

Fifty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2249

Introduced by

Senators J. Lee, Cook, Polovitz

Representatives DeKrey, Porter, Warner

1 A BILL for an Act to create and enact a new section to chapter 55-02 of the North Dakota  
2 Century Code, relating to protection of historical sites; to amend and reenact section 55-02-07  
3 and subsection 2 of section 55-10-08 of the North Dakota Century Code, relating to the powers  
4 of the state historical board; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 55-02-07 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **55-02-07. Protection of historical or archaeological artifacts or sites.** Any  
9 historical or archaeological artifact or site that is found or located upon any land owned by the  
10 state or its political subdivisions or otherwise comes into its custody or possession and which  
11 is, in the opinion of the director of the state historical society, significant in understanding and  
12 interpreting the history and prehistory of the state, may not be destroyed, defaced, altered,  
13 removed, or otherwise disposed of in any manner without the approval of the state historical  
14 board, unless section 2 of this Act applies to the site. Notification of the director's opinion of  
15 significance must be communicated to the appropriate governing official. The state historical  
16 board through the director ~~shall~~, within sixty days of written notification to it by the appropriate  
17 governing official of the state or political subdivision's desire, need, or intent to destroy, alter,  
18 remove, or otherwise dispose of a significant artifact or site, shall provide the governing official  
19 written direction for the care, protection, excavation, storage, destruction, or other disposition of  
20 the significant artifact or site. The state and its political subdivisions shall cooperate with the  
21 director in identifying and implementing any reasonable alternative to destruction or alteration  
22 of any historical or archaeological artifact or site significant in understanding and interpreting  
23 the history and prehistory of the state before the state historical board may approve the  
24 demolition or alteration.

1           **SECTION 2.** A new section to chapter 55-02 of the North Dakota Century Code is  
2 created and enacted as follows:

3           **Protection of public health and safety on sites having a public function.**

4   Notwithstanding any other provision of law, if the state or a political subdivision has a property  
5 interest in real property and that property has an existing public function in addition to any  
6 historical site registration or historical significance determination, the governing body of the  
7 agency or political subdivision owning the property interest may improve, alter, modify, or  
8 destroy that property if the agency or governing body determines that action is necessary to  
9 protect public health or safety, to provide access for disabled persons, or to ensure structural  
10 integrity. If an action is to be taken by an agency or governing body under this section, notice  
11 of intent to take the action must be given to the director at the onset of the planning process. At  
12 the director's request, the agency or governing body shall inform the director of each meeting at  
13 which planning or decisions on a project are on the agenda. At each meeting, the agency or  
14 governing body shall provide the director with an opportunity to comment or provide  
15 preservation funding for the proposed project and the agency or governing body shall consider  
16 the director's comments or offers of funding in the development and implementation of the  
17 project. Although the agency or governing body may take the action it deems necessary, the  
18 agency or governing body shall make all reasonable effort to preserve the historical  
19 characteristics of a site taking into consideration economic and technical feasibility. If the  
20 action of a governing body of a political subdivision involves completely removing or  
21 demolishing a building, a petition for a public vote on the governing body's action containing the  
22 names of at least ten percent of the qualified electors from that governing body's jurisdiction  
23 who voted in the last preceding general election may be filed with the county auditor within sixty  
24 days of the governing body's final action. If a petition is filed, the matter must be submitted for  
25 a vote of the qualified electors at the next special, primary, or general election held in that  
26 jurisdiction. If the political subdivision is a home rule jurisdiction with its own referendum  
27 procedures, however, the home rule referendum procedures apply to the action of the  
28 governing body.

29           **SECTION 3. AMENDMENT.** Subsection 2 of section 55-10-08 of the North Dakota  
30 Century Code is amended and reenacted as follows:

1           2.    The state or a political subdivision may not demolish or cause to alter the physical  
2                features or historic character of any site listed in the state historic sites registry as  
3                a state historic site without first obtaining the prior approval from the director of the  
4                state historical society upon authorization of the state historical board, unless  
5                section 2 of this Act applies to the site. The state and political subdivisions shall  
6                cooperate with the director of the state historical society in identifying and  
7                implementing any reasonable alternative to demolition or alteration of any state  
8                historic site before the board approves the demolition or alteration.

9       **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.