

June 2007

## **TITLE 54**

### **State Government**

### **Summary of Bills Enacted by 2007 Legislative Assembly**

This memorandum summarizes 2007 legislation primarily affecting North Dakota Century Code (NDCC) Title 54. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

#### **RELOCATION ASSISTANCE**

**House Bill No. 1104** removes the July 31, 2007, expiration date from a provision that eliminates the statutory maximum amount a state agency may provide for payment to displaced persons for the reestablishment of a displaced farm, nonprofit organization, or small business at a new site as a result of a project undertaken by the state agency.

#### **STATE EMBLEMS, SYMBOLS, AND AWARDS**

**Senate Bill No. 2145** declares the chokecherry as the official fruit of the state.

#### **LEGISLATIVE ASSEMBLY**

**House Bill No. 1106** increases the compensation of members of the Legislative Assembly for services during a legislative session from \$125 per day to \$130 effective July 1, 2007, and to \$135 effective July 1, 2008. The bill increases the monthly biennium compensation for members of the Legislative Assembly from \$350 per month to \$364 effective July 1, 2007, and to \$378 effective July 1, 2008. The bill increases the compensation for attendance at Legislative Council and interim committee meetings from \$100 per day to \$104 effective July 1, 2007, and to \$108 effective July 1, 2008.

**House Bill No. 1001** increases the monthly pay of the majority and minority leaders of the Senate and the House of Representatives from \$250 to \$260 on July 1, 2007, and to \$270 on July 1, 2008. The bill also increases the compensation for attendance at Legislative Council and interim committee meetings from \$100 per day to \$135 per day effective July 1, 2009.

**Senate Bill No. 2310** authorizes the Legislative Assembly or either house of the Legislative Assembly to accept donations of funds. The bill provides that any funds received as a donation may be expended by the Legislative Assembly by concurrent resolution or the appropriate house upon motion. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 10, 2007.

#### **STATE EMPLOYEES AND OFFICERS**

**House Bill No. 1107** increases the mileage reimbursement for state officials and employees from 37.5 cents to 45 cents per mile.

#### **GOVERNOR AND LIEUTENANT GOVERNOR**

**Senate Bill No. 2001** increases the salary of the Governor from \$92,483 to \$96,183 through June 30, 2008, and to \$100,031 thereafter. The bill increases the salary of the Lieutenant Governor from \$71,797 to \$74,668 through June 30, 2008, and to \$77,655 thereafter. The bill also transfers the Office of Faith-Based and Community Initiatives from the Governor's office to the Department of Commerce.

**Senate Bill No. 2276** requires the Governor's Prevention and Advisory Council to contract with or grant funds to entities to discourage impaired driving and alcohol and drug abuse by minors. The bill authorizes the council to accept grants and gifts from any source and appropriates those funds on a continuing basis. The bill also appropriates \$100,000 from the community health trust fund to the Governor for the purposes of the Prevention and Advisory Council.

## SECRETARY OF STATE

**Senate Bill No. 2002** increases the salary of the Secretary of State from \$73,568 to \$76,511 through June 30, 2008, and to \$79,571 thereafter.

**Senate Bill No. 2153** increases from \$20 to \$25 the fee for filing any process, notice, or demand of service with respect to the North Dakota Registered Agents Act. The bill also specifies the procedure for service of process on the Secretary of State under the North Dakota Registered Agents Act.

**House Bill No. 1340** provides that 10 percent of the fees received by the Secretary of State for filing records of a publicly traded corporation must be deposited in the Secretary of State's general services operating fund to pay the cost to administer the provisions of the North Dakota Publicly Traded Corporations Act.

## STATE AUDITOR

**Senate Bill No. 2053** removes the requirement that the State Auditor notify the governing body of a political subdivision of the date, time, and location of a test conducted in connection with a review and assessment of computer systems or related security systems. The bill authorizes the executive officer of a state agency to appoint a designee to attend and observe any test during which confidential information may be accessed or controlled. The bill also authorizes a state agency receiving federal tax information, in conjunction with the State Auditor, to enter a contract with a vendor selected by the State Auditor to conduct a review and assessment of the state agency's computer systems and related security systems, including an assessment of system vulnerability, network penetration, potential security breach, and susceptibility to cyber attack or cyber fraud.

**House Bill No. 1318** removes the requirement that the State Auditor conduct information technology compliance reviews and monitor major information technology projects for compliance with project management and information technology standards and policies and makes those responsibilities discretionary for the State Auditor.

**Senate Bill No. 2004** increases the salary of the State Auditor from \$73,568 to \$76,511 through June 30, 2008, and to \$79,571 thereafter.

## STATE TREASURER

**Senate Bill No. 2005** increases the salary of the State Treasurer from \$69,474 to \$72,253 through June 30, 2008, and to \$75,143 thereafter.

## ATTORNEY GENERAL

**Senate Bill No. 2003** increases the salary of the Attorney General from \$80,761 to \$83,991 through June 30, 2008, and to \$87,351 thereafter. The bill also authorizes the Criminal Justice Information Sharing Board to appoint and employ a director and authorizes the director to employ other personnel. The bill authorizes the director to contract with the Bureau of Criminal Investigation for the processing of federal fingerprint identification.

**House Bill No. 1330** authorizes the Attorney General to establish a Multijurisdictional Drug Task Force grant fund and requires the State Treasurer to transfer to the fund \$105,625 each quarter, starting July 1, 2007. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on May 1, 2007.

**Senate Bill No. 2098** repeals statutory provisions relating to the development of a block house program by the Attorney General.

**House Bill No. 1092** changes references from the juvenile supervisor to the director of juvenile court with respect to judicial officers that the Attorney General is required to defend in an action founded upon an act or omission arising out of the performance of an official duty.

## INDUSTRIAL COMMISSION

**Senate Bill No. 2288** establishes a Renewable Energy Council and renewable energy fund and requires the Industrial Commission to consult with the council in matters of policy affecting the administration of the renewable energy development fund. The bill authorizes the Industrial Commission to provide financial assistance and provide other incentives for a variety of renewable energy studies and technologies.

**House Bill No. 1515** authorizes the Industrial Commission to establish an incentive program to assist the agricultural community to demonstrate the production, harvest, storage, and delivery of a biomass feedstock on a commercial scale to a private sector end user. The bill provides that the authorization is effective if Senate Bill No. 2288 does not become effective. The bill provides that if Senate Bill No. 2288 becomes effective, the Industrial Commission, in coordination with the Renewable Energy Council, may establish the biomass incentive and research program. The bill also establishes a biomass incentive and research fund.

**House Bill No. 1503** extends the effective date of the tribal-state guaranty program from June 30, 2007, to July 31, 2011.

**Senate Bill No. 2214** provides that when the Industrial Commission acquires property through the exercise of eminent domain, the acquisition must be done subject to NDCC Chapter 32-15.

**House Bill No. 1060** provides for the establishment of a geologic data preservation fund to be used to defray the expenses of preserving geologic data compiled by the Industrial Commission and disseminating the data to county, state, and federal departments and agencies and members of the general public. The bill also provides that provisions in NDCC Title 38 authorizing the Industrial Commission to perform well and hole pluggings, reclamation work, equipment removal, leak prevention, and similar work are not subject to the state purchasing practices under Chapter 50-44.4.

**House Bill No. 1127** authorizes the Industrial Commission to borrow money in an amount not to exceed \$6 million from the Bank of North Dakota for a period not to exceed five years on the terms and conditions as the Bank of North Dakota and the Industrial Commission may approve without the necessity of establishing or maintaining any reserve fund as otherwise required for evidences of indebtedness issued with respect to activities of the Lignite Research Council. The bill provides that a request to have material designated as confidential which is received by the Industrial Commission and which consists of trade secrets or the commercial, financial, or proprietary information of individuals or entities applying to or contracting with the Industrial Commission or receiving Industrial Commission services is exempt from open records requirements. The bill also provides that procurements through a contract or other instrument executed by the Industrial Commission under NDCC Chapter 49-24 are not subject to state purchasing requirements.

**House Bill No. 1439** increases the membership of the Oil and Gas Research Council from seven members to eight members by adding as a member the president of the Northern Alliance of Independent Producers or the designee of the president.

**House Bill No. 1128** establishes a North Dakota Pipeline Authority to be governed by the Industrial Commission. The bill enumerates the powers of the pipeline authority and authorizes the Industrial Commission to issue evidences of indebtedness. The bill provides that until sold or disposed by the pipeline authority, the authority and the pipeline facilities are exempt from certain regulations of the Public Service Commission. The bill requires the pipeline authority to report to the Legislative Council during each biennium and exempts procurements of the authority from the state purchasing practices provisions. The bill provides that federal or state assistance for the oil and gas research, development, and marketing program established for the Oil and Gas Research Council are not considered business incentives for the purposes of NDCC Chapter 54-60.1. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on April 11, 2007.

**Senate Bill No. 2077** provides that the North Dakota Pipeline Authority and pipeline facilities built by the authority are subject to Public Service Commission jurisdiction with respect to violations of pipeline safety standards.

### **NORTH DAKOTA LIBRARIES**

**House Bill No. 1309** requires the State Library to withhold from the amount of state aid to which a public library is entitled during the 2007-09 biennium any amount the public library received in excess of that to which the library was entitled during the 2005-07 biennium, as a result of a statutory dispute regarding the meaning of a mill levy. The bill also requires the State Library, from the amounts withheld during the biennium, to provide to each public library that received less than the amount to which it was entitled during the 2005-07 biennium, the difference between the amount the library received during the 2005-07 biennium and the amount that it would have received, but for the statutory dispute regarding the meaning of a mill levy. The bill is effective through June 30, 2009.

**House Bill No. 1103** provides that a public library is not eligible to receive state aid to public library funds during a fiscal year if the governing body has diminished, from the average of the three preceding fiscal years, the appropriation, in dollars, derived from the mill levy for public library services. The bill provides that if a governing body is levying the maximum number of mills it may levy without having an election to increase the mill levy and the appropriation is diminished below the average of the three preceding fiscal years solely because of a reduction in the taxable valuation, the public library is eligible to receive state aid funds. The bill repeals a statutory provision which deemed a public library ineligible to receive state aid funds if the governing body has diminished the mill levy on taxable valuation below the average of the three preceding fiscal years or the appropriation for public services below an amount equal to the revenue derived from the maximum mill levy for public library services. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 8, 2007.

**Senate Bill No. 2061** revises a provision requiring the state librarian to compile statistics on North Dakota libraries to provide that the statistics must be compiled on all public libraries in the state.

### **BUDGET STABILIZATION FUND**

**House Bill No. 1429** provides that effective July 1, 2009, any amounts provided by law for deposit in the budget stabilization fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than 10 percent of the current biennial state general fund budget may not be deposited or retained in the fund but must be deposited instead in the state general fund. Currently the threshold is any amount greater than 5 percent.

### **LEGISLATIVE COUNCIL**

**Senate Bill No. 2028** removes the statutory requirement for reports to the Budget Section regarding the use of the State Forester reserve account, duplicative payments and transfers to the state tuition fund, status of the performance assurance fund, the Department of Commerce's Internet web site for career guidance and job opportunities, and the status of the Workforce Safety and Insurance building maintenance account. The bill also removes the statutory requirement for annual reports to the Legislative Audit and Fiscal Review Committee by the Information Technology Department.

**House Bill No. 1028** creates an Energy Development and Transmission Committee of the Legislative Council to study each facet of the energy industry. The bill is effective through August 1, 2011.

**House Bill No. 1462** requires the Energy Development and Transmission Committee of the Legislative Council to study the impact of a comprehensive energy policy for the state. The bill also provides that the committee may study the taxation of shallow gas to reduce energy costs.

**Senate Bill No. 2030** repeals the requirement that the Legislative Council appoint an interim No Child Left Behind Committee.

**House Bill No. 1156** removes the July 31, 2007, expiration date of the Workers' Compensation Review Committee.

**Senate Bill No. 2402** changes the expiration date of the Committee on Tribal and State Relations from July 31, 2007, to July 31, 2009. The bill also provides that if the executive director of the Indian Affairs Commission or any of the tribal chairmen appoints a designee to serve on the Native American Tribal Citizens' Task Force, only one individual may serve as that designee during the biennium but allows a substitute designee to be appointed by the executive director of the Indian Affairs Commission or a tribal chairman in the event of the death, incapacity, resignation, or refusal to serve of the initial designee.

### **INDIAN AFFAIRS COMMISSION**

**House Bill No. 1098** reduces the number of members of the Indian Affairs Commission appointed by the Governor from four to three and reduces from three members to two members who must be of Indian descent and must be enrolled members of a tribe. The bill also adds as a member of the commission the chairman or the chairman's designee of the Sisseton-Wahpeton Oyate of the Lake Traverse Reservation.

### **OFFICE OF MANAGEMENT AND BUDGET**

**House Bill No. 1031** continues the requirement that the budget request for the North Dakota University System include budget estimates for block grants for a base funding component, an initiative funding component, and an asset funding component, and continues the requirement that the appropriation for the University System include block grants for a base funding appropriation, an initiative funding appropriation, and an asset funding appropriation through June 30, 2009. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 8, 2007.

**House Bill No. 1032** continues through June 30, 2009, the North Dakota University System authority to carry over at the end of the biennium unspent general fund appropriations. The bill was declared to be an emergency measure and became effective upon its filing with the Secretary of State on March 8, 2007.

**Senate Bill No. 2321** allows a political subdivision subject to the merit system established under NDCC Chapter 54-44.3 to file a request with North Dakota Human Resource Management Services to be exempted from the merit system. The bill requires that the request describe a plan and a policy that assures the political subdivision has developed a merit system plan that meets federal standards for personnel administration. The bill requires the director of the Department of Human Services and Human Resource Management Services to authorize the political subdivision plan within 60 days of receiving a request if the plan and policies meet federal requirements. The bill also requires Human Resource Management Services and the Department of Human Services to develop oversight and audit procedures for political subdivision merit plans to assure compliance with federal merit system principles.

**House Bill No. 1483** requires the Office of Management and Budget, in coordination with the State Board of Higher Education, to develop guidelines for a biobased procurement program. The bill encourages the Office of Management and Budget, the institutions of higher education, and any other state agency or institution that has authority to purchase products to purchase environmentally preferable products and, where practicable, specify biobased products. The bill becomes effective on July 1, 2008.

**Senate Bill No. 2093** removes statutory language relating to the establishment and administration of a system of procurement for small purchases and a reference to the establishment of a purchasing card system.

**Senate Bill No. 2019** authorizes the International Peace Garden to participate in the procurement program administered by the Office of Management and Budget.

**House Bill No. 1102** increases from \$20,000 to \$50,000 the maximum amount of fees that may be paid during a 12-month period immediately preceding negotiation of a contract by a single state agency for professional services performed by any one architectural, engineering, or land surveying person or firm. The bill increases from \$10,000 to \$25,000 the maximum amount of fees estimated for architect, engineer, construction management, or land surveying services for a project for which a state agency may secure the services by direct negotiation and selection.

## **PUBLIC EMPLOYEES RETIREMENT SYSTEM**

**House Bill No. 1078** allows an employee of the State Board for Career and Technical Education the option to transfer from the Teachers' Fund for Retirement to the Public Employees Retirement System by 5:00 p.m. on August 31, 2007, and allows future employees hired by the State Board for Career and Technical Education to elect to join the Public Employees Retirement System rather than the Teachers' Fund for Retirement. The bill provides that for those employees who elect to transfer to the Public Employees Retirement System, the Teachers' Fund for Retirement must move the employee's service, account balance, and pay and contribution history to the Public Employees Retirement System and the Public Employees Retirement System becomes responsible for any benefits due based on each employee's service.

**Senate Bill No. 2044** provides that a retiree of the Public Employees Retirement System defined benefit retirement plan is to receive an additional one-time payment equal to 75 percent of the retiree's monthly retirement benefit in either January 2008 or January 2009 if the total return on the fund is 9.06 percent or higher in the preceding actuarial report. The bill also provides that a retiree of the judges' retirement system is to receive a payment adjustment of 2 percent of the individual's retirement benefit in January 2008 and January 2009 if the Public Employees Retirement Board determines there is actuarial margins sufficient to pay the increases.

**Senate Bill No. 2045** allows a separate prescription drug plan to be provided for retirees due to the establishment of the federal Medicaid Part D prescription drug program. The bill allows the retiree health credit for employees and spouses, who are also state employees, to be combined. The bill requires temporary employees to work a minimum of 20 hours per week and at least 20 weeks per year to be eligible to participate in the uniform group insurance program. The bill also allows a temporary employee's employer to determine whether the temporary employee or the employer will pay the monthly premium for the health insurance coverage.

**House Bill No. 1432** authorizes the Public Employees Retirement System Board to establish a collaborative drug therapy program available to individuals in the medical and hospital benefits coverage group to improve the health of individuals in identified health populations and to manage health care expenditures. The bill authorizes the board to seek and accept private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources for the collaborative drug therapy program.

**House Bill No. 1433** requires the Public Employees Retirement System Board to establish a collaborative drug therapy program to be available to individuals in the medical and hospital benefits coverage group. The bill provides that the purpose of the program is to improve the health of individuals with diabetes and to manage health care expenditures.

**House Bill No. 1179** requires the Garrison Diversion Conservancy District and district health units that are required to participate in the Public Employees Retirement System to participate in the uniform group insurance program under the same terms and conditions as state agencies.

**Senate Bill No. 2047** provides for an automatic enrollment process for new employees in the deferred compensation program at \$25 per month unless the employee elects not to participate. The Governor vetoed the bill after the conclusion of the legislative session.

## **UPPER GREAT PLAINS TRANSPORTATION INSTITUTE**

**House Bill No. 1065** changes the membership of the Upper Great Plains Transportation Institute Advisory Transportation Council to include a representative of the North Dakota Association of Counties, the North Dakota League of Cities, and the Lignite Energy Council. The bill also changed a reference in the membership of the council to reflect the name change of the Greater North Dakota Association to the North Dakota Chamber of Commerce.

## INFORMATION TECHNOLOGY DEPARTMENT

**Senate Bill No. 2037** provides that the Chief Information Officer may require information technology contractors to submit to a criminal history record check; authorizes the Information Technology Committee to receive and review project startup and project closeout reports for major information technology projects of an executive branch agency or the State Board of Higher Education; authorizes the Information Technology Department to request and review information regarding any information technology project of an executive branch agency with a total cost between \$100,000 and \$250,000 as determined by the department; revises the contents of the statewide information technology plan and the Information Technology Department annual report; and requires the Information Technology Department, at the direction of the Criminal Justice Information Sharing Board, to maintain a criminal justice data information sharing system to facilitate the exchange of criminal justice information among judicial, law enforcement, and emergency personnel.

**Senate Bill No. 2038** requires the Legislative Council's Information Technology Committee to receive a report from the Chief Information Officer regarding the recommendations of the State Information Technology Advisory Committee relating to the prioritization of proposed major information technology projects and other information technology issues. The bill authorizes the Chief Information Officer to exempt an agency from the information technology policies, standards, and guidelines to address situations unique to the agency. The bill requires the Information Technology Advisory Committee to review policies, standards, and guidelines developed by the Information Technology Department, and requires the Chief Information Officer to submit recommendations of the committee regarding information technology issues to the Information Technology Committee for its consideration. The bill requires the State Information Technology Advisory Committee to review major information technology projects submitted to it by the Information Technology Department and rank the projects that receive the committee's affirmative recommendation.

**House Bill No. 1021** authorizes the Information Technology Department, upon approval of the Emergency Commission, to borrow from the Bank of North Dakota an amount necessary to pay telecommunications costs for connecting approved schools and libraries if e-rate funding is not received by the department from the Schools and Libraries Division of the Universal Service Administrative Company. The bill also requires the Information Technology Committee to receive and review information, including a project startup report summarizing the project description, project objectives, business need or problem, cost-benefit analysis, and project risks and a project closeout report summarizing the project objectives achieved, project budget and schedule variances, and lessons learned, from the affected legislative or judicial branch agency regarding any information technology project of the legislative or judicial branch with a total cost of \$250,000 or more.

**House Bill No. 1461** requires the Legislative Council's Information Technology Committee to receive information from the State Board of Higher Education regarding higher education information technology planning, services, and major projects. The bill requires the Information Technology Department to collaborate with the State Board of Higher Education on guidelines for reports to be provided by institutions under the control of the State Board of Higher Education on information technology in those entities. The bill removes the requirement that institutions under the control of the State Board of Higher Education prepare an information technology plan subject to approval by the Information Technology Department.

**Senate Bill No. 2260** authorizes the Chief Information Officer to require as a condition of contracting with the Information Technology Department or other state agency or department with respect to an information technology project that any individual employed by the contractor or a subcontractor to perform work under the contract submit to a criminal history record check.

**Senate Bill No. 2118** provides that the annual report of the Information Technology Department must describe the status and progress of state records management programs.

**Senate Bill No. 2127** changes a reference with respect to the hiring by the Educational Technology Council of the director of the Division of Independent Study to reflect the change of the name of the Division of Independent Study to the Center for Distance Education.

## **DEPARTMENT OF COMMERCE**

**House Bill No. 1018** revises the Housing Finance Agency mortgage loan financing program and the housing grant program to allow assistance in the development of low to moderate income housing or to otherwise assist a developing community in the state address an unmet housing need or alleviate a housing shortage. The bill requires the Division of Workforce Development of the Department of Commerce to develop and implement the state's talent strategy and a statewide intelligence coordination strategy and to administer a program to increase use of higher education internships and work experience opportunities for higher education students. The bill requires the Division of Workforce Development, in consultation with the Department of Career and Technical Education, Job Service North Dakota, and the Superintendent of Public Instruction, to develop and implement a program to assist public schools in promoting North Dakota career opportunities to students in grades 9 through 12. The bill requires the Department of Commerce to implement and administer a beginning again North Dakota pilot program to develop a data base of skills and other assets of communities and residents to be used to advance the internal and external attitude and image of the state.

**House Bill No. 1137** repeals provisions in NDCC Chapter 54-34.3 which relate to the establishment of an international business and trade office, a North Dakota American Indian business development office, and a North Dakota women's business development office and reenacts similar provisions in Chapter 54-60. The bill changes the membership of the Value-Added Agriculture Promotion Board to provide that the board consists of a minimum of 9 and maximum of 11 members and adds a representative of the Agricultural Products Utilization Commission as a member of the board. The bill requires that the North Dakota Economic Development Foundation Executive Committee include up to three members at large and a treasurer in addition to the chairman, vice chairman, and secretary.

**House Bill No. 1095** provides that a "business incentive" must be assistance in all forms valued at \$25,000 or more committed within a year. The bill provides that a business incentive in the form of a direct cash transfer that is not a structured grant under state or federal law must be structured as a loan, a forgivable loan, or as a preferred share that includes provisions for surrender.

**House Bill No. 1019** provides that the Workforce Enhancement Council consists of the private sector members of the Workforce Development Council, the director of the Department of Commerce, and the director of the Division of Workforce Development. The bill requires the Workforce Enhancement Council to recommend to the Commissioner of Commerce the approval of grants to institutions of higher education assigned primary responsibility for workforce training to be used to create or enhance training programs that address workforce needs of primary sector companies. The bill also establishes a workforce enhancement fund.

## **COMMISSION ON LEGAL COUNSEL FOR INDIGENTS**

**House Bill No. 1059** provides that information or records obtained by the Commission on Legal Counsel for Indigents which relate to allegations of misconduct by an attorney in the employ of, or providing indigent services for, the commission are exempt from disclosure except as otherwise provided in rules adopted by the commission unless and until the matter is referred for formal disposition under rules adopted by the Supreme Court.