization.
- 4 ~~5.~~ 5. "Compulsive gambler" means an individual who is chronically and progressively
5 preoccupied with gambling and the urge to gamble and with gambling behavior that
6 compromises, disrupts, or damages personal, family, or vocational pursuits.
- 7 ~~6.~~ "Distributor" means a person that sells, markets, or distributes equipment usable in
8 the conduct of games.
- 9 ~~7.~~ 6. "Educational organization" means a nonprofit public or private elementary or
10 secondary school, two-year or four-year college, or university.
- 11 ~~8.~~ 7. "Eligible organization" means a veterans, charitable, educational, religious,
12 fraternal, civic and service, public safety, or public-spirited organization domiciled
13 in North Dakota, incorporated as a nonprofit organization, and which has been
14 actively fulfilling its primary purpose within this state during the two immediately
15 preceding years. However, an educational organization does not need to be
16 incorporated. An organization's primary purpose may not involve the conduct of
17 games. The organization may be issued a license by the attorney general.
- 18 ~~9.~~ 8. "Fraternal organization" means an organization, except a school fraternity, which is
19 a branch, lodge, or chapter of a national or state organization and exists for the
20 common business, brotherhood, or other interests of its members. The
21 organization must have qualified for exemption from federal income tax under
22 section 501(c)(8) or 501(c)(10) of the Internal Revenue Code.
- 23 ~~10.~~ 9. "Games" means games of chance.
- 24 ~~11.~~ 10. "Gross proceeds" means all cash and checks received from conducting games,
25 sales tax on bingo cards, and admissions.
- 26 ~~12.~~ 11. "Licensed organization" means an eligible organization licensed by the attorney
27 general.
- 28 ~~13.~~ 12. "Local permit" means a permit issued by a governing body of a city or county to a
29 nonprofit organization or group of people domiciled in North Dakota ~~by a governing~~
30 ~~body of a city or county.~~

1 ~~24.~~ 19. "Veterans organization" means any congressionally chartered post organization, or
2 any branch or lodge or chapter of a nonprofit national or state organization whose
3 membership consists of individuals who are or were members of the armed
4 services or forces of the United States. The organization must have qualified for
5 exemption from federal income tax under section 501(c)(19) of the Internal
6 Revenue Code.

7 **SECTION 4. AMENDMENT.** Subsections 3 and 4 of section 53-06.1-01.1 of the North
8 Dakota Century Code are amended and reenacted as follows:

- 9 3. Commission members are entitled to ~~forty~~ sixty-two dollars and fifty cents per day
10 for compensation for each day spent on commission duties and mileage and
11 expense reimbursement as allowed to other state employees.
- 12 4. The commission shall adopt rules in accordance with chapter 28-32, to administer
13 and regulate the gaming industry, including methods of conduct, play, and
14 promotion of games; minimum procedures and standards for recordkeeping and
15 internal control; requiring tax returns and reports from organizations or distributors;
16 methods of competition and doing business by distributors and manufacturers;
17 acquisition and use of gaming equipment; quality standards for the manufacture of
18 pull tabs, paper bingo cards, and pull tab and bingo card dispensing devices; to
19 ensure that net proceeds are ~~disbursed to~~ used for educational, charitable,
20 patriotic, fraternal, religious, or public-spirited uses; to protect and promote the
21 public interest; to ensure fair and honest games; to ensure that fees and taxes are
22 paid; and to prevent and detect unlawful gambling activity.

23 **SECTION 5. AMENDMENT.** Subsections 1 and 4 of section 53-06.1-03 of the North
24 Dakota Century Code are amended and reenacted as follows:

- 25 1. Except as authorized by the attorney general, an organization that has its license
26 suspended or revoked, or has relinquished or not renewed its license and not
27 disbursed its net proceeds, is ineligible for a license or local permit. Only one of
28 two or more closely related organizations may have a license or local permit at one
29 time. A college or university fraternity, sorority, or club is not closely related to an
30 educational organization. An organization shall apply for a local permit as follows:

- 1 a. An organization recognized as a public-spirited organization by the governing
2 body of a city or county may apply for a local permit to conduct only raffles,
3 bingo, or sports pools. The organization or closely related organizations as a
4 whole may only award a primary prize that does not exceed one thousand
5 dollars and total prizes of all games that do not exceed six thousand dollars
6 per year. The determination of what is a "public-spirited organization" is
7 within the sole discretion of the governing body ~~which should in its~~
8 ~~determination consider the definition of a public spirited organization under~~
9 ~~subsection 18 of section 53-06.1-01 and eligible uses of net proceeds under~~
10 ~~subsection 2 of section 53-06.1-11.1.~~ A governing body may issue a local
11 permit for games to be held at designated times and places.
- 12 b. An organization shall apply to the governing body of the city or county in
13 which the proposed site is located. Application must be made on a form
14 prescribed by the attorney general. Approval may be granted at the discretion
15 of the governing body. A governing body may establish a fee not to exceed
16 twenty-five dollars for each local permit. A local permit must be on a fiscal
17 year basis from July first to June thirtieth or on a calendar-year basis.
- 18 c. Except for the restriction of subsection 1 of section 53-06.1-11.1, an
19 organization that has a local permit may use gaming proceeds for any
20 purpose that does not violate this chapter or gaming rules.
- 21 4. A local permit or site authorization and license ~~and rules relating to the conduct~~
22 ~~and play of games~~ must be displayed at a site.

23 **SECTION 6. AMENDMENT.** Subsections 1, 3, and 5 of section 53-06.1-06 of the
24 North Dakota Century Code are amended and reenacted as follows:

- 25 1. No person, except a member, volunteer, an employee of a licensed organization or
26 an organization that has a local permit, or an employee of a temporary employment
27 agency who provides services to a licensed organization, may manage, control, or
28 conduct any game. "Member" includes a member of an auxiliary organization. In
29 conducting pull tabs or bingo through a dispensing device or selling raffle tickets,
30 the attorney general may allow an employee of an alcoholic beverage
31 establishment to provide limited assistance to an organization.

- 1 3. An organization shall maintain complete, accurate, and legible bank and
2 accounting records in North Dakota for all gaming activity and establish an
3 adequate system of internal control. The governing board of an eligible
4 organization is primarily responsible and may be held accountable for the proper
5 determination and ~~distribution~~ use of net proceeds. If an organization does not
6 renew its license or its license is denied, relinquished, or revoked and it has not
7 disbursed all of its net proceeds, the organization shall file an action plan as
8 prescribed by the gaming rules with the attorney general.
- 9 5. A person is restricted from being involved in gaming and the attorney general shall
10 conduct a criminal history record check as follows:
- 11 a. A person who has pled guilty to or been found guilty of a felony offense as
12 defined by the laws of this state, other states, or the federal government, or
13 has pled guilty to or been found guilty of a violation of this chapter, a gaming
14 rule, chapter 12.1-28 or 53-06.2, or offenses of other states or the federal
15 government equivalent to offenses defined in these chapters, regardless of
16 whether the person has completed or received a deferred imposition of
17 sentence, deferred prosecution, or suspended sentence, may not be a
18 licensed distributor, ~~may not be an investor in or board member or consultant~~
19 to a licensed distributor, or be employed by a licensed distributor to sell or
20 ~~distribute gaming equipment,~~ and may not be employed by a licensed
21 organization to conduct games ~~on a site,~~ for five years from the date of
22 conviction, release from incarceration, or expiration of parole or probation,
23 whichever is the latest.
- 24 b. A person who has pled guilty to or been found guilty of a misdemeanor
25 offense in violation of section 6-08-16.1 or chapter 12.1-06, 12.1-23, or
26 12.1-24 or offenses of other states, the federal government, or a municipality
27 equivalent to these offenses, regardless if the person has completed or
28 received a deferred imposition of sentence, deferred prosecution, or
29 suspended sentence, may not be a licensed distributor, ~~may not or be~~
30 employed by a licensed distributor ~~to sell or distribute gaming equipment,~~ and
31 may not be employed by a licensed organization to conduct games ~~on a site,~~

1 for two years from the date of conviction, release from incarceration, or
2 expiration of parole or probation, whichever is the latest.

3 c. Unless an employee is exempt by the gaming rules or attorney general, the
4 attorney general shall conduct a criminal history record check of each
5 employee of a licensed organization or distributor and charge a fee of twenty
6 dollars. The fee may be waived by the attorney general if a federal agency or
7 local law enforcement agency has done a record check. The attorney general
8 may require advance payment of any additional fee necessary to pay the cost
9 of a record check of a person for whom adequate background information
10 sources are not readily available. Instead of paying the additional fee, a
11 person may cancel the record check. The advance payment must be placed
12 in the attorney general's refund fund. The unused funds must be returned to
13 the person within thirty days of the conclusion of the record check. ~~The~~
14 Unless a federal or local law enforcement agency conducts the record check,
15 the attorney general shall notify the organization or distributor and person of
16 the result. The attorney general shall keep the information confidential except
17 in the proper administration of this chapter or any gaming rule or to provide to
18 an authorized law enforcement agency.

19 **SECTION 7. AMENDMENT.** Section 53-06.1-07.2 of the North Dakota Century Code
20 is amended and reenacted as follows:

21 **53-06.1-07.2. Poker.** Poker may be conducted on not more than two occasions per
22 year. An organization may supply the dealer. The maximum single bet is one dollar. Not more
23 than three raises, of not more than one dollar each, may be made among all the players in each
24 round of bets. ~~An~~ For nontournament activity, an organization shall ~~assess~~ charge each player
25 a fee not to exceed two dollars per one-half hour of playing time, collected in advance. ~~A fee~~
26 ~~may be charged~~ For a tournament, an organization shall charge each player for an entry into a
27 tournament for prizes and this fee may be in place of or in addition to the fee assessable at
28 one-half hour intervals and the amount of prizes may not exceed ninety percent of the gross
29 proceeds.

30 **SECTION 8. AMENDMENT.** Section 53-06.1-07.4 of the North Dakota Century Code
31 is amended and reenacted as follows:

1 **53-06.1-07.4. Paddlewheels.** A paddlewheel is a mechanical vertical wheel marked off
2 into equally spaced sections that contain numbers or symbols, and which after being spun,
3 uses a pointer to indicate the winning number or symbol. The maximum price per paddlewheel
4 ticket or chip is two dollars. ~~No money may be used as a wager.~~ A table and chips must be
5 used to register a player's wager when a prize is a variable multiple of the wager. Otherwise, a
6 ~~paddlewheel~~ ticket must be used. A player may not place wagers ~~valued at~~ totaling more than
7 twenty dollars on each spin of the paddlewheel. Cash, chips, or merchandise prizes may be
8 awarded. No single cash prize, value of chips, or the retail value of the merchandise prize to be
9 awarded for a winning ~~wager~~ ticket or chip may exceed one hundred dollars.

10 **SECTION 9. AMENDMENT.** Section 53-06.1-10 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **53-06.1-10. Twenty-one.** ~~No money may be used as a wager.~~ The organization shall
13 provide playing chips of various denominations to players. The maximum limit per wager may
14 be set by the organization at not more than five dollars and original wagers in increments of one
15 dollar must be accepted up to the maximum limit. A player may not play more than two hands
16 at the same time. Only the player actually playing a hand may place a wager on any hand.
17 Each player plays the player's hand against the dealer's hand. Any requirement to pool tips is
18 within the sole discretion of each organization. Except for a site that has twenty-one gross
19 proceeds averaging less than ten thousand dollars per quarter, an organization may not
20 conduct twenty-one at the site with wagers exceeding two dollars unless the organization has
21 first installed video surveillance equipment as required by rules and the equipment is approved
22 by the attorney general.

23 **SECTION 10. AMENDMENT.** Subsection 2 of section 53-06.1-11.1 of the North
24 Dakota Century Code is amended and reenacted as follows:

- 25 2. A licensed organization shall disburse net proceeds within the period prescribed by
26 rule and for only these educational, charitable, patriotic, fraternal, religious, or
27 public-spirited uses:
- 28 a. Uses for stimulating and promoting state and community-based economic
29 development programs within the state which improve the quality of life of
30 community residents.

- 1 b. Uses for developing, promoting, and supporting tourism within a city, county,
2 or the state.
- 3 c. Uses benefiting an indefinite number of persons by bringing them under the
4 influence of education, cultural programs, or religion which include
5 disbursements to provide:
- 6 (1) Scholarships for students, if the disbursement is deposited in a
7 scholarship fund for defraying the cost of education to students and the
8 scholarships are awarded through an open and fair selection process.
- 9 (2) Supplementary assistance to a public or private nonprofit educational
10 institution registered with or accredited by any state.
- 11 (3) Assistance to libraries and museums.
- 12 (4) Assistance for the performing arts and humanities.
- 13 (5) Preservation of cultural heritage.
- 14 (6) Youth community, social welfare, and athletic activities.
- 15 (7) Adult amateur athletic activities within the state, including uniforms and
16 equipment.
- 17 (8) Maintenance of places of public worship or support of a body of
18 communicants, gathered in common membership for mutual support
19 and edification in piety, worship, or religious observances.
- 20 (9) Scientific research.
- 21 d. Uses benefiting an indefinite number of persons by relieving them of disease,
22 suffering, or constraint which include disbursements to provide:
- 23 (1) Assistance to an individual or family suffering from poverty or
24 homelessness.
- 25 (2) Encouragement and enhancement of the active participation of the
26 elderly in our society.
- 27 (3) Services to the abused.
- 28 (4) Services to persons with an addicted behavior toward alcohol,
29 gambling, or drugs.
- 30 (5) Funds to combat juvenile delinquency and rehabilitate ex-offenders.

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- 1 (6) Relief for the sick, diseased, and terminally ill and their physical
2 well-being.
- 3 (7) Funds for emergency relief and volunteer services.
- 4 (8) Funds to nonprofit nursing homes, nonprofit day care centers, and
5 nonprofit medical facilities.
- 6 (9) Social services and education programs aimed at aiding emotionally
7 and physically distressed, handicapped, elderly, and underprivileged
8 persons.
- 9 (10) Funds for crime prevention, fire protection and prevention, and public
10 safety.
- 11 (11) Funds to relieve, improve, and advance the physical and mental
12 conditions, care and medical treatment, and health and welfare of
13 injured or disabled veterans.
- 14 e. Uses that perpetuate the memory and history of the dead.
- 15 f. Uses increasing comprehension of and devotion to the principles upon which
16 the nation was founded, not of direct benefit to the eligible organization or any
17 member thereof which include disbursements to aid in teaching the principles
18 of liberty, truth, justice, and equality. However, beauty pageants do not
19 qualify.
- 20 g. The erection or maintenance of public buildings, facilities, utilities, or
21 waterworks.
- 22 h. Uses lessening the burden of government which include disbursements to an
23 entity that is normally funded by a city, county, state, or United States
24 government and disbursements directly to a government entity or its agency.
- 25 i. Uses benefiting a definite number of persons who are the victims of loss of
26 home or household possessions through explosion, fire, flood, or storm and
27 the loss is not covered by insurance.
- 28 j. Uses benefiting a definite number of persons suffering from a seriously
29 disabling disease or injury causing severe loss of income or incurring
30 extraordinary medical expense which is not covered by insurance.

- 1 k. Uses, for community service projects, by chambers of commerce exempt from
2 federal income tax under section 501(c)(6) of the Internal Revenue Code. A
3 project qualifies if it develops or promotes public services, including
4 education, housing, transportation, recreation, crime prevention, fire
5 protection and prevention, safety, tourism, and health. Uses that directly
6 benefit a chamber of commerce do not qualify.
- 7 l. Uses for or of benefit to efforts in support of the health, comfort, or well-being
8 of the community which include disbursements to provide:
- 9 (1) Funds for adult bands, including drum and bugle corps.
10 (2) Funds for trade shows and conventions conducted in this state.
11 (3) Funds for nonprofit organizations that operate a humane society, zoo,
12 or fish or wildlife reproduction and habitat enhancement program.
13 (4) Funds for public transportation, community celebration, meetings,
14 entertainment, and recreation.
15 (5) Funds for preservation and cleanup of the environment.
- 16 m. To the extent net proceeds are used toward the primary purpose of a
17 charitable, educational, religious, public safety, or public-spirited organization,
18 or are used for a veterans or public cemetery by a veterans organization, that
19 has obtained a final determination from the internal revenue service as
20 qualifying for exemption from federal income tax under section 501(c)(3) or
21 501(c)(19) of the Internal Revenue Code, the organization may establish a
22 special trust fund or foundation as a contingency for funding or maintaining
23 the organization's future program services should the organization discontinue
24 conducting games or dissolve.
- 25 n. Uses for a fundraising activity unrelated to an organization's program services
26 provided that the gross revenue from the activity is disbursed to uses
27 prescribed by this subsection.

28 **SECTION 11. AMENDMENT.** Subsections 1 and 2 of section 53-06.1-14 of the North
29 Dakota Century Code are amended and reenacted as follows:

- 30 1. A manufacturer of pull tabs, bingo cards, bingo card marking devices, or pull tab
31 dispensing devices ~~and a distributor~~ shall apply annually for a license ~~upon a form~~

1 ~~prescribed by the attorney general before the first day of April in each year and pay~~
2 ~~a license fee of four thousand dollars. The license fee for a A distributor is shall~~
3 ~~apply annually for a license and pay a license fee of one thousand five hundred~~
4 ~~dollars. The license fee for a manufacturer is four thousand dollars. Application~~
5 ~~must be made on a form prescribed by the attorney general before the first day of~~
6 ~~April in each year.~~

7 2. A licensed distributor may not sell, market, or distribute gaming equipment except
8 to a licensed distributor, licensed organization, organization that has a local permit,
9 or other person authorized by gaming rule or the attorney general. A manufacturer
10 of a pull tab dispensing device, pull tab, bingo card marking device, or bingo card
11 may only sell, market, or distribute the manufacturer's pull tab dispensing device
12 and processing chip encoded with proprietary software, pull tab, bingo card
13 marking device, or bingo card to a licensed distributor. A licensed distributor may
14 purchase or acquire a pull tab dispensing device and processing chip encoded with
15 proprietary software, pull tab, bingo card marking device, or bingo card only from a
16 licensed manufacturer or licensed distributor. However, a distributor may purchase
17 or acquire a used pull tab dispensing device from a licensed organization. A
18 distributor may not duplicate a manufacturer's processing chip encoded with
19 proprietary software. No gaming equipment or prizes may be sold at an excessive
20 price.

21 **SECTION 12. AMENDMENT.** Subsections 3 and 8 of section 53-06.1-15.1 of the
22 North Dakota Century Code are amended and reenacted as follows:

23 3. Seize and remove from a site or premises and impound any gaming equipment,
24 supplies, games, or books and records for the purpose of examination and
25 inspection. ~~When books or records are seized, the attorney general shall provide~~
26 ~~copies of those records or books within seventy two hours of a specific request by~~
27 ~~the organization for a copy of the books or records seized.~~

28 8. Require ~~a licensed~~ or authorize an organization to pay a bingo or raffle prize to a
29 player on a dispute or based on a factual determination or a hearing by the
30 attorney general.

1 **SECTION 13. AMENDMENT.** Subsection 2 of section 53-06.1-16 of the North Dakota
2 Century Code is amended and reenacted as follows:

- 3 2. It is unlawful for a person ~~playing or conducting a game, or otherwise:~~
- 4 a. To use bogus or counterfeit chips or pull tabs or to substitute or use any
5 game, cards, pull tabs, or game piece that have been marked or tampered
6 with.
 - 7 b. To employ or have on one's person any cheating device to facilitate cheating
8 in any game, or to attempt to commit or commit a theft, or to assist in
9 committing any other fraudulent scheme.
 - 10 c. To willfully use any fraudulent scheme or technique, including when a person
11 directly or indirectly solicits, provides, or receives inside information of the
12 status of a game of pull tabs for the benefit of any person.
 - 13 d. To alter or counterfeit a site authorization, license, or North Dakota gaming
14 stamp.
 - 15 e. To knowingly cause, aid, abet, or conspire with another person or to cause
16 any person to violate this chapter or a gaming rule.

17 A person violating this subsection is guilty of a class A misdemeanor unless the
18 total amount gained through the use of these items, schemes, or techniques
19 resulted in a person obtaining over five hundred dollars, then the offense is a
20 class C felony. However, if a person knowingly uses a fraudulent scheme
21 regarding soliciting, providing, using, or receiving inside information involving the
22 game of pull tabs or uses a fraudulent scheme or technique to cheat or skim
23 involving pull tabs, twenty-one, paddlewheels, or bingo, regardless of the amount
24 gained, the offense is a class C felony.

25 **SECTION 14. REPEAL.** Section 53-06.1-18 of the North Dakota Century Code is
26 repealed.