

June 2009

## **TITLE 54**

### **State Government**

### **Summary of Bills Enacted by 2009 Legislative Assembly**

This memorandum summarizes 2009 legislation primarily affecting North Dakota Century Code Title 54. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

#### **Legislative Assembly**

**House Bill No. 1178** authorizes the Legislative Council to establish a policy under which a member of the Legislative Assembly who has paid a computer usage fee to purchase the computer used by that member for the appraised or market value of the computer upon replacement of the computer by the Legislative Council. The bill provides that funds received from the sale of any computer must be deposited in the legislative services fund.

**Senate Bill No. 2064** increases the session compensation for members of the Legislative Assembly from \$135 per day to \$141 per day from August 1, 2009, through July 1, 2010, and to \$148 per day thereafter. The bill changes session lodging reimbursement for members of the Legislative Assembly from a maximum of \$900 per month to an amount established by the director of the Office of Management and Budget. The bill requires the director of the Office of Management and Budget to set the maximum monthly reimbursement amount on August 1 of each even-numbered year at an amount equal to 30 times 55 percent of the daily lodging reimbursement in effect on that date for state employees and officers. The bill increases the monthly biennium compensation for members of the Legislative Assembly from \$378 to \$396 from August 1, 2009, through July 1, 2010, and to \$415 thereafter. The bill increases the compensation for members of the Legislative Assembly for attendance at interim committee meetings from \$135 per day to \$141 per day from August 1, 2009, through July 1, 2010, and to \$148 thereafter. The bill changes the state officer and employee mileage reimbursement to an amount established by rules adopted by the director of the Office of Management and Budget, which must be at the same rate as established by the United States General Services Administration. The bill changes the mileage reimbursement for state officers and employees who travel by private airplane to a sum equal to one and one-half times the mileage reimbursement established for travel by motor vehicle.

#### **State Employees and Officers**

**House Bill No. 1029** establishes statutory requirements for state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues. The bill provides that executive branch agencies having employees in the classified service are subject to rules adopted by Human Resource Management Services and approved by the State Personnel Board and the Legislative Council's Administrative Rules Committee. The bill requires each executive branch agency, excluding an institution of higher education, which has employees who are not in classified service and which establishes rules or policies relating to employee service awards, employer-paid tuition, or employer-paid professional organization membership and service club dues to submit the rules or policies to the Office of Management and Budget for review and comment. The bill also requires the agency to submit the rules or policies to the Administrative Rules Committee for approval after addressing any comments from the Office of Management and Budget. The bill provides that expenditures for state employee service awards, employer-paid tuition, and employer-paid professional organization membership and service club dues are not a gift for purposes of Section 18 of Article X of the Constitution of North Dakota.

**House Bill No. 1030** increases the state employee performance bonus limitation from \$1,000 per biennium to \$1,000 per fiscal year and authorizes Human Resource Management Services to approve pay bonuses above the 25 percent limitation upon a showing of special circumstances.

**House Bill No. 1031** defines "hard-to-fill occupation" for purposes of the state recruitment and retention bonus program as an occupation or position in which demand exceeds supply, special qualifications are required, competition with other employers is the strongest, there is a risk of losing an incumbent with rare skills, the position is filled by a highly skilled employee who is in high demand in the marketplace, loss of the employee would result in significant replacement costs, the position is filled by key personnel, or the position has other unique recruitment or retention issues identified and documented by the appointing authority.

**House Bill No. 1181** authorizes the executive officer in charge of a state agency or the governing body of a political subdivision to grant a leave of absence to a full-time employee of that agency or political subdivision who is a volunteer member of the North Dakota Army or Air National Guard in the event of a declared disaster or

emergency. The bill also authorizes a grant of a leave of absence for a search emergency by the Air Force Rescue Coordination Center or by the Department of Emergency Services. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on March 24, 2009.

**House Bill No. 1016** increases the cumulative leave an emergency service volunteer may be granted by a state agency or political subdivision from 10 working days to 20 working days during any calendar year. The portion of the bill making this change was declared to be an emergency measure and became effective upon filing with the Secretary of State on May 19, 2009.

### **Governor and Lieutenant Governor**

**House Bill No. 1001** increases the salary of the Governor from \$100,031 to \$105,034 through June 30, 2010, and to \$110,285 thereafter. The bill increases the salary of the Lieutenant Governor from \$77,655 to \$81,538 through June 30, 2010, and to \$85,615 thereafter.

**House Bill No. 1463** establishes a North Dakota Youth Council consisting of 16 individuals appointed by the Governor, 4 members of the Legislative Assembly, and the Lieutenant Governor. The bill requires the Youth Council to develop a list of issues and concerns pertinent to residents of the state who have not yet reached the age of 25. The Youth Council is required to provide a report and recommendations to the Legislative Council before September 10, 2010. The bill is effective until July 1, 2011.

**House Bill No. 1025** changes a statutory citation to the North Dakota Dairy Promotion Commission to account for the recodification of the provisions relating to the commission.

**House Bill No. 1042** eliminates an obsolete reference to the Administrator's Professional Practices Board.

### **Secretary of State**

**House Bill No. 1002** increases the salary of the Secretary of State from \$79,571 to \$83,550 through June 30, 2010, and to \$87,728 thereafter.

**Senate Bill No. 2392** provides that if any payment of a filing fee presented to the Secretary of State is not honored or paid, or if no lawful form of payment accompanies a filing, any record of credit or payment must be canceled or reversed and the filing or action is void. The bill changes the filing fee that the Secretary of State may charge for a copy of a law, resolution, or other document on file in the Secretary of State's office from \$1 for every four pages to 50 cents per page.

### **State Auditor**

**House Bill No. 1004** increases the salary of the State Auditor from \$79,571 to \$83,550 through June 30, 2010, and to \$87,728 thereafter.

**House Bill No. 1129** increases the hourly rate the State Auditor may charge a political subdivision for reviewing an audit report from \$50 to \$80. The bill provides that the State Auditor may require a city with a population under 500 to submit an annual report rather than a biennial audit. The bill removes language that requires the State Auditor to assume and exercise supervision over the books and financial accounts of the state agencies the State Auditor is required to audit. The bill also repeals a provision that requires the State Auditor to audit a county upon the request of a board of county commissioners. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on April 29, 2009.

**Senate Bill No. 2295** provides that the State Auditor may require a city with a population under 500 to submit an annual report rather than a biennial audit.

**House Bill No. 1148** provides that upon request of the state court administrator, the State Auditor must audit clerk of district court services provided by a county.

### **State Treasurer**

**Senate Bill No. 2012** revises the distribution formula for the highway tax distribution fund. The bill requires the State Treasurer to transfer the first \$5,500,000 per biennium from the fund to the state highway fund for the purpose of providing administrative assistance to other transferees. The bill requires that the remaining funds must be transferred as follows: 61.3 percent must be transferred monthly to the Department of Transportation and placed in the state highway fund, 2.7 percent must be transferred monthly to the township highway fund, 1.5 percent must be transferred monthly to the public transportation fund, and 34.5 percent must be allocated to the counties of the state in proportion to the number of motor vehicle registrations credited to each county. The bill

requires each county, city, and township to provide the Tax Commissioner an annual report on funding and expenditures relating to transportation projects and programs.

**House Bill No. 1130** provides that the allocation to counties of highway tax distribution fund money must be in proportion to the number of vehicle registrations in each county rather than the number of motor vehicle registrations.

**House Bill No. 1005** increases the salary of the State Treasurer from \$75,143 to \$78,900 through June 30, 2010, and to \$82,845 thereafter.

**Senate Bill No. 2135** requires the State Treasurer to correct underpayments, overpayments, or erroneous payments in a timely manner and allows the State Treasurer to determine whether an adjustment of an insignificant amount need be made. The bill requires the State Treasurer to adopt a policy to determine what is considered an insignificant amount. The bill authorizes the State Treasurer to promote access to financial education tools that can help residents of the state to make wiser choices in all areas of personal financial management.

**Senate Bill No. 2145** repeals a provision that requires the State Treasurer upon presentation of any bond issued or assumed by the state and upon application in writing by the owner of the bond, to register the bond in the name of the owner.

**House Bill No. 1168** repeals a provision that states that the registration of bonds by the State Treasurer vests the ownership of the bonds, both principal and interest, in the person in whose name the last registration is made.

**House Bill No. 1115** removes the requirement that the State Treasurer maintain a record, also maintained by the Office of Management and Budget, of the total amount appropriated for each state office or agency, the amount equal to 75 percent and 25 percent of the total appropriated, and the amount expended and on hand.

### **Attorney General**

**House Bill No. 1003** increases the salary of the Attorney General from \$87,351 to \$91,719 through June 30, 2010, to \$96,304 through December 31, 2010, to \$113,266 through June 30, 2011, and to \$130,228 thereafter.

**House Bill No. 1306** authorizes the Attorney General to establish a statewide 24/7 sobriety program and establishes program guidelines and fees. The bill authorizes a district or municipal court to order an offender charged with a violation of driving under the influence of alcohol or drugs, domestic violence, abuse or neglect of a child, or other offense in which alcohol or controlled substances are involved to participate in the 24/7 sobriety program as a condition of bond. The bill creates a 24/7 sobriety program fund and provides a continuing appropriation for the use of money in that fund. The bill appropriates \$100,000 from the general fund to the Attorney General for the purpose of the 24/7 sobriety program.

**House Bill No. 1127** repeals provisions and removes references to the drug enforcement unit.

### **Emergency Commission**

**House Bill No. 1027** allows the Budget Section, based on a recommendation from the Emergency Commission, to authorize state agencies to hire full-time equivalent positions in addition to those authorized by the Legislative Assembly. The bill was declared to be an emergency measure and becomes effective on July 1, 2009.

### **Industrial Commission**

**Senate Bill No. 2018** requires the Industrial Commission to transfer 5 percent of the net income earned by the Mill and Elevator during each fiscal year to the agricultural fuel tax fund.

**Senate Bill No. 2129** combines the provisions relating to the biomass incentive and research program with the renewable energy program. The bill exempts the energy-related programs of the Renewable Energy Council from state procurement laws and the business incentive reporting requirement. The bill defines "advanced biofuel" for the purposes of the Renewable Energy Council law. The bill includes on the Renewable Energy Council a member with a substantial interest in biofuel and sugar-based biofuel. The bill provides that any financial assistance provided by the Industrial Commission for a renewable energy project may not be the sole support of the project and must be conditioned on the assurance that the applicant or a third party will support the project by either monetary or nonmonetary means.

**Senate Bill No. 2127** removes the \$250,000 limitation with respect to financing provided under the first-time farmer finance program. The bill also replaces the \$200,000 net worth maximum for participation in the first-time farmer finance program with an amount established by the loan policy, which may not exceed the requirement of the

beginning farmer revolving loan program. The bill revises the definition of "substantial farmland" for purposes of the first-time farmer finance program by removing the limitation on fair market value of the parcel of land.

**House Bill No. 1165** provides that the mobile home and manufactured housing finance program may provide assistance in the development of low-income to moderate-income housing or to otherwise assist a developing community address an unmet housing need or alleviate a housing shortage.

**House Bill No. 1383** authorizes the North Dakota Pipeline Authority to participate in and provide funding for interconnection pipeline systems.

**Senate Bill No. 2014** revises the declaration of findings and public purpose regarding the lignite industry in the state.

**House Bill No. 1123** removes the requirement that the Industrial Commission approve leases of state-owned property.

### **State Building Code**

**Senate Bill No. 2354** provides that neither the State Building Code nor a building code adopted by a city, township, or county may include a requirement that fire sprinklers be installed in a single family dwelling or a residential building that contains no more than two dwelling units.

**Senate Bill No. 2352** requires standards for energy conservation to be included in the State Building Code.

### **State Radio**

**Senate Bill No. 2163** repeals provisions relating to the State Radio broadcasting system and reenacts similar provisions within Chapter 37-17.3.

### **Crime Victims Compensation**

**Senate Bill No. 2111** increases from \$3,000 to \$5,000 the maximum amount that may be paid by the Department of Corrections and Rehabilitation to cover the funeral, cremation, and burial expenses of a crime victim.

### **Legislative Council**

**House Bill No. 1436** changes the name of the 17-member Legislative Council to Legislative Management.

**Senate Bill No. 2001** increases the additional compensation for legislative majority and minority leaders and the chairman of the Legislative Council from \$270 per month to \$284 per month effective July 1, 2009, and to \$298 per month effective July 1, 2010.

The bill also would have required the Legislative Council, during each biennium, to appoint a Legislative Budget Committee consisting of 16 members to coordinate and direct activities involved in the development of budget recommendations. The bill would have required that the agenda of each organizational session of the Legislative Assembly include a report of the Legislative Budget Committee. The bill would have required the head of each budget unit to submit budget estimates to the Legislative Council by July 15<sup>th</sup> of each even-numbered year and would have required the director of the budget to submit drafts of proposed amendments to appropriation bills. The provisions of the bill relating to the Legislative Budget Committee and the submission of budget estimates and proposed amendments to appropriation bills were vetoed by the Governor after the adjournment of the legislative session.

**House Bill No. 1060** extends the Committee on Tribal and State Relations through July 31, 2011.

**Senate Bill No. 2029** extends the Commission on Alternatives to Incarceration through August 1, 2013. The bill was declared to be an emergency measure and became effective on March 19, 2009.

**Senate Bill No. 2336** replaces the Garrison Diversion Overview Committee with a Water-Related Topics Overview Committee and requires the Legislative Council to appoint the Water-Related Topics Overview Committee during each interim through 2013.

### **Indian Affairs Commission**

**House Bill No. 1059** authorizes the Indian Affairs Commission to accept gifts, grants, donations, and services, and provides continuing appropriation authority to the commission to use any gifts, grants, and donations for the purposes of the commission.

## **Department of Human Services**

**Senate Bill No. 2198** for the purposes of diagnosis and treatment provided by the Department of Human Services, includes within the definition of a resident of the state veterans and nonveterans who have a traumatic brain injury.

## **Office of Management and Budget**

**House Bill No. 1015** requires the Office of Management and Budget to adopt rules establishing the terms under which an executive branch agency may charge a service fee for accepting a payment made by credit or debit card or an electronic fund transfer and authorizes the judicial branch to accept payment made by credit or debit card or an electronic fund transfer for any fees, costs, or other assessments imposed. The bill requires the director of the Office of Management and Budget, upon the request of a state agency, department, or board, to negotiate for, contract for, and obtain additional office space to accommodate the agency, department, or board if office space in the State Capitol becomes insufficient. The bill provides that the agency, department, or board for which the office space is sought must approve the office space before the director may finalize the contract or lease.

The bill would have required the head of each executive branch agency to report each month to the Office of Management and Budget the number of vacant full-time equivalent employee positions and related salary and fringe benefit savings and would have required the Office of Management and Budget to report at each Budget Section meeting on the cumulative savings resulting from the vacant positions. The Governor vetoed this provision of the bill after the adjournment of the legislative session.

**Senate Bill No. 2038** continues through June 30, 2011, the authority for the North Dakota University System to continue at the end of the biennium unspent general fund appropriations and the requirement that the budget request and appropriation of the University System include block grants for a base funding component, an initiative funding component, and an asset funding component.

**Senate Bill No. 2018** requires the Office of Management and Budget to develop and make publicly available an aggregate and searchable database website that includes biennial information listing each budget unit making expenditures, the amount of funds expended, the source of funds expended, the budget program of the expenditure, and any other information determined relevant by the director of the budget.

**Senate Bill No. 2425** requires the director of the Office of Management and Budget to prepare and submit to the Legislative Council by October 1, 2010, a report including the location, expenses, and square footage requirements of all facilities occupied by each state agency. The bill provides that the report must include recommendations for relocation of any entity to achieve improvements in service and efficiencies and recommendations within the master plan for construction of buildings on the Capitol grounds.

**House Bill No. 1460** authorizes state agencies to work with communities and stakeholders to develop proposed property or institution alternative use plans. The bill requires the Office of Management and Budget to introduce any statutory or constitutional changes necessary to implement the plans and request funding for grants to assist communities and institutions for up to the present value of the total estimated savings to the state for the next 10 years resulting from converting a property or institution to an alternative use.

**Senate Bill No. 2131** authorizes the Office of Management and Budget to establish a program for the recycling and disposal of surplus property determined to be unsalable. The bill allows the Office of Management and Budget to assess and collect service charges from the entity from which the property was received to cover the direct and reasonable costs of the service.

**House Bill No. 1067** exempts from the state classified service engineers and geologists employed by the director of mineral resources.

**House Bill No. 1113** provides that the intent of the state classified service to assure fair and equitable treatment for state employees requires state agencies with employees in the classified service to adopt grievance procedures and requires the creation of a statewide appeals mechanism with primary jurisdiction to entertain and resolve classified employee appeals. The bill requires Human Resource Management Services to certify appeals from probationary employees in the classified service which are related to discrimination or reprisal.

## **Public Employees Retirement System**

**Senate Bill No. 2153** provides that of the three members of the Retirement Board elected from active participating members, the members may be participating in the Public Employees Retirement System plan, the defined contribution plan, the Highway Patrolmen's retirement system plan, or the Job Service North Dakota retirement plan. The bill authorizes payment of employee contributions on a pretax basis, instead of on an after-tax basis, for the judges' retirement system and Job Service North Dakota retirement plan via employer pickup under Internal

Revenue Code rules for compensation earned after August 1, 2009. The bill eliminates the 60-month option as a form of payment for surviving spouses in the hybrid plan. The bill allows members of the hybrid plan to elect a new monthly benefit that provides a graduated increase of 1 percent or 2 percent. The bill updates federal compliance provisions of the hybrid plan, including additional language to comply with Internal Revenue Code Section 415(d) and related regulations. The bill authorizes an employer to pay health or life insurance premiums for a permanent employee on an unpaid leave of absence.

**House Bill No. 1173** authorizes the Public Employees Retirement System Board to create and implement an Internal Revenue Code Section 115 trust health care savings plan for all Supreme Court and district court judges participating in the Public Employees Retirement System if 75 percent of the total active participating judges vote to approve the program.

**House Bill No. 1575** allows peace officers employed by the Bureau of Criminal Investigation to participate in the defined benefit retirement plan.

**House Bill No. 1204** requires that the uniform group insurance program provided by the Public Employees Retirement System include medical benefits coverage for medical services related to injuries or illness resulting from intoxication.

**Senate Bill No. 2154** increases the required monthly contribution to the retiree health benefits fund from 1.00 percent of monthly salary to 1.14 percent of monthly salary and increases the monthly retiree health credit from \$4.50 per year of credited service to \$5 per year of credited service. The bill requires that all payments for sick leave credit must be made within 60 days of termination of employment and before the member receives a retirement annuity unless the member has submitted an approved payment plan to the board.

### **Upper Great Plains Transportation Institute**

**Senate Bill No. 2128** adds a North Dakota member of the Dakota Transit Association as a member of the Advisory Transportation Council of the Upper Great Plains Transportation Institute.

### **Office of Administrative Hearings**

**House Bill No. 1464** requires the director of the Office of Administrative Hearings to file a report with the Governor and the State Advisory Council for Administrative Hearings by December 1<sup>st</sup> of each odd-numbered year which must provide information regarding all administrative hearings conducted by the Office of Administrative Hearings during the previous biennium. The bill also amends various statutory provisions to reconcile those provisions with the provisions of initiated measure No. 4, which was adopted at the 2008 general election. The bill eliminates Workforce Safety and Insurance's exemption from the use of the Office of Administrative Hearings for adjudicative proceedings and amends a statutory provision that includes within the state classified service employees of Workforce Safety and Insurance.

### **Information Technology Department**

**Senate Bill No. 2041** expands the membership of the Criminal Justice Information Sharing Board by adding nine members and provides that board members who are not state employees are entitled to compensation of \$75 per day and expense reimbursement.

**Senate Bill No. 2142** changes the requirement that each executive branch agency submit an information technology plan to the Information Technology Department by July 15<sup>th</sup> of each even-numbered year to a requirement that each executive branch agency participate in the information technology planning process and submit a plan to the department by August 15<sup>th</sup> of each even-numbered year. The bill exempts the State Board of Higher Education and the institutions of higher education from the requirement to provide information technology project startup information and project closeout information.

**Senate Bill No. 2332** establishes a Health Information Technology Office within the Information Technology Department and establishes a Health Information Technology Advisory Committee to collaborate with and make recommendations to the Health Information Technology Office regarding implementing a statewide interoperable health information infrastructure. The bill creates an electronic health information exchange fund to be used to facilitate and expand electronic health information exchange. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State on May 19, 2009.

### **Department of Commerce**

**Senate Bill No. 2018** requires the Department of Commerce, Job Service North Dakota, the Department of Career and Technical Education, and the State Board of Higher Education to submit annual reports to the Division of Workforce Development which relate to the current workforce initiatives and activities of each agency and the

agency's plan for future workforce initiatives and activities. The bill also requires those agencies to present workforce-related budget initiatives for the upcoming biennium to the North Dakota Workforce Development Council by November 1<sup>st</sup> of each even-numbered year. The bill authorizes the Commissioner of Commerce, during the 2009-11 biennium, to designate a nonprofit corporation in the state which has the primary purpose of assisting North Dakota exporters for the provision of services for the International Business and Trade Office. The bill requires the Department of Commerce to maintain records of the number of internship, apprenticeship, and work experience opportunities subsidized by the department and establish a base level of funding for each recipient.

**Senate Bill No. 2372** requires the Commissioner of Commerce to promote the development of life science industries in the state, including biotechnology, biomedical sciences, and biopharmaceuticals. The bill provides that if an entity owns or operates an animal or research facility, the ownership or operation does not violate the state corporate farming prohibitions if the Commissioner of Commerce annually certifies to the Secretary of State that the primary purpose of the facility involves the production of products for uses other than human food consumption and the facility is licensed or registered with the United States Department of Agriculture as required by the Animal Welfare Act, the facility has an assurance on file with the United States Public Health Service, or the facility is accredited by the Association for Assessment and Accreditation of Laboratory Animal Care.

**Senate Bill No. 2110** removes the statutory requirement that the Division of Economic Development and Finance include a finance office and an international business and trade office. The bill requires the director of the Division of Economic Development and Finance to identify and coordinate sources of capital and financial assistance and administer programs for financial assistance placed under the administration of the division. The bill also makes revisions to the mission of the Division of Economic Development and Finance and the Division of Tourism. The bill requires the director of the Division of Tourism to work with industry groups to prepare a long-term strategic plan each biennium, coordinate designing the tourism side of the state highway map, and organize and coordinate other marketing activities and events aimed at increasing visitor volume. The bill removes statutory requirements that the Commissioner of Commerce and the Commerce Cabinet develop a list of economic development money included in the budget request of cabinet agencies. The bill requires the Commissioner of Commerce to administer a Rural Development Office to assist in the development of rural communities. The bill creates a North Dakota Rural Development Council composed of between 9 and 17 members. The bill eliminates the Motion Picture Development Office and removes the requirement that the Commissioner of Commerce report biennially to the Legislative Council regarding the process used and factors considered in identifying and updating target industries.

**House Bill No. 1202** provides that an entrepreneurial center award granted by the North Dakota Development Fund, Inc., granted between August 1, 2009, and July 31, 2015, is not considered a business incentive.

**Senate Bill No. 2260** requires the Department of Commerce Division of Community Services to allocate state funds to participating community action agencies to provide matching funds for eligible individual development accounts. The bill provides eligibility requirements and permissible uses for participating households.

#### **Commission on Legal Counsel for Indigents**

**Senate Bill No. 2023** requires the Commission on Legal Counsel for Indigents to contract for public defender services at a minimum level of 50 percent of its biennial caseload.

**House Bill No. 1146** provides that the Commission on Legal Counsel for Indigents must provide indigent defense services to eligible indigent individuals pursuant to the standards and policies of the commission governing eligibility for services.