

2011 NORTH DAKOTA CENTURY CODE TITLE SUMMARIES



**LEGISLATIVE COUNCIL
STATE CAPITOL
BISMARCK, ND 58505**

Almost every bill enacted by the Legislative Assembly contains substantive law. A one paragraph summary of that substantive law is prepared and placed under the relevant North Dakota Century Code title. A bill containing numerous provisions that affect more than one Century Code title will be summarized separately for each relevant title. For example, 2011 House Bill No. 1039 contains provisions affecting NDCC Titles 14, 15, 23, 43, 50, 57, 41, and 65 and a summary of the provisions affecting that relevant title appears under that title.

May 2011

TITLE 1
General Provisions
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 1. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1167 designates March of each year as Women Veterans' Month. The bill requires the Governor to issue an annual proclamation on March 1 in honor and remembrance of surviving and departed women veterans who have served honorably and with courage on behalf of the United States of America since the American Revolutionary War.

Senate Bill No. 2330 requires the governor to issue an annual proclamation designating the dates of the National Fallen Firefighters Memorial Weekend as the North Dakota Fallen Firefighters Memorial Weekend and requiring that flags at state buildings be flown at half staff.

May 2011

TITLE 2

Aeronautics

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 2. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1132 makes technical corrections to Title 2 and broadens the purposes of the Aeronautics Commission. The bill updates the director's and commission's duties, the assistance to airports program, the definition of warbird, and details of aircraft registration.

Senate Bill No. 2206 requires anemometer towers to be painted, have a safety sleeve, and have a marker ball on each guy wire. The bill allows the Aeronautics Commission to establish a database that contains the location of each anemometer tower and enforce safety measures. The bill appropriates \$4,500 to the commission for establishing the database. The bill allows existing anemometer towers until August 1, 2014, to be updated.

May 2011

TITLE 3
Agency
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 3. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 4

Agriculture

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 4. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

APPROPRIATIONS

Senate Bill No. 2009 appropriates \$22,993,097 to the Agriculture Commissioner for the 2009-11 biennium, \$8,191,846 of which comes from the general fund. The bill also sets the salary of the Agriculture Commissioner at \$92,826 during the first year of the biennium and at \$95,610 thereafter. In addition, the bill authorizes the Agriculture Commissioner to promote commodities that are sustainably grown in this state.

House Bill No. 1009 appropriates \$730,000 from the general fund to the State Fair Association for the 2011-13 biennium. The bill also designates the grandstand construction on the state fairgrounds as the Iverson grandstand.

House Bill No. 1020, which is the appropriations bill for the North Dakota State University Extension Service, authorizes the Northern Crops Council to stagger the terms of its producer and industry representative members in order that no more than one of each expires in June 2013.

House Bill No. 1022 appropriates \$6,894,011 in special funds to the State Seed Department for the 2011-13 biennium.

MISCELLANEOUS

House Bill No. 1027 rewrites North Dakota Century Code provisions pertaining to the labeling, certification, and sale of seed. The bill reconciles section references within Title 4 and provides that certain records generated under Chapter 4-10 remain exempt from open record provisions found in Section 44-04-18.

House Bill No. 1090 provides that various regulations and standards applicable to dairy products are to be taken from 2009 publications rather than from 2007 publications.

House Bill No. 1182 maintains the requirement that the State Treasurer establish guidelines for the investment of moneys in the various agricultural commodity assessment funds but removes the requirement that this be done by rule.

House Bill No. 1244 directs the Agriculture Commissioner to monitor federal statutory and regulatory actions related to the slaughter of horses, mules, and other equines and further directs the Agriculture Commissioner to support legislative, regulatory, or contractual avenues that would allow for the slaughter and process of such equines without the restriction that the activity be conducted in establishments separate from any in which other animals are slaughtered or processed.

House Bill No. 1305 clarifies that the Agriculture Commissioner is to administer the Agriculture in the Classroom program, with the advice of the Agriculture in the Classroom Council. The bill also reduces the size of the council from 16 to 7 members.

House Bill No. 1341 repeals Section 4-02-06, which made failing to notify the Agriculture Commissioner of the date and location of a county or district fair an infraction.

House Bill No. 1462 provides that in the case of mediation pertaining to a patent infringement involving genetically modified seed, the mediator may be jointly selected by the farmer and the patent holder or an independent mediation service.

Senate Bill No. 2222 creates a Crop Insurance Development Board and directs it to assess the feasibility and desirability of proposals pertaining to the development and implementation of crop insurance instruments. The bill also requires the Agricultural Products Utilization Commission to reserve \$150,000 from the agricultural fuel tax fund for the purpose of awarding grants that have been approved by the Crop Insurance Development Board.

Senate Bill No. 2254 authorizes write-in candidates for the office of soil conservation district supervisor.

May 2011

TITLE 4.1 Agriculture Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 4.1. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

SEED LAW REWRITE

House Bill No. 1027 rewrites the state's laws relating to the labeling, certification, and sale of seed.

House Bill No. 1399 clarifies the conditions under which the Agriculture Commissioner may issue a phytosanitary certificate and clarifies the requirements pertaining to the licensure of wholesale potato dealers.

AGRICULTURAL COMMODITIES

House Bill No. 1302 increases the number of soybean districts from 8 to 12 and reconfigures the manner in which county representatives and district representatives are elected.

Senate Bill No. 2134 increases the assessment on each colony of honeybees from 5 cents to 10 cents and expands the authorized purposes for which the assessment may be used to include efforts that focus on honeybee colony health.

NOXIOUS WEEDS

House Bill No. 1317 provides that, with respect to the landowner assistance program, the weed board having jurisdiction over the area in which specific land is located may determine the nature and type of the contribution to be made by the landowner. The bill also allows weed officers, before serving notice upon the landowner and requiring the landowner to control the noxious weeds, to first contact land occupants and request that they control the noxious weeds.

Senate Bill No. 2085 provides that a person may not sell, offer for sale, or distribute a noxious weed. The bill also authorizes the Agriculture Commissioner to expend \$50,000 from the environment and rangeland protection fund for the purpose of controlling invasive species.

May 2011

TITLE 5

Alcoholic Beverages

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 5. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1099 allows a domestic winery to participate in a Pride of Dakota event and not have it count against the maximum of 20 events--previously days--allowed by law. The bill allows the Tax Commissioner to examine the books and premises of a direct shipper and adds manufacturer and direct shipper to entities that must pay a penalty for not paying tax.

Senate Bill No. 2009 broadens the events a domestic winery or domestic distillery may sell wine or spirits from designated trade shows, conventions, festivals, or similar events to off premises events.

Senate Bill No. 2133 lists identification that may be used by a licensed retailer of alcoholic beverages to determine age and allows the retailer to seize the identification if there is a reasonable belief that the identification has been altered, falsified, or is being used unlawfully. The bill requires the retailer to notify law enforcement within 24 hours of seizing an identification and requires law enforcement to take possession of the identification within 24 hours of the receipt of notice from the retailer.

Senate Bill No. 2145 exempts from retail licensing a nonprofit organization that sells alcoholic beverages as part of a fundraising activity, for example, a raffle or auction, if not for consumption at that event.

May 2011

TITLE 6

Banks and Banking

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 6. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to banks and banking may be classified in these subject areas: agriculture; education; financial institutions and credit unions; insufficient fund checks; programs; and miscellaneous.

AGRICULTURE

House Bill No. 1462 changes the name of the North Dakota Agricultural Mediation Service to the North Dakota Mediation Service; revises the membership of the Credit Review Board; expands the classifications of people that can use the North Dakota Mediation Service; and repeals the Credit Review Board's program for the purchase, refinancing, or redemption of a farmer's home-quarter.

Senate Bill No. 2081 extends the maximum loan term under the bank loans to beginning farmers program from 25 years to 30 years and under the family farm loan program from 20 years to 30 years.

Senate Bill No. 2342 provides that under the agriculture partnership in assisting community expansion fund program, the term "farm business" includes subsurface field tiling projects and that subsurface field tiling projects are included as authorized uses of loan money received under the program.

EDUCATION

House Bill No. 1428 revises the law allowing the Superintendent of Public Instruction to withhold or intercept state aid to a school district upon notice that school district failed or is expected to fail to pay debt service on a bond, providing a school district may now initiate the withholding process with the Department of Public Instruction, a school district may now initiate the notification process to the Department of Public Instruction regarding payment of principle and interest due on the bonds, and directing the Department of Public Instruction to develop procedures to implement the withholding of state aid.

Senate Bill No. 2150 provides that if the Industrial Commission is notified by the Superintendent of Public Instruction that, using all available sources, there is insufficient money with which to fully reimburse school districts for the excess costs of serving the 1 percent of special education students statewide who require the greatest school district expenditures in order to be provided with special education and related services, the Industrial Commission shall transfer from the earnings and accumulated and undivided profits of the Bank of North Dakota the amount that the Superintendent certifies is necessary to provide the statutorily required level of reimbursement. Additionally, the bill provides the Superintendent shall file for introduction legislation requesting that the ensuing Legislative Assembly return any amount transferred under this provision to the Bank of North Dakota.

FINANCIAL INSTITUTIONS AND CREDIT UNIONS

House Bill No. 1131 makes multiple changes to the laws impacting credit unions, including modifying the membership of the State Credit Union Board; expanding orders that may be issued by the Department of Financial Institutions, including issuing orders impacting credit unions; allowing for electronic communication for credit union meetings; revising actions the department may take to address undercapitalized credit unions; providing the duties of a credit union credit manager as they relate to issuing of loans; and providing in the case of a merger of a credit union, the former main

office and facilities of the merged credit union become branches of the continuing credit union and the continuing credit union is not required to file an application for any branches acquired in the merger transaction.

Senate Bill No. 2096 provides a bank's board of directors is no longer required to include a cashier representative; updates the definition of "Tier 1, Tier 2, and Tier 3 capital" and creates a definition of "derivative transaction"; provides a bank may apply to the Commissioner of Financial Institutions for authority to exchange the bank's interest in real property acquired in satisfaction of a debt previously contracted for an interest in an entity that would dispose of the real property; provides a bank may apply to the State Banking Board for authority to move the bank's main office to any location currently being operated by the bank as a facility; and revises the maximum liability of a borrower to a bank as that liability relates to the bank's Tier 1 capital.

Senate Bill No. 2104 provides the annual assessments of state banking associations and banking institutions under the jurisdiction of the Commissioner of Financial Institutions are now to be paid to the Department of Financial Institutions instead of to the State Treasurer.

INSUFFICIENT FUND CHECKS

House Bill No. 1080 removes the \$2 maximum for the amount a collection agency shall reimburse the original holder of a insufficient fund check for any additional charges assessed by the depository bank.

Senate Bill No. 2158 amends the laws relating to issuing a check with insufficient funds in the account or without an account, increasing the maximum collection fees or costs from \$30 to \$35; clarifying the apparent issuer who is actually the victim of fraud is not subject to the collection fees or costs; and increases from 90 to 120 the number of days within which the instrument must be presented to the state's attorney and within which the state's attorney shall execute a criminal complaint.

PROGRAMS

Senate Bill No. 2078 provides the Bank of North Dakota may establish a residential mortgage loan program under which the Bank may originate residential mortgages if private sector mortgage loan services are not reasonably available. The bill provides for a July 1, 2011, effective date and a July 31, 2013, expiration date.

Senate Bill No. 2306 temporarily revises the fuel production facility loan guarantee program to increase the maximum value of loan guarantees under the program from \$10 million to \$25 million and to fund a portion of the program from the lands and minerals trust fund. Additionally, the bill repeals the limitation on state aid to recipients of loan guarantees under this program.

Senate Bill No. 2121 repeals the developmentally disabled facility loan fund program.

MISCELLANEOUS

House Bill No. 1038 provides the financial institutions regulatory fund will include the deposit of funds received by the Department of Financial Institutions through the regulation of debt-settlement providers.

House Bill No. 1451 changes the name of the lands and minerals trust fund to the strategic investment and improvements fund.

May 2011

TITLE 7
Building and Loan Associations
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 7. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 8
Carriage
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 8. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 9
Contracts and Obligations
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 9. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 10

Corporations

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 10. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1161 revises the North Dakota Development Fund's entrepreneurial center award program to increase the maximum award from \$50,000 to \$60,000 and to provide the dollar-for-dollar award decrease for receipt of state funds does not apply to state funds received as a fiscal agent for an identified third party as part of a contractual agreement.

Senate Bill No. 2057 extends for an additional two years the North Dakota Development Fund program for providing financing and grants to early childhood facilities and provides for the North Dakota Development Fund to administer a small business technology investment program that provides matching investments to startup technology-based businesses.

House Bill No. 1091 provides that the prohibition on an investment adviser entering, extending, or renewing an investment advisory contract unless the contract provides for written notice the adviser may not be compensated on the basis of a share of capital gains, earnings, or capital appreciation of the funds does not prohibit an investment advisory contract that provides for performance fees permitted and determined in accordance with the federal Investment Advisers Act of 1940.

House Bill No. 1136 corrects a reference to a repealed section of law.

House Bill No. 1355, as part of a bill that addresses fees charged by the Secretary of State, revises the fees charged and collected by the Secretary of State relating to a real estate investment trust for issuing a certificate of good standing and for furnishing a certified copy of any record, instrument, or paper relating to a real estate investment trust.

Senate Bill No. 2174 provides for extensive grammatical changes, technical clarifications, and substantive changes to the laws relating to registered agents, corporate or limited liability company farming, cooperative associations, business corporations, limited liability companies, nonprofit corporations, and publicly traded corporations.

May 2011

TITLE 11

Counties

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 11. Bills primarily affecting other titles also may affect this title and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1391 provides that the Streamlined Sales and Use Tax Agreement does not apply to home rule county fuels taxes.

Senate Bill No. 2139 allows a sheriff, upon a request for cancellation of a civil action, to retain up to \$20 of the fee that had been collected by the sheriff.

Senate Bill No. 2168 allows a county recorder to charge a fee of not more than 50 cents per instrument for providing any electronic data extracted from a recorded instrument.

House Bill No. 1027 prohibits a county from imposing any requirements or restrictions pertaining to the regulation, labeling, distribution, sale, handling, use, application, transportation, or disposal of seed.

Senate Bill No. 2020 provides a procedure through which an existing joint powers entity may convert to a commerce authority for the purpose of achieving status as a political subdivision. Although the process through which a joint powers entity may convert to a commerce authority is effective only through July 31, 2013, the bill provides that any entity that converts may continue to operate as a commerce authority. The bill was declared to be an emergency measure and became effective upon filing with the Secretary of State.

May 2011

TITLE 12

Corrections, Parole, and Probation

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 12. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to corrections, parole, and probation may be classified in these subject areas: Department of Corrections and Rehabilitation, correctional facilities, criminal history record checks, peace officers, and missing persons.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

House Bill No. 1028 exempts an offender sentenced to a penalty of life imprisonment without the opportunity for parole as the result of a conviction of a Class AA felony for gross sexual imposition or for murder from eligibility for programs outside facilities under the control of the Department of Corrections and Rehabilitation.

Senate Bill No. 2136 increases from \$15 per day to \$20 per day the amount to be paid by an inmate who participates in a work release program.

Senate Bill No. 2190 authorizes probation and parole officers to supervise sexually dangerous individuals released to community placement on an outpatient basis.

CORRECTIONAL FACILITIES

House Bill No. 1338, which relates to electronic home detention for certain offenders, provides that a county jail or regional correctional facility administrator may use electronic home detention or global positioning system monitoring for an offender if required due to medical needs of the offender or to prevent overcrowding in the county jail or regional correctional facility. The bill also provides that if there is a law that requires mandatory incarceration and does not allow for electronic home detention or monitoring, the court order must expressly prohibit the electronic detention or monitoring.

Senate Bill No. 2024 provides that the definition of "inmate" does not include an individual who is under the supervision of a correctional facility and is supervised under home detention, electronic monitoring, or a similar program that does not involve physical detention or confinement in a correctional facility. The bill also provides that, except for an intake health care assessment and related testing for examinations made at the request of a correctional facility, an inmate is responsible for the costs of medical and health care. The bill provides that the correctional facility may seek reimbursement from the inmate for the total amount of incurred medical or health care costs. The bill provides that an inmate's right to adequate medical care means necessary treatment for a medical or health condition for which serious pain or hardship would occur if care is not given. Under the bill, a correctional facility may not deny adequate medical care to an inmate who does not have health insurance or does not have the ability to pay the costs of the medical or health care.

Senate Bill No. 2141, which relates to performance-based sentence reduction to offenders in a correctional facility, moves language regarding performance-based sentence reduction from Section 12-54.1-01 to Chapter 12-44.1. Chapter 12-44.1 deals with county jails and regional correctional facilities.

CRIMINAL HISTORY RECORD CHECKS

House Bill No. 1081 authorizes the State Board of Chiropractic Examiners to conduct criminal history record checks for applicants, licensees, or investigations under Chapter 43-06.

Senate Bill No. 2097 authorizes the State Board of Counselor Examiners to conduct criminal history record checks for applicants for licensure or licensees under Chapter 43-47.

Senate Bill No. 2114 authorizes Workforce Safety and Insurance to conduct criminal history record checks for a final applicant for a specified occupation with Workforce Safety and Insurance as designated by the director of the agency or for contractors who may have access to confidential information.

Senate Bill No. 2199 authorizes the State Board of Respiratory Care to request criminal history background checks for applicants, licensees, or investigations under Chapter 43-42.

PEACE OFFICERS

House Bill No. 1433 provides that a peace officer who is granted inactive status may retain inactive status indefinitely if the licensee maintains continuing education requirements and renews the license in accordance with the licensing board's requirements. The bill provides that a licensee on inactive status is required to meet the same qualifications, testing, and insurance requirements as are required by law and rule for a licensee on active status.

MISSING PERSONS

Senate Bill No. 2003, which relates to the reporting requirements of the Bureau of Criminal Investigation with respect to lost, missing, or runaway children, provides that the bureau is to use the National Crime Information Center for data exchange, compilation, maintenance, and dissemination.

May 2011

TITLE 12.1

Criminal Code

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 12.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to the criminal code may be classified in these subject areas: criminal offenses, sex offenses and offenders, sentencing, and miscellaneous.

CRIMINAL OFFENSES

House Bill No. 1204 expands the previous convictions that trigger a Class C felony for stalking offenses to include a similar offense from another court in North Dakota, a court of record in the United States, or a tribal court.

House Bill No. 1224 includes in the crime of disorderly conduct an individual who uses a fixed optical device that enhances or records a visual occurrence to view through any window of another person's property or uses a surveillance camera to capture an image from the dwelling of another person. The bill also amends the crime of disorderly conduct at a funeral to provide that the individual who is engaging in the disorderly conduct must be within 1,000 feet of the funeral site rather than within 300 feet of the funeral site. The bill also makes it a Class B misdemeanor to surreptitiously intrude or interfere with the privacy of another.

House Bill No. 1249, which relates to the crime of surreptitious intrusion, removes the requirement that the individual who surreptitiously gazes, stares, or peeps at another must do so through a window or any other aperture.

House Bill No. 1262, which relates to the crime of refusing to halt to a pursuing peace officer, provides that the pursuing peace officer must either be in uniform or prominently display the officer's badge of office.

House Bill No. 1371, which relates to the creation, possession, or dissemination of sexually expressive images, includes the requirement that the individual who is the subject of the expressive images must have a reasonable expectation of privacy in the image.

Senate Bill No. 2241 includes among the theft offenses for which the offense is a Class C felony the theft of a prescription drug, as that term is defined in Section 43-15.3-01.

SEX OFFENSES AND OFFENDERS

House Bill No. 1435 provides that a sexual offender who is currently assigned a moderate- or high-risk level by the Attorney General may not use a state park of this state as a residence or residential address to comply with the registration requirements of Section 12.1-32-15. The bill provides that before arriving at a state park for overnight lodging or camping, a sexual offender who is assigned a moderate- or high-risk level by the Attorney General must notify a Parks and Recreation Department law enforcement officer at the state park where the sexual offender will be staying.

Senate Bill No. 2231, which relates to the registration of sexual offenders, provides that if an individual required to register as a sexual offender has a change in vehicle or computer online identity, the individual is required to inform the law enforcement agency with which that individual last registered of the individual's new vehicle or computer online identity.

Senate Bill No. 2233 amends the definition of "sexual conduct", as it relates to the crime of sexual performances by children, to include lewd exhibition of the buttocks or breasts.

SENTENCING

House Bill No. 1028 provides that an offender serving a mandatory prison term for an armed offense may be eligible to participate in a release program during the last six months of the offender's sentence. The bill also provides an exception for eligibility for release programs for those offenders who are sentenced as violent offenders.

MISCELLANEOUS

House Bill No. 1230 provides that with respect to the responsibilities of victims and witnesses to notify law enforcement and other entities of any change of address, except for release to a domestic violence sexual assault organization, the address information provided to these entities must be kept confidential.

Senate Bill No. 2123 provides that for the purposes of the crime of perjury, a false statement under oath or equivalent affirmation includes a writing made in accordance with the Uniform Unsworn Foreign Declarations Act. The bill provides for the adoption of the Uniform Unsworn Foreign Declarations Act, which is codified in Title 31.

May 2011

TITLE 13

Debtor and Creditor Relationship

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 13. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1038 provides for the licensure and regulation of debt-settlement providers.

House Bill No. 1080 makes multiple revisions to the law regulating collection agencies, including revising the laws relating to collection agency branch offices and virtual offices; expanding the application of the law to include certain out-of-state collection agencies; revising the surety bond requirements; revising the minimum net worth requirements; and modifying the Commissioner of Financial Institutions' authority regarding enforcement of the regulation of collection agencies law, termination of licenses, and suspension and removal of collection agency officers and employees.

House Bill No. 1130 revises the laws regulating deferred presentment service providers and regulating money transmitters. The changes to the deferred presentment service provider laws include providing the regulations extend to a business that provides the service to a customer located in the state; providing change of name or address reporting requirements for licensees; providing a notification requirement if a licensee ceases operations; expanding the notice requirements of the deferred presentment agreement; revising the notice, hearing, and order requirements for the Commissioner of Financial Institutions; and revising the commissioner's authority to suspend or remove a deferred presentment service provider officer or employee. The changes to the money transmitter laws include revising the definition of "electronic instrument," expanding the causes for which the commissioner may suspend or revoke a licensee's license and revising the procedure for such an action, providing change of name or address reporting requirements for licensees, and providing prohibited acts and practices for licensees.

Senate Bill No. 2104 removes the requirement that fees collected by the Department of Financial Institutions under the money broker regulation law be paid to the State Treasurer before being deposited in the financial institutions regulatory fund.

Senate Bill No. 2124 makes multiple revisions to the law regulating money brokers, including prohibition of money broker net branching arrangements; revision of current bonding provisions; establishment of a minimum net worth requirement of \$25,000; establishment of a protocol for ending business and retention of records; clarification of the license revocation and suspension process and the authority of the Commissioner of Financial Institutions to suspend or remove money broker officers or employees; incorporation of several provisions of the federal Secure and Fair Enforcement for Mortgage Licensing Act, including incorporation of the same prohibited acts and practices for money brokers as mortgage loan originators, clarification that the Department of Financial Institutions has examination authority as well as investigative and subpoena authority in the regulation of money brokers, establishment of money broker confidentiality standards and open records protections, the provision of notification requirements for money brokers, the requirement that a money broker submit a report of condition, and that the commissioner report violations of the money broker law to the Nationwide Mortgage Licensing System and Registry; and removal of the department's authority to directly retain attorneys under the law regulating mortgage loan originators.

May 2011

TITLE 14

Domestic Relations and Persons

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 14. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to domestic relations and persons may be classified in these subject areas: abortion, adoption, child support, domestic violence, marriage and divorce, and minors.

ABORTION

House Bill No. 1297 amends the definition of abortion to mean the intent to terminate a clinically diagnosable intrauterine pregnancy of a woman. The bill provides that the termination is not considered an abortion if done to save the life or preserve the health of the unborn child, to remove a dead unborn child caused by spontaneous abortion, or to treat a woman for an ectopic pregnancy. The bill also expands the information that must be included in the printed materials that are provided by the State Department of Health. The bill changes references in Chapter 14-02.1 of "fetus" to "unborn child". The bill defines "unborn child" as the offspring of human beings from conception until birth. The bill includes procedures and limitations on the use of abortion-inducing drugs. The bill also provides for additional reporting requirements for the State Department of Health.

ADOPTION

House Bill No. 1039 makes technical corrections of improper, inaccurate, redundant, missing, or obsolete references throughout the North Dakota Century Code. The bill includes a correction to Section 14-15-17 regarding a form needed for international adoptions. Under this section, there is a requirement for an IR-3 visa. This bill adds the IH-3 visa, which is a requirement for a child adopted in one of the countries that is part of the Hague Adoption Convention.

Senate Bill No. 2082 provides that all files, records, and proceedings with respect to the relinquishment of a child to adoptive parents are confidential pursuant to Section 14-15-16.

CHILD SUPPORT

Senate Bill No. 2258 provides that with respect to the electronic remittance of funds withheld under a child support income withholding order, an income payer that employs more than 24 employees at any time and has received more than four income withholding orders must remit any withheld funds by an electronic method approved by the child support agency. The bill provides that an income payer that employs more than 24 employees at any time and has received fewer than five income withholding orders may choose to opt out of an electronic method approved by the child support agency only through a written request.

DOMESTIC ABUSE

Senate Bill No. 2214 relates to the penalty for child abuse or neglect. This bill provides that a person who commits an offense under Section 14-09-22 is guilty of a Class B felony if the victim suffers permanent loss or impairment of the function of a bodily member or organ, except if the victim of the offense is under the age of six years, the offense is a Class A felony.

Senate Bill No. 2247 authorizes the Attorney General to establish a Domestic Violence Fatality Review Commission to review domestic violence deaths that have occurred in the state.

MARRIAGE AND DIVORCE

House Bill No. 1084 relates to surname options. The bill provides that a combination name can be separated by either a hyphen or a space. The bill, which contained an emergency clause, become effective upon its filing with the Secretary of State on March 28, 2011.

House Bill No. 1265 relates to the division of property and debts in a divorce. This bill provides that if one party to the divorce is covered by the civil service retirement system or other government pension system in lieu of Social Security and is not entitled to receive full Social Security benefits and the other party is a Social Security recipient, in making an equitable distribution award, the court must compute what the present value of the Social Security benefits would have been to the party with the government pension during the covered period and subtract that amount from the value of the government pension in order to determine the government pension's marital portion.

Senate Bill No. 2288 provides for the procedural requirements for a summary real estate disposition judgment.

MINORS

Senate Bill No. 2181, which relates to the mitigating factors for contributing to the consumption or possession of alcoholic beverages by an individual under the age of 21, identifies an individual as a minor rather than an individual under the age of 21.

May 2011

TITLE 15

Education

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 15. Bills primarily affecting other titles also may affect this title and relevant provisions of those bills are summarized in this memorandum.

HIGHER EDUCATION

House Bill No. 1003 provides a general fund appropriation of \$645,635,794 to the North Dakota University System. The bill increases the per diem compensation for each member of the State Board of Higher Education from \$100 to \$148 and provides grants to tribally controlled community colleges educating nonbeneficiary students.

House Bill No. 1035 extends by two years statutory provisions governing the conditions under which the State Board of Higher Education may accept certain donations, gifts, grants, and bequests for the benefit of any institution under the board's control.

House Bill No. 1213 provides that the University System staff senate must annually appoint one individual to serve as an adviser to the State Board of Higher Education.

House Bill No. 1217 provides that the criteria needed to be qualified as a dependent for purposes of higher education tuition waivers includes being a child, stepchild, spouse, widow, or widower of a resident veteran who was killed in action or died from wounds or other service-connected causes, has a 100 percent service-connected disability, has an extra-schedular rating, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.

House Bill No. 1263 provides that the intercollegiate athletic teams sponsored by the University of North Dakota must be known as the University of North Dakota Fighting Sioux.

Senate Bill No. 2323 provides that whenever any new construction, renovation, or repair, valued at more than \$250,000, is underway at a public institution of higher education, the State Board of Higher Education must provide monthly project variance reports to the director of the Office of Management and Budget.

Senate Bill No. 2351 defines a fee as any monetary charge, other than tuition, that a student is assessed for a specific purpose or supplemental service and requires the State Board of Higher Education to publish on its website, in a clear and comprehensible form, the mandatory, program-specific, and optional fees that each institution charges. The bill also limits mandatory fees, other than program-specific fees, to 1 percent of the latest available average full-time, resident, on-campus, undergraduate tuition rate at that institution, unless the board determines that there are documented extraordinary circumstances or certain evidence of student demand.

CENTERS OF EXCELLENCE

Senate Bill No. 2057 provides that the centers of excellence commission may require that a center of excellence be audited on all funds distributed to it after the second full fiscal year of the postaward monitoring and after all funds distributed to it have been expended and that for all other years during the postaward monitoring the center contract with an independent accountant for an agreed-upon procedures engagement which, at a minimum, must include verification of data regarding jobs claimed to have been created by the center; verification of compliance with matching fund requirements; verification that awarded funds were used for authorized uses; and a comparison of the center's application budget with its actual expenditures.

TEACHERS' FUND FOR RETIREMENT

House Bill No. 1133 provides that a signing bonus does not constitute "salary" for purposes of the Teachers' Fund for Retirement. The bill also addresses the payment of death benefits in the case of vested and nonvested members and updates federal statutory references.

House Bill No. 1134 provides for increased employer and employee contribution requirements to the Teachers' Fund for Retirement and increases the age requirements before which a teacher may retire with full benefits under the plan.

Senate Bill No. 2022 increases the per diem compensation paid to trustees of the Teachers' Fund for Retirement from \$62.50 to \$148.

STATE BOARD FOR CAREER AND TECHNICAL EDUCATION

House Bill No. 1019 provides a general fund appropriation of \$27,981,679 to the State Board for Career and Technical Education.

House Bill No. 1092 provides that the State Board for Career and Technical Education may authorize the operation of an academic or professional postsecondary educational institution that offers educational credentials only upon approval by the director of the Department of Career and Technical Education and the commissioner of the State Board of Higher Education.

BOARD OF UNIVERSITY AND SCHOOL LANDS

House Bill No. 1013 provides a special fund appropriation of \$105,465,189 to the commissioner of University and School Lands. The bill also creates an Energy Infrastructure and Impact Office as a division within the office of the commissioner of University and School Lands and requires that the director of that office make recommendations to the Board of University and School Lands regarding the distribution of oil and gas impact fund grants.

MISCELLANEOUS

House Bill No. 1039 provides technical corrections to the North Dakota Century Code. The bill changes a reference from the North Dakota Healthcare Association to the North Dakota Hospital Association and removes a sentence authorizing state funding for the economic feasibility institute via "legislative appropriation to technology transfer."

House Bill No. 1105 repeals a section of the North Dakota Century Code which requires North Dakota State University to provide to each county auditor a list of every publication that the university publishes and which is available for free distribution.

House Bill No. 1451 changes the name of the lands and minerals trust fund to the strategic investment and improvements fund and provides that money in the fund may be used only for one-time expenditures to improve state infrastructure or for initiatives to improve the efficiency and effectiveness of state government. If the unobligated balance in the fund at the end of any month exceeds \$300 million, 25 percent of any revenues received for deposit in the fund in the subsequent month must be deposited instead into the legacy fund.

Senate Bill No. 2109 includes Chapter 54-52.6 in statutory references to the authority of the State Board of Higher Education with respect to establishing a retirement program for its employees. The cited chapter pertains to defined contribution retirement plans.

May 2011

TITLE 15.1

Education

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 15.1. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

EDUCATION FINANCE

Senate Bill No. 2150 continues the North Dakota academic scholarships and the North Dakota career and technical education scholarships and provides a "one-time exception" for students who fail to maintain the required grade point average. The bill makes changes to the weighting factors for English language learners, increases the special education weighting factor, and establishes a weighting factor for alternative middle school students. The bill increases the per student payments to \$3,910 and \$3,980 and provides that education jobs fund dollars are not to be included in a district's unobligated general fund balance for purposes of determining state aid. The bill increases the amount of construction loans to which a district is entitled and updates the duties of the Early Childhood Council. The bill provides \$5 million for rapid enrollment grants, \$625,000 for "Gearing up for Kindergarten," and \$300,000 for alternative middle school grants. The bill also creates an Education Funding and Taxation Committee to study short-term and longer-term state and local involvement in the funding of elementary and secondary education.

Senate Bill No. 2013 appropriates \$901,565,651 from the general fund to defray the expenses of the Department of Public Instruction. With the addition of the State Library, the School for the Deaf, and North Dakota Vision Services - School for the Blind, the total general fund appropriation is \$927,476,638 and the special fund appropriation is an additional \$456,261,131. The bill provides that the first \$8 million of any contingency dollars remaining at the conclusion of the 2009-11 biennium must be used to provide per student payments during the 2011-13 biennium. The bill also raises the salary of the Superintendent of Public Instruction to \$102,868 during the first year of the biennium and to \$105,954 thereafter.

House Bill No. 1030 provides that if a public school or school district remains closed or provides less than a full day of instruction because of severe weather or other emergency conditions, the Governor may waive the rescheduling in whole or in part. While the Governor may not grant a waiver for less than a full day of instruction, a school or school district may add together the hours during which it is closed to determine the number of additional full days of instruction that may be waived by the Governor.

House Bill No. 1094 provides that the national board certification fund must be invested by the State Treasurer in accordance with the prudent investor rule.

House Bill No. 1154 makes the North Dakota academic scholarships and the North Dakota career and technical education scholarships available to resident students who attend a nonpublic high school in a bordering state while residing with a custodial parent in this state.

SCHOOL APPROVAL

House Bill No. 1029 establishes a certification system for the approval of public and nonpublic schools. The bill authorizes the Superintendent of Public Instruction to withhold state aid from public schools that are not in compliance. If a nonpublic school is not in compliance, the Superintendent of Public Instruction is directed to notify students' parents that they may be in violation of the compulsory attendance requirements.

TEACHERS

House Bill No. 1270 directs the Education Standards and Practices Board to provide a teaching license to an applicant who holds a teaching license or certificate from another state, provided the applicant has a baccalaureate degree with a major that meets the issuing state's requirements in early childhood education, elementary education, middle level education, or a content area taught at a public high school; the applicant has completed a state-approved teacher education program that includes supervised student teaching; the applicant submits all required fees; and the applicant's background check reveals nothing that would cause a denial of licensure in this state.

Senate Bill No. 2311 creates an eight-member committee to review nominations for and select the North Dakota teacher of the year. The bill also provides that the award must be announced jointly by the Governor and the Superintendent of Public Instruction and that there be a ceremony and reception honoring the teacher of the year in the Memorial Hall of the State Capitol or, if requested by the award recipient, at a location in the municipality within which the recipient resides or works.

Senate Bill No. 2317 sets the criteria by which the Education Standards and Practices Board may approve instructors of theological studies and provides that theological studies may account for two of the five units referenced as "additional units" for purposes of high school graduation in nonpublic schools.

STUDENT SAFETY

Senate Bill No. 2281 provides that each school district and nonpublic school is subject to the provisions of a concussion management program. The bill also requires that during the 2011-12 interim, the Legislative Management study concussion management with respect to youth athletics.

House Bill No. 1086 provides that a teacher must notify the school principal if the teacher knows or has reason to believe that a student is using, is in possession of, or is delivering alcohol or a controlled substance while on school property, while involved in a school-related activity, or while in attendance at a school-sponsored event. However, the bill exempts teachers or administrators who participate in a juvenile drug court program and receive confidential information regarding a student as a result of that participation.

House Bill No. 1215 requires each public and nonpublic school to conduct fire, tornado, and other emergency or disaster drills, including lockdown drills.

House Bill No. 1465 requires each school district to adopt a policy prohibiting bullying and to provide bullying prevention programs to all students from kindergarten through grade 12.

COMPULSORY ATTENDANCE

Senate Bill No. 2226 standardizes the definition of attendance for purposes of compulsory attendance; requires each school district and nonpublic school to submit to the Superintendent of Public Instruction data regarding school attendance; and requires the Superintendent to disseminate information regarding truancy prevention and intervention programs, as well as research pertaining to the best practices in truancy prevention.

SPECIAL EDUCATION

House Bill No. 1073 removes the requirement that multidisciplinary teams include medical professionals and requires school districts to obtain parental consent before accessing a student's family insurance options in order to pay for the cost of determining a student's medically related disability and to pay for the provision of related services.

House Bill No. 1074 requires school districts to receive state reimbursement for 80 percent of the room and board costs paid by the district for a student with disabilities who is placed in a facility regardless of whether that facility is located within or outside the student's school district of residence.

Senate Bill No. 2142 replaces statutory references to "mental retardation" with "intellectual disability."

KINDERGARTEN

House Bill No. 1273 provides that a school district may conduct readiness testing and formative assessments of incoming kindergarten students before the regular school calendar and may consider two of those days to be kindergarten instructional days for purposes of school calendar requirements.

House Bill No. 1436 provides that early childhood kindergarten admissions must be based on a child demonstrating superior academic talents or abilities and social and emotional readiness.

SCHOOL BUILDINGS

House Bill No. 1066 increases the threshold for school construction approval from \$40,000 to \$100,000. Whereas prior law prohibited the Superintendent of Public Instruction from approving a school construction project unless the district could demonstrate, among other things, that it had the ability to sustain a stable or increasing student enrollment for the usable life of the project, the bill requires that in the case of new construction or a renovation affecting more than 50 percent of an existing structure's square footage, there be a demonstration that circumstances within the district are likely to result in a stable or increasing student population.

House Bill No. 1326 requires school districts to work with their commercial property insurance carriers to properly identify and accurately value all school district buildings and facilities and to ensure that the contents are properly inventoried and accurately valued.

DATA

House Bill No. 1214 requires the Information Technology Department, at the direction of the Statewide Longitudinal Data System Committee, to maintain a statewide longitudinal data system among education, workforce, and training entities.

Senate Bill No. 2278 requires each high school to provide to the North Dakota University System a list of all students enrolled in grades 10 and 11 as of April 15 of each year, together with their addresses and telephone numbers. The University System must disclose this information to each public and nonpublic institution of higher education in this state.

COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

House Bill No. 1248 authorizes the state's entry into the Compact on Educational Opportunity for Military Children for a period of two years and provides that any expenses associated with the state's participation must be paid for from the operating expenses line item in the appropriation bill for the Adjutant General. The bill also requires that before July 1, 2012, representatives of the Grand Forks School District, the Minot School District, the Grand Forks Air Force Base School District, and the Minot Air Force Base School District provide, singly or jointly, a report to the Legislative Management regarding the state's participation in the compact.

MISCELLANEOUS

House Bill No. 1049 requires the Superintendent of Public Instruction to conduct a study of Indian education issues to develop criteria for grants to low-performing schools. The Superintendent is authorized to utilize a consultant in conducting the study.

House Bill No. 1211 removes the requirement that home education be supervised by a child's parent "in the child's home." The bill requires that school district superintendents report to the Superintendent of Public Instruction the number of "Statements of Intent to Home School" that have been filed and requires that a parent supervising home education have either a high school diploma or submit to monitoring for two years.

House Bill No. 1229 provides that beginning July 1, 2012, each school district and nonpublic school shall ensure that the portion of its health curriculum which is related to sexual health includes instruction pertaining to the risks associated with adolescent sexual activity and the social, psychological, and physical health gains to be realized by abstaining from sexual activity before and outside marriage.

House Bill No. 1297 provides that a public school in this state may not endorse or support any program that, between normal childbirth and abortion, does not give preference, encouragement, and support to normal childbirth. The bill also prohibits a public school from authorizing any presentation to students that, between normal childbirth and abortion, does not give preference, encouragement, and support to normal childbirth.

Senate Bill No. 2179 increases the per diem compensation for members of the Education Factfinding Commission from \$90 to \$110.

Senate Bill No. 2254 provides that if a school board election is held in conjunction with a county election, the county election board shall administer the election in the same manner as a county or state election.

May 2011

TITLE 16.1

Elections

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 16.1. Bills primarily affecting other titles also may affect this title and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2254 requires the Secretary of State to develop guidelines for testing of electronic voting systems and to conduct a test election for the state's voting system before each statewide election. The bill requires each county auditor to comply with test election requirements. The bill removes the requirement that the Secretary of State adopt rules for generating and assigning a unique identifier for individuals whose information is entered in the central voter file. The bill requires each county auditor to provide to the Secretary of State all materials requested for existing precincts or to assist in making or verifying changes to the central voter file when precinct boundaries are changed. The bill requires the Secretary of State, at the close of each even-numbered calendar year, to designate any individual who has not voted during the preceding four years as inactive in the central voter file. The bill provides that the central voter file must contain an individual's date of birth and the identification number and state of any state-issued identification of an individual and that those records are exempt records. The bill removes the requirement that the names and addresses of district party chairmen be submitted to the Secretary of State. The bill prohibits the counting of absentee ballots that are postmarked or stamped on the day of the election or after that date. The bill requires the election board members not participating in the comparing of signatures and entering of voters' names into the pollbook to remove the ballots from the secrecy envelope, unfold and initial the ballots, and deposit the ballots in the proper ballot box for tabulation. The bill requires a county auditor to designate a location for the closing, counting, and canvassing process, which location must be open to any individual for the purpose of observing. The bill provides that an individual's statement of interests must include the name of the business or employer of the individual and that individual's spouse. The bill prohibits electioneering on the day of an election within a polling place or within 100 feet from the entrance to the room containing the polling place while the polling place is open for voting. The bill requires the Secretary of State to make available to the public information regarding all officers to be nominated at a primary election. The bill requires the Secretary of State to electronically transmit certified lists of primary election nominees to county auditors. The bill allows a board of county commissioners of a county to conduct an election partially by mail ballot and in such case requires the use of mail ballots for any precinct in which fewer than 400 votes were cast for the office of Governor at the last general election at which that office was on the ballot. The bill allows a mail ballot election board to begin scanning mail ballots at any time beginning on the day before election day and the closing of the polls on election day. The bill provides that in the case of an absentee ballot precinct, mail ballot precinct, or early voting precinct, if the work of the election board is completed before the close of the polls on election day, the election board is required to create and sign a statement consisting of a reconciliation of the number of voters recorded in the pollbook and the number of ballots processed through the tabulators. The bill reduces the time period during which a county auditor is to provide to the Secretary of State a certified abstract of votes from 10 days to 8 days after a general election. The bill authorizes the State Canvassing Board to incorporate the use of any electronic technology approved by the Secretary of State in the canvassing of votes.

Senate Bill No. 2120 adopts the Uniform Military and Overseas Voters Act.

Senate Bill No. 2256 requires that election observers must be allowed uniform and nondiscriminatory access to all stages of the election process, including the certification of election technologies, early voting, absentee voting, voter appeals, vote tabulation, and recounts.

Senate Bill No. 2073 defines a "direct expenditure" for the purposes of campaign finance reporting requirements and establishes reporting requirements for any corporation, cooperative corporation,

limited liability company, or association that makes a direct expenditure for the purpose of promoting passage or defeat of initiated or referred measures.

House Bill No. 1311 requires the sponsoring committee for an initiated measure petition to submit, at the time it submits the signed petitions, a statement disclosing the total amount of contributions received by the committee to aid the committee in drafting and circulating the petition, the name and mailing address of each person that contributed more than \$100 in the aggregate to the sponsoring committee, the date each such contribution was received, and the total amount of expenditures made by the committee to aid in the drafting and circulation of the petition.

Senate Bill No. 2327, for the purposes of prohibiting the use of public resources for political purposes, includes within the definition of "political purpose" any activity undertaken in support or opposition to a statewide initiated or referred measure, a constitutional amendment or measure, or a political subdivision ballot measure. The bill provides that presenting factual information regarding a ballot measure solely for the purpose of educating voters and not engaging in advocacy regarding that measure is not a political purpose.

May 2011

TITLE 17

Energy

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 17. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1218 clarifies that the state comprehensive energy policy is made by the Legislative Assembly, and the Energy Policy Commission makes recommendations for changes in the policy.

Senate Bill No. 2034 treats green diesel, which is drop-in compatible with diesel fuel, at parity with biodiesel, which is vegetable oil, as both relate to the biofuel partnership in assisting community expansion fund and members on the Energy Policy Commission.

Senate Bill No. 2057 creates a chapter of the North Dakota Century Code on a biofuel blender pump incentive program to be administered by the Department of Commerce. The bill provides a cost-share grant of up to \$34,000 per retail location. The bill provides that 5 percent of any appropriated money be used for administration and marketing.

May 2011

TITLE 18

Fires

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 18. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1176 repeals the requirement that the North Dakota Firefighter's Association notify the auditor of each municipality of the treasurer of each fire department or company.

House Bill No. 1066 changes the threshold for which construction projects must be submitted for approval by the Department of Public Instruction or the State Board of Higher Education from when tax money exceeds \$2,000 to when the cost of construction exceeds \$100,000 for the department and the various provisions for the board under Chapter 15-10.

Senate Bill No. 2003 requires the Attorney General to charge and collect fees for services provided by the State Fire Marshal program to entities covered by the fire and tornado fund for deposit in the Attorney General's operating fund. In addition, the bill requires the Attorney General to do the same for the petroleum release compensation fund.

May 2011

TITLE 19

Foods, Drugs, Oils, and Compounds

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 19. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1418 provides for standards for audits of pharmacy records and creates a Class B misdemeanor for not following the standards.

Senate Bill No. 2251 changes the penalty for the delivery of 100 pounds of marijuana sold through the Internet from a Class A felony to a Class B felony and changes the aggravating factors for which a drug offense is increased one degree from manufacture or distribute to manufacture, delivery, or possession, with the intent to manufacture or deliver a controlled substance within 1,000 feet of a school.

Senate Bill No. 2119 changes Schedule I of the controlled substances to add a number of hallucinogenic substances and stimulants, Schedule II to add immediate precursors to fentanyl and a hallucinogenic substance, Schedule IV as to depressants and other substances, and Schedule V as to narcotic drugs and depressants.

Senate Bill No. 2259 provides for a real-time electronic recordkeeping system for methamphetamine precursors by the Bureau of Criminal Investigation.

Senate Bill No. 2151 adds a licensed addiction counselor to the list of individuals the State Board of Pharmacy may release information in the prescription drug monitoring program.

Senate Bill No. 2223 adds the manufacture or distribution of a controlled substance within 1,000 feet of a child care or preschool facility to the list of aggravating factors for which a drug offense is increased one degree.

Senate Bill No. 2122 requires that brand medically necessary be on a prescription to require brand name drug.

Senate Bill No. 2034 treats green diesel, which is drop-in compatible with diesel fuel, at parity with biodiesel, which is vegetable oil, as both relate to the regulation of fuel by the State Department of Health.

Senate Bill No. 2127 removes the requirement that a retailer of alcohol-blended gasoline display the Ethanol Promotion and Information Council label or logo on the dispensing unit.

House Bill No. 1321 requires fertilizer inspection fees to be deposited in the environment and rangeland protection fund and moves the anhydrous ammonia storage facility inspection program from the Insurance Commissioner to the Agriculture Commissioner. The bill allows the Agriculture Commissioner to comply with the federal Clean Air Act of 1990 by requesting information, conducting inspections, and bringing civil actions for enforcement.

Senate Bill No. 2009 requires the Agriculture Commissioner to forward all fees received for the registration and inspection of and a distributor's license for fertilizer to the State Treasurer for deposit in the environment and rangeland protection fund.

May 2011

TITLE 20.1

Game, Fish, Predators, and Boating

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 20.1. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

Legislation relating to game, fish, predators, and boating may be classified in these subject areas: licenses and permits, Game and Fish Department, and miscellaneous.

LICENSES AND PERMITS

House Bill No. 1181 lowers the minimum age to hunt antelope from 14 to 12.

House Bill No. 1288 removes the sunset clause from Chapter 207 of the 2009 Session Laws making 2009 House Bill No. 1567, which provided that a guide or outfitter license is not required for a person that acts as a booking agent for a person that legally conducts business as an outfitter, permanent.

House Bill No. 1407 expands the area in which nonresidents are allowed to hunt during the early September Canada goose season to Benson, Ramsey, and Towner Counties in addition to Richland and Sargent Counties. The bill also requires the Game and Fish Department to conduct a study of goose hunting in which the department must track the number of resident and nonresident hunters and the number of geese taken by county. The department is to report its findings to the Legislative Management by September 1, 2012. This bill expires July 31, 2013.

House Bill No. 1180 provides that landowner preferential elk licenses will be issued by weighted lottery if the number of applicants exceeds the number of licenses available.

GAME AND FISH DEPARTMENT

Senate Bill No. 2017 appropriates \$65,687,742 to the Game and Fish Department.

Senate Bill No. 2227 authorizes the director of the Game and Fish Department to allow individuals with valid antlerless deer licenses to take deer on private lands determined by the director to be severely impacted by deer. However, the director must attempt other measures and determine them to be ineffective before allowing individuals to take deer under this provision. The bill modifies the private land habitat and access improvement program by requiring the director to work with livestock producers experiencing chronic deer depredation problems to develop site-specific deer depredation management plans, to give first consideration to producers impacted by deer foraging on stored winter forage when purchasing winter deer management supplies, to make available \$1 million from each biennial Game and Fish Department appropriation to be used to provide feeding and other winter management practices to alleviate big game depredation, and to make available \$100,000 from each biennial appropriation to be used for food plots on private property for the purpose of providing winter feed. The bill also provides for construction cost-share assistance for deerproof hay yards to protect hay, feed, and crops. The bill authorizes the director to allow an individual to euthanize injured, sick, or emaciated deer and to authorize targeted deer reduction programs to alleviate deer depredation. This bill included an emergency clause and became effective upon the bill's filing with the Secretary of State.

House Bill No. 1415 authorizes the director of the Game and Fish Department to issue four any deer licenses annually to the Wounded Warrior Project. Licenses issued to the Wounded Warrior Project are valid from the opening of the youth deer season through the close of the deer season.

MISCELLANEOUS

Senate Bill No. 2352 makes it a Class C felony to hunt through the Internet; host a hunt through the Internet; import, export, or possess wildlife or any part which has been taken by a hunt through the Internet; or otherwise enable another person to hunt through the Internet. For purposes of this bill, "hunt through the Internet" means to hunt wildlife in real time using Internet services to remotely control actual firearms and to remotely discharge live ammunition allowing a person who is not physically present to take wildlife and includes using any remotely controlled device to hunt the animal such as a hand-held communication device, cellular telephone, or global positioning system device.

House Bill No. 1393 makes a crossbow a legal weapon that may be used during the deer gun season.

House Bill No. 1188 establishes a minimum fine of \$100 for littering on any game refuge, lake, river, public park, or recreation area.

House Bill No. 1454 allows the use of an artificial light while hunting beaver.

Senate Bill No. 2113 makes various technical changes in the laws prohibiting boating under the influence and hunting under the influence.

May 2011

TITLE 21

Governmental Finance

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 21. Bills primarily affecting other titles also may affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2302 creates a Legacy and Budget Stabilization Fund Advisory Board to develop recommendations for the investment of funds in the legacy fund and the budget stabilization fund to present to the State Investment Board. The bill provides the board must consist of two members of the Senate appointed by the Senate majority leader, two members of the House of Representatives appointed by the House majority leader, the director of the Office of Management and Budget or designee, the president of the Bank of North Dakota or designee, and the Tax Commissioner or designee. The bill requires the Legislative Council to provide staff services to the Legacy and Budget Stabilization Fund Advisory Board and requires the staff and consultants of the Retirement and Investment Office to advise the board in developing asset allocation and investment policies. The bill contained an emergency clause and became effective on April 26, 2011.

Senate Bill No. 2022 increases the compensation for members of the State Investment Board from \$62.50 per day to \$148 per day.

House Bill No. 1112 allows electronic transmission of a receipt by a financial institution when the financial institution substitutes pledged securities of a public corporation for other eligible securities and removes the requirement that when a receipt is mailed, the mailing must be mailed by registered mail. The bill also removes the requirement that a financial institution receive a reciprocal deposit when a public entity invests in a certificate of deposit.

May 2011

TITLE 22
Guaranty, Indemnity, and Suretyship
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 22. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 23

Health and Safety

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 23. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to health and safety may be classified in these subject areas: basic care and nursing facilities; birth and death; emergency medical services; medical services; technology; and miscellaneous.

BASIC CARE AND NURSING FACILITIES

House Bill No. 1040 extends the moratorium on expansion of basic care bed capacity and the moratorium on expansion of long-term care bed capacity from July 31, 2011, to July 31, 2013.

House Bill No. 1325 provides for the transfer, delicensure, and relicensure of nursing facility bed capacity; creates an exception to the moratorium on basic care beds for long-term care beds that are transferred to a basic care facility; and extends the moratorium on expansion of basic care bed capacity and the moratorium on expansion of long-term care bed capacity from July 31, 2011, to July 31, 2013.

BIRTH AND DEATH

House Bill No. 1084 authorizes the State Department of Health to grant limited access to birth and death information to divisions and programs of the State Department of Health, Department of Transportation, and Protection and Advocacy Project.

House Bill No. 1214, as part of a bill that addresses the Statewide Longitudinal Data System, authorizes the State Department of Health to grant the Information Technology Department with limited access to birth and death information.

Senate Bill No. 2067 allows the Health Council to authorize the use of newborn genetic disease screening tests for research purposes.

Senate Bill No. 2116 provides if a decedent dies while serving in military service and has a completed defense record of emergency data, the duty to bury the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person authorized by the decedent pursuant to that form.

Senate Bill No. 2215 provides a health care professional who provides prenatal care to a patient may inform the patient of options relating to stem cells that are contained in the umbilical cord blood, provides a health care professional who provides such information is protected from civil and criminal liability and from professional discipline if acting in good faith, and directs the State Department of Health to prepare a pamphlet that includes information regarding collection of umbilical cord blood.

Senate Bill No. 2293 authorizes a physician assistant to complete and file a death certificate and a fetal death certificate.

EMERGENCY MEDICAL SERVICES

House Bill No. 1044 repeals the law enacted in 2007 which provided for emergency medical services allocations and for a state strategic plan that included an integrated emergency medical services program that included a comprehensive statewide emergency medical services system; creates an Emergency Medical Services Advisory Council to advise the State Department of Health

on the state plan for integrated emergency medical services, development of emergency medical services funding areas, development of the emergency medical services funding areas application process and budget criteria, and other issues relating to emergency medical services; directs the State Department of Health to establish and update a plan for integrated emergency medical services in this state which includes designation of emergency medical services funding areas; provides emergency medical services operations that request financial assistance from the state must provide requested fiscal information to the State Department of Health for use in financial assistance determinations; and directs the State Department of Health to distribute state financial assistance for emergency medical services.

House Bill No. 1266 authorizes the State Health Officer to appoint an emergency medical services and trauma medical director to provide medical oversight and consultation in the development and administration of the state emergency medical services and trauma systems.

Senate Bill No. 2094 removes the annual November first deadline for licenseholders of emergency medical services operations to file annual applications.

MEDICAL SERVICES

House Bill No. 1159 directs the State Health Officer to adopt rules to authorize a layperson to administer epinephrine to an individual who has a severe allergic reaction and expands the current law regarding administration of epinephrine to individuals with severe adverse reactions to insect stings to now apply to administration to individuals with severe allergic reactions regardless of cause.

House Bill No. 1297 defines the term "abortion" as that term relates to the law that provides a person may not be required to participate in the performance of an abortion and may not be discriminated against because that person objects to so participate.

Senate Bill No. 2084 makes substantial revisions to update the laws regarding State Department of Health powers and duties relating to testing and confinement of individuals with tuberculosis.

Senate Bill No. 2276 provides that under the State Department of Health's North Dakota immunization program the department shall implement a provider choice system that provides health care providers that participate in the state's Vaccines for Children program may select any licensed vaccine and the department shall establish a program through which the department purchases vaccines through the federal vaccine purchasing contract to supply public health units with the purchased vaccines.

TECHNOLOGY

House Bill No. 1422, effective August 1, 2013, requires that a drug prior authorization request be accessible to a health care provider with the provider's electronic prescribing software system and accepted by the payer and provides commercial regulations on electronic transmission devices used to communicate a prescription to a pharmacist.

Senate Bill No. 2037 changes the administration of the health care record registry from the Secretary of State to the Information Technology Department.

MISCELLANEOUS

House Bill No. 1039, as part of the technical corrections bill, corrects obsolete references by changing references to the North Dakota Healthcare Association to the North Dakota Hospital Association.

House Bill No. 1041 directs the State Department of Health to establish and administer a nurse aide registry for the registration and regulation of certified nurse aides, home health aides, medication assistants, and nurse aides.

House Bill No. 1104, as it relates to institutional controls and responsibility exemptions for contaminated properties, authorizes the State Department of Health to terminate the requirement for financial assurance if the person required to have financial assurance demonstrates to the

department that the property no longer presents a significant threat to public health or the environment.

House Bill No. 1174 expands the law that sets the maximum charges a health care provider may charge for medical records to include copies of medical bills and distinguishes between the maximum charges allowed for copies in a printed or facsimile format and for copies in electronic, digital, or other computerized format.

House Bill No. 1188 increases the fine for the penalty for littering and open burning by providing the minimum fine that may be imposed is \$100.

May 2011

TITLE 24

Highways, Bridges, and Ferries

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 24. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

Senate Bill No. 2175 increases the thresholds and limits for the director of the Department of Transportation to procure a consultant through direct negotiation to not more than \$100,000, through notifying prequalified firms in the specific area of need with at least 7 days to respond to greater than \$100,000 but not more than \$300,000, and through notifying all prequalified firms with at least 21 days to respond to greater than \$300,000. In addition, the bill provides that the method of procurement in multiproject solicitations is the method that applies to the highest dollar level project.

House Bill No. 1185 provides for public bidding for highway improvements by counties in excess of \$100,000. The bill requires a county to seek quotes from at least two contractors if the improvement is between \$50,000 and \$100,000.

Senate Bill No. 2156 provides as part of the requirement of arbitration for disputes between the director of the Department of Transportation and a contractor, one arbitrator is jointly selected for claims less than \$100,000, previously \$50,000, and three arbitrators if \$100,000 or more, previously \$50,000 or more.

Senate Bill No. 2066 allows temporary political signs within the sight of a highway that is part of the state highway system.

House Bill No. 1232 prohibits a person from placing an obstruction or safety hazard within the vertical plane of a section line highway right of way unless with the permission of the board of county commissioners or board of township supervisors, as appropriate. The bill exempts a railroad company performing maintenance and repair work. The bill provides that a person that violates the prohibition, upon written order, shall remove the obstruction or safety hazard or the obstruction or safety hazard will be removed and the person may be billed.

May 2011

TITLE 25

Mental and Physical Illness or Disability

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 25. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to mental and physical illness or disability may be classified in these subject areas: mental health commitment procedures, sexually dangerous individuals, and physical illness and disability.

MENTAL HEALTH COMMITMENT PROCEDURES

House Bill No. 1269 amends the confidentiality of records provision relating to mental health commitments to provide that courts may release nonclinical identifying information of individuals who are subject to proceedings under Chapter 25-03.1 to determine whether a individual with a mental disability may possess a firearm.

Senate Bill No. 2039 amends Section 25-03.1-23 to include licensed addiction counselors as one of the mental health professionals authorized to execute a certificate regarding a continuing treatment order. The bill, which included an emergency clause, became effective on April 25, 2011.

Senate Bill No. 2040 provides that for purposes of conducting an examination under Section 25-03.1-11, an individual who meets the definition of expert examiner is authorized to evaluate a respondent's mental status.

Senate Bill No. 2041 authorizes the use of telemedicine technologies for court-ordered examinations under Chapter 25-03.1.

Senate Bill No. 2166, which relates to the interstate contracts for treatment of mental illness or chemical dependency, expands the mental health and chemical dependency treatment services that the Department of Human Services may contract for with other states to include chemical dependency detoxification services.

SEXUALLY DANGEROUS INDIVIDUALS

House Bill No. 1464, for purposes of civil commitment of sexually dangerous individuals, the bill amends the definition of "sexually predatory conduct" to include engaging or attempting to engage in a sexual act with another individual if the other individual is a person related to the actor within a degree of consanguinity within which marriages are declared incestuous and void under Section 14-03-03. The bill also provides that adult and juvenile case files and court records of offenses defined by Chapters 12.1-20 and 12.1-27.2 must be retained for 50 years and must be made available to any state's attorney for purposes of investigation or proceedings under Chapter 25-03.3.

PHYSICAL ILLNESS AND DISABILITY

Senate Bill No. 2067, for purposes of newborn disease screening, expands the definition of "metabolic disease" to include "genetic disease." The bill also requires physicians and birth attendants to provide parents with written information regarding the nature of the proposed testing.

Senate Bill No. 2142 changes terminology that refers to "mentally retarded" throughout the North Dakota Century Code to "individuals who are intellectually disabled" or "individuals with intellectual disabilities."

Senate Bill No. 2265 relates to work activity centers and procurement of services by state agencies. The bill provides that if acceptable commodities or services are produced or provided by a work

activity center at fair market price, any state entity or political subdivision may enter a contract to purchase directly from the work activity center without obtaining competitive bids. The bill also includes a statement of purpose which provides that it is in the public interest to advance employment opportunities to individuals with disabilities so that those individuals may acquire job skills and training and gain greater independence and quality of life.

May 2011

TITLE 26.1

Insurance

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 26.1. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to insurance may be classified in these subject areas: federal health care, health, Insurance Commissioner, insurance companies, and miscellaneous.

FEDERAL HEALTH CARE

House Bill No. 1125 directs the Insurance Commissioner to administer and enforce the provisions of the federal Patient Protection and Affordable Care Act.

House Bill No. 1126 directs the Insurance Commissioner and the Department of Human Services to plan for the implementation of a state American health benefit exchange that facilitates the purchase of qualified health benefit plans, provides for the establishment of a small business health options program, implements eligibility determination and enrollment of individuals in the state's medical assistance program and the state's children's health insurance program, provides simplification, provides coordination among the state's health programs, and meets the requirements of the federal Patient Protection and Affordable Care Act; provides deadlines for implementing the exchange; directs the Insurance Commissioner and Department of Human Services to collaborate with the Information Technology Department; and authorizes the Insurance Commissioner and Department of Human Services to receive from and provide to federal and state agencies information gathered in the administration of the exchange as necessary.

House Bill No. 1127 amends North Dakota law impacting health plans in order to implement the necessary provisions of the federal Patient Protection and Affordable Care Act, including limitations on risks, independent external review, external appeal procedures, and internal claims and appeals procedures.

HEALTH

House Bill No. 1165 provides that subject to certain exclusions, regardless of whether a resident of this state has or is eligible for health insurance coverage under a health insurance policy, health service contract, or evidence of coverage by or through an employer or under a plan sponsored by the state or federal government, the resident is not required to obtain or maintain a policy of individual health coverage except as may be required by a court or by the Department of Human Services through a court or administrative proceeding.

House Bill No. 1183 provides that except for fees for covered services, a preferred provider arrangement for a dental plan may not set or otherwise regulate the fees charged by the preferred provider for those dental services.

Senate Bill No. 2237 provides in setting premium, policy fees, or rates for accident or health insurance it is unfair discrimination and therefore a prohibited practice to consider an individual's history or status as a subject of domestic abuse.

INSURANCE COMMISSIONER

House Bill No. 1121 provides documents, materials, or other information in the possession or control of the Insurance Commissioner which are an actuarial report, workpapers, or an actuarial opinion summary provided in support of the actuarial certification and other material provided by the insurance company to the commissioner in connection with these documents are confidential and privileged. Additionally, this bill provides limitations to this confidentiality.

Senate Bill No. 2010 increases the salary of the Insurance Commissioner from \$87,728 to \$90,360 effective July 1, 2011, and to \$93,071 effective July 1, 2012.

INSURANCE COMPANIES

House Bill No. 1083 revises the definition of "company level event" as that term relates to risk-based capital reports required of property and casualty insurers and of health organizations.

House Bill No. 1123 enacts the Surplus Lines Insurance Multistate Compliance Compact and revises North Dakota law relating to surplus lines insurance to conform to the requirements of the federal Nonadmitted and Reinsurance Reform Act of 2010.

House Bill No. 1160 makes multiple revisions to the laws relating to annuity sales, including clarifying the scope of the law, requiring that an insurance producer or insurer determines whether a proposed annuity is suitable and has reasonable grounds to believe the proposed annuity is suitable for the consumer's financial situation and need, and requiring that insurance producers must meet certain training requirements before they attempt to sell annuities.

Senate Bill No. 2111 makes several updates to the Life and Health Insurance Guaranty Association law, including specifically including association coverage of obligations related to supplemental contracts for group policies and to allocated funding agreements, adding Medicare Part C and Part D policies to the existing list of policies and contracts that are not covered by the association, increasing benefit limitations, excluding charitable gift annuity organization from membership in the association, clarifying the association may guaranty the policy obligations of an insolvent insurer directly or through a reinsurance arrangement with a reinsurance company, removing the annual \$150 cap and pro rata option of the association's assessment of its administrative expenses and legal costs under the Class A assessment authority, providing the association shall pay interest on a refund due to a member insurer at the rate earned by the association, revising the requirements for the association's plan of operation to add policies and procedures for the removal of directors for cause and to address conflicts of interest, increasing from 60 days to 180 days the stay on legal proceedings in which the insolvent insurer is a party, and providing the bill applies to insolvent insurers that are placed under a liquidation order after the effective date of the bill.

Senate Bill No. 2258 revises the law that provides for child support insurance data match making participation mandatory for government self-insurance pools effective August 1, 2013, addressing confidentiality issues, addressing liens the Department of Human Services may have on a claim, and providing penalties for failure to comply with the child support insurance data match requirements.

MISCELLANEOUS

House Bill No. 1174 expands the law that sets the maximum charges a person may charge for medical records provided to a basic no-fault insurer to include copies of medical bills and distinguishes between the maximum charges allowed for copies in a printed or facsimile format and for copies in electronic, digital, or other computerized format.

House Bill No. 1175 addresses insurance rebates and revises the limitations on an insurance producer giving a gift, prize, promotional article, logo merchandise, meal, or entertainment activity as long as it does not exceed a value of \$50.

House Bill No. 1308 provides that for rental vehicles, if no other automobile insurance is in force at the time of an accident, the owner's automobile insurance extends coverage to the lessee; however, and if there is other automobile insurance in force, the lessee's policy is primary and the owner's policy is excess coverage.

Senate Bill No. 2062 provides a person may not prepare, issue, or require the issuance of a certificate of insurance on property operations or on risks located in this state unless the certificate of insurance form has been filed with the Insurance Commissioner; provides limitations on actions that can be taken regarding a certificate of insurance that has been filed with the commissioner; and limits the circumstances under which a certificate holder is entitled to the right of notice of cancellation, nonrenewal, or any material change concerning a policy of insurance.

Senate Bill No. 2064 revises the law relating to boiler inspection, including amending the definition of "boiler" to be consistent with the definition used by the American Society of Mechanical Engineers, increasing the maximum rate a boiler inspector may charge for an inspection, providing the rate for inspections of steam traction engines are the same as for inspections of other boilers, and providing the rate for a certificate of inspection is based on \$20 per year the certificate is valid instead of a flat rate of \$20.

Senate Bill No. 2142 changes a reference to "mental retardation" to "intellectual disability" and changes a reference to "physical handicap" to "physical disability".

May 2011

TITLE 27

Judicial Branch of Government

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 27. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to the judicial branch of government may be classified in these subject areas: juveniles, courts, and miscellaneous.

JUVENILES

House Bill No. 1155 includes law enforcement agencies among the entities that are exempt from certain requirements with respect to the destruction of juvenile court records.

Senate Bill No. 2087 clarifies that as a child has been removed from a parent's custody for the purpose of placement into foster care, the legal custodian has a duty to provide notice to adult relatives regarding the child.

Senate Bill No. 2192 establishes a procedure for the disposition of a child who needs continued foster care services. The bill defines a child as an individual between the ages of 18 and 21 who is in need of continued foster care services. The bill also sets forth the criteria to be used by the court in making the determination of whether the child is in need of continued foster care services.

COURTS

House Bill No. 1002, which includes the biennial appropriation for the judicial branch, provides for increases in the salaries of the Supreme Court justices and the district court judges.

House Bill No. 1078 provides immunity for a guardian ad litem from civil liability for any act or omission arising out of the guardian's duties and responsibilities as a guardian ad litem unless the act or omission constitutes gross or willful negligence or gross or willful misconduct.

House Bill No. 1108 extends the expiration date for the temporary court of appeals to January 1, 2016.

MISCELLANEOUS

Senate Bill No. 2142 changes terminology that refers to "mentally retarded" throughout the North Dakota Century Code to "individuals who are intellectually disabled" or "individuals with intellectual disabilities."

May 2011

TITLE 28

Judicial Procedure, Civil

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 28. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to civil judicial procedure may be classified in these subject areas: administrative agency rules and civil actions.

ADMINISTRATIVE AGENCY RULES

House Bill No. 1026 makes it optional, rather than mandatory, for an administrative agency to adopt and maintain an organizational rule.

House Bill No. 1087, which relates to the time of filing a petition for reconsideration from a final order of an administrative agency, provides that any party before an administrative agency who is aggrieved by the final order of the agency, including the administrative agency if the hearing officer is not the agency head or one or more members of the agency head, within 15 days after notice has been given, may file a petition for reconsideration with the agency. The bill also provides that any party, including Workforce Safety and Insurance, which appears before that agency may file a petition for reconsideration within 30 days after notice has been given.

House Bill No. 1162 provides that when an agency presents rules for the Administrative Rules Committee's consideration, the agency must provide a fiscal note or a statement in the agency's testimony that the rules have no fiscal effect. The bill provides that the fiscal note must reflect the effect of the rules change on state revenues and expenditures, including any effect on the funds controlled by the agency. The bill also requires an agency to make interim final rules known to those persons the agency can reasonably be expected to believe may have a substantial interest in the rules. The bill provides for procedural rules for the Administrative Rules Committee in dealing with the consideration of proposed administrative rules. The bill provides that administrative rules are not considered initially considered by the committee until a representative of the agency appears before the committee when the rules are scheduled for committee consideration.

CIVIL ACTIONS

House Bill No. 1388 provides that the rules relating to the filing of a notice of lis pendens apply in either a civil or criminal action.

House Bill No. 1456 provides that a civil action resulting from childhood sexual abuse must be commenced within seven years after the plaintiff knew or reasonably should have known that a potential claim exists resulting from the alleged childhood sexual abuse.

May 2011

TITLE 29

Judicial Procedure, Criminal

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 29. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1064, which relates to the court administration fee assessed in criminal cases, removes the requirement that the portion of the fee used for indigent defense must be used to contract for indigent defense services. The change allows the court administration fee to be used for indigent defense services provided by a public defender.

House Bill No. 1065 clarifies that not only must a city pay for indigent defense for cases in municipal court and cases from municipal court which are transferred to district court for a jury trial but also for cases transferred to district court under Section 40-18-06.2 and for any appeals or postconviction matters that result from a violation of a municipal ordinance.

House Bill No. 1329 provides that the prosecution of felony theft offenses under Chapter 12.1-23 must be commenced within the later of three years of the commission of the last act that is an element of the offense, three years of discovery of the stolen property, or three years of discovery of the loss of the property or services. The bill also provides that the prosecution of misdemeanor or infraction theft offenses under Chapter 12.1-23 must be commenced within the later of two years of the commission of the last act that is an element of the offense, two years of discovery of the stolen property, or two years of discovery of the loss of the property or services.

House Bill No. 1192 harmonizes statutory criminal procedure provisions with respect to the commencement of a prosecution with the North Dakota Rules of Criminal Procedure. The bill also repeals Sections 29-09-02, 29-09-06, and 29-09-07, all of which contain criminal procedures that are addressed in the North Dakota Rules of Criminal Procedure.

Senate Bill No. 2285 provides that if a law enforcement officer has reasonable cause to believe an individual has violated a lawful order of a court which requires the individual to participate in the 24/7 sobriety program, the law enforcement officer may take the individual into custody without a warrant. The bill became effective on April 26, 2011.

May 2011

TITLE 30
Judicial Procedure, Probate
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 30. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 30.1
Uniform Probate Code
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 30.1. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1138 adopts the Uniform Real Property Transfer on Death Act, which, among other things, requires a disclaimer of interest in real property be recorded in the office of the county recorder in the case of an interest created by a beneficiary designation which is disclaimed after the designation becomes irrevocable.

May 2011

TITLE 31

Judicial Proof

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 31. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1389 provides that it is a Class C felony for an individual to willfully tamper or attempt to tamper with a sample of blood or body fluids or a collection device or kit; to alter the outcome of DNA testing; or to willfully possess, distribute, or assist in the use of a device, chemical, or real or artificial sample of blood or body fluids intended to be used to alter the outcome of DNA testing. The bill also addresses DNA sample collection procedures and the jurisdiction of a court over an individual ordered to provide a sample of blood or other body fluids. The bill grants civil and criminal immunity to entities for the good-faith inclusion and retention of identifiable information in the database from a sample of blood or other body fluids which have been legally obtained.

Senate Bill No. 2123 provides for the adoption of the Uniform Unsworn Foreign Declarations Act. The bill defines an unsworn declaration as a declaration in a signed record which is not given under oath but which is given under penalty of perjury. The bill applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located outside the boundaries of the United States whether or not the location is subject to the jurisdiction of the United States. This bill does not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.

May 2011

TITLE 32

Judicial Remedies

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 32. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1118 relates to accidents involving a motor vehicle owned or leased by the state and operated by a state employee which results in bodily injury or significant property damage. The bill provides the Department of Transportation is required to conduct an internal review of all accidents involving a motor vehicle owned or leased by the state which is not submitted to the Risk Management Motor Vehicle Accident Review Board to determine whether the accident was preventable and to make recommendations to the agency employing the employee involved in the accident.

House Bill No. 1119 provides that upon request by any state institution of higher education, the Office of Management and Budget, through the risk management fund, is required to defend and administer claims against students which arise from the operation of a vehicle owned or leased by the state, the operation of which is a required part of an established course of curriculum. The bill, which included an emergency clause, became effective on March 14, 2011.

House Bill No. 1419 grants immunity from civil liability to any person engaged in this state in the business of selling at retail, supplying, handling, or transporting liquefied petroleum gas if the direct cause of any loss, damage, or injury was caused by the alteration, modification, or repair of liquefied petroleum gas equipment or a liquefied petroleum gas appliance and the alteration, modification, or repair was done without the knowledge and consent of the liquefied petroleum gas seller, supplier, handler, or transporter or was completed by a person not certified to repair the equipment or appliance.

House Bill No. 1452 provides landowner immunity for injuries to trespassers. The bill provides that an owner does not owe a duty of care to a trespasser and is not subject to liability for any injury to a trespasser. The bill provides for exceptions to the landowner immunity which include situations involving injuries to children.

Senate Bill No. 2083 provides that service upon the state, as garnishee, may be made upon the director of the Office of Management and Budget or the director's authorized designee.

Senate Bill No. 2232 provides that the records of any state agency loss control committee which address any pending or reasonably predictable claim are exempt records unless the director of the Office of Management and Budget determines disclosure will not prejudice any pending or reasonably predictable claim. The bill also provides that the records and communications at meetings of the committee regarding any pending or reasonably predictable claim are privileged and are not subject to subpoena or discovery or introduction into evidence in any civil action.

May 2011

TITLE 33
County Justice Court
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 33. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 34
Labor and Employment
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 34. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

Senate Bill No. 2138 provides that under certain circumstances if an employee separates from employment voluntarily, a private employer may withhold payment for accrued paid time off.

Senate Bill No. 2258 increases the employer reporting requirements under the directory of new hires to include reporting on whether the employer offers health insurance to the employee and requires that employers of more than 24 employees are required to use an Internet-based method to report new hires.

May 2011

TITLE 35

Liens

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 35. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1328 changes references to "verified statements" to "statements signed by the filer" in the law relating to agister's liens, agricultural processor's liens, and agricultural supplier's liens and increases filing fees under the Uniform Federal Lien Registration Act.

Senate Bill No. 2249 provides that effective January 1, 2012, for purposes of the verified statement for a lien for unpaid earned property or casualty insurance premium and for a notice for a vessel lien for unpaid child support, the Social Security number or Internal Revenue Service taxpayer identification number of a debtor is no longer required on the forms.

Senate Bill No. 2258 revises the law relating to child support liens, including creation of a web-based child support lien registry; providing that any real or titled personal property of an obligor who is listed on the registry or which the obligor thereafter acquires in this state is subject to a lien.

May 2011

TITLE 36
Livestock
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 36. Bills primarily affecting other titles also may affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2128 appropriates \$4,900 to the State Board of Animal Health for the purpose of reimbursing livestock owners for any losses incurred as a result of official disease testing required by the State Veterinarian. The maximum allowable claim under this section is \$500 per animal.

May 2011

TITLE 37

Military

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 37. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

Senate Bill No. 2069 allows the National Guard to pay medical expenses for injuries sustained on state active duty in excess of other insurance which are not covered by Workforce Safety and Insurance.

Senate Bill No. 2090 provides technical corrections to the law on the operation of the National Guard.

House Bill No. 1271 changes the dates of eligibility for an honorary high school diploma for a veteran of the Korean conflict.

Senate Bill No. 2211 excludes athletic team coaches of State Board of Higher Education institutions from veterans' preferences.

Senate Bill No. 2071 allows the adjutant general to recall to state active duty on a volunteer basis former members of the national guard who are qualified to address a disaster or emergency.

Senate Bill No. 2107 allows the office of the Adjutant General, instead of the Division of Homeland Security, to borrow money from the Bank of North Dakota to match federal disaster assistance and administer the disaster or emergency recovery program.

Senate Bill No. 2091 includes an employee from a federal agency in the limitation on liability as to injury of persons or damage of property in conducting emergency management.

House Bill No. 1316 allows an appeal from a decision of the Department of Veterans' Affairs to be closed upon the request of an applicant. The bill allows the applicant two representatives and a family member at a closed meeting. The bill provides that the appeals committee must give reasons for the decision, the record of the hearing is an exempt record, and the decision is final.

House Bill No. 1177 appropriates \$20,000 to the Department of Veterans' Affairs to hold "stand down" events to coordinate benefits and provide services to needy veterans. The bill requires the events have at least a 50 percent match and do not exceed \$5,000 each. In addition, the bill requires a report to the Appropriations Committees during the 2013 legislative session.

Senate Bill No. 2279 rewrites the veterans' preference for public employment and clarifies the priority for selection.

Senate Bill No. 2369 requires Emergency Commission and Budget Section approval for money appropriated for providing the state share of funding from the state disaster relief fund for expenses associated with a presidential-declared disaster in the state.

House Bill No. 1007 creates the Melvin Norgard memorial fund for funds bequeathed by Mr. Norgard to the Veterans' Home. The bill requires the fund to be invested by the State Treasurer and that investment income be retained in the fund. Money in the fund is for projects and programs to benefit and serve the residents of the Veterans' Home, and the Legislative Assembly shall consider the recommendations of the governing board of the Veterans' Home when determining appropriations from this fund.

House Bill No. 1468 appropriates on a continuing basis all income earned in a biennium in the veterans' postwar trust fund in the following biennium and appropriates money from the general fund for this biennium.

Senate Bill No. 2016 creates an exception for local law enforcement using private commercial access to the state message switch from fees to provide mobile data terminal service and increases the fees per terminal for city and county access to the teletype system 20 percent, or 25 percent based on population.

May 2011

TITLE 38

Mining and Gas and Oil Production

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 38. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1216 designates hydraulic fracturing--a mechanical method of increasing the permeability of rock to increase the amount of oil and gas produced from the rock--as an acceptable recovery process. This bill included an emergency clause and became effective April 11, 2011.

House Bill No. 1241 revises the notice procedures for notice of oil and gas drilling operations and the provisions for payment of damages for loss of agricultural production and income caused by oil and gas production and completion operations. The bill requires a mineral developer to provide at least seven days' notice before initial entry upon the land for activities that do not disturb the surface for proposed oil and gas drilling operations. The notice must include an offer to discuss and agree to consider accommodating any proposed changes to the proposed plan of work in oil and gas operations before commencement of operations. The bill requires a mineral developer to pay the surface owner a sum of money equal to the amount of damages sustained by the surface owner and the surface owner's tenant, if any, for loss of agricultural production and income caused by oil and gas production and completion operations which must be paid annually unless the surface owner elects to receive a single lump sum payment. The damage and disruption and loss of production payments provisions are effective for drilling operations commenced after July 31, 2011.

May 2011

TITLE 39

Motor Vehicles

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 39. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to motor vehicles may be classified in these subject areas: driver's licenses, title and registration, overweight and oversized vehicles, general rules of the road, highway patrol, and miscellaneous.

DRIVER'S LICENSES

House Bill No. 1256 restricts minor drivers by requiring an instruction permit for 12 months if under 16 years of age; prohibits the use of an electronic communication device; and for a motorcycle permit, limits driving to daytime and no passengers. The bill requires 50 hours of driving to receive a restricted license and prohibits using an electronic communication device and driving after the later of sunset or 9:00 p.m. and before 5:00 a.m., unless to or from work, an official school activity, or religious activity. The bill prohibits the use of an electronic communication device by a 16- to 18-year-old and makes a violation a moving violation. The bill provides for two demerit points for driving in violation of an instruction permit.

House Bill No. 1109 raises the fee from \$10 to \$15 for the issuance of an operator's license and extends the validity of an operator's license from four years to six years, except for an individual 78 years of age or older for which an operator's license is valid for four years. The bill limits commercial licenses to four years.

Senate Bill No. 2346 allows a minor to drive with a restricted license the grandparent's, sibling's, aunt's, or uncle's motor vehicle, instead of as limited previously to parent's or guardian's motor vehicle, who is liable for all damages for negligent operation of the motor vehicle.

House Bill No. 1197 allows a veteran to request an indicator on the face of the operator's license that the individual is a veteran.

Senate Bill No. 2112 changes provisions relating to commercial driver's licenses, including defining a violation of state or local law prohibiting texting while driving as a serious traffic violation, allows the director to provide authorization to an applicant to drive from home and back to take the road test if the allowable number of permits have been issued, and provides for medical certification requirements for applicants and downgrades.

Senate Bill No. 2244 allows a driver with a Class D license to operate a triple-axle motor vehicle if qualified under the farm exemption and to operate a truck towing a trailer in excess on 10,000 pounds provided the combined weight does not exceed 26,000 pounds gross combination weight rating. The bill clarifies the intrastate hours of service exemptions and limits driving to 12 cumulative hours following 10 consecutive hours off duty or for any period after the end of the 16th hour after coming on duty following 10 consecutive hours off duty.

TITLE AND REGISTRATION

Senate Bill No. 2165 requires the Department of Transportation permanently to maintain records of certain surrendered certificates of title.

House Bill No. 1113 prohibits the issuance of North Dakota Firefighter's Association number plates, Future Farmers of America number plates, organization number plates, and prisoner of war number plates to vehicles that exceed 20,000 pounds, instead of previously prohibited to vehicles that equal

or exceed 20,000 pounds. The bill made parallel changes to disabled veteran number plates but the vehicle may not exceed 26,000 pounds.

House Bill No. 1217 allows a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to 100 percent to be exempt from motor vehicle registration fees.

Senate Bill No. 2207 allows a person who becomes gainfully employed, resides in this state, or remains in this state for at least 90 consecutive days, excluding students and commuters, to purchase a temporary motor vehicle registration without a title transfer or imposition of motor vehicle excise tax. The bill increases the penalty for not being registered upon becoming a resident of this state to \$100.

Senate Bill No. 2188 clarifies that a certificate of title need not be obtained for a vehicle engaged in interstate transportation which is registered with the international registration plan and has a certificate of title in another state with a reciprocal excise tax agreement with this state.

OVERWEIGHT AND OVERSIZED VEHICLES

House Bill No. 1079 creates separate weight limits for steering axles for the interstate of 20,000 pounds or the axle rating established by the manufacturer, whichever is lower.

House Bill No. 1082 allows the superintendent of the Highway Patrol and the director of the Department of Transportation to enter cooperative regional permit agreements with any other state on regional operation or movement of nondivisible oversized or overweight vehicles.

Senate Bill No. 2102 requires extraordinary road use fees to be deposited with the State Treasurer and credited to the highway fund.

House Bill No. 1254 allows permits for overdimensional movements of vehicles that do not exceed 10 feet to travel during the day or night.

Senate Bill No. 2044 clarifies that overweight permit fees for permits issued by local authorities go to the local authority and that citation fees for a violation of a permit issued by a local authority are for a violation of state law.

GENERAL RULES OF THE ROAD

House Bill No. 1262 allows a law enforcement officer who is stopping a person in a vehicle or snowmobile to signal that person to stop while in uniform or while displaying a badge--previously both were required.

House Bill No. 1173 requires lighted headlamps and taillamps, rather than just lamps, at night, in poor weather, or in poor visibility.

House Bill No. 1188 makes the fee \$100 for littering on the highway.

House Bill No. 1195 prohibits the use of a wireless communications device to text while operating a motor vehicle as part of traffic. The bill makes the violation a moving violation with a fee of \$100. The bill creates certain exceptions for reporting a traffic accident, medical emergency, or serious traffic hazard or to prevent a crime or other serious danger.

Senate Bill No. 2113 clarifies laws relating to implied consent alcohol and drug testing. The bill allows electronic posting of certain information.

Senate Bill No. 2157 creates a \$250 fee for knowingly entering a closed road with an appropriate traffic control device at the point of entry.

HIGHWAY PATROL

Senate Bill No. 2109 removes a payment option to a surviving spouse under the highway patrolmen's retirement plan, changes references to federal law in relation to the highway patrolmen's retirement plan, and does not require consecutive months of employment for calculation of benefits.

Senate Bill No. 2108 increases the employer and employee contributions to the highway patrolmen's retirement plan by 2 percent each.

Senate Bill No 2308 allows the Highway Patrol to establish an online electronic permit system and assess a fee of \$15 that is deposited in the motor carrier electronic permit transaction fund and which is appropriated on a continuing basis to pay for the system of electronic permitting and routing. In addition, the bill provides for a \$2.5 million line of credit from the Bank of North Dakota to the Highway Patrol to establish an online electronic permit system.

MISCELLANEOUS

Senate Bill No. 2143 allows the director to seek professional medical advice from licensed medical care providers, instead of only physicians and optometrists.

Senate Bill No. 2287 adds to the list of Class A authorized emergency vehicles, vehicles used by the Bureau of Criminal Investigation for law enforcement purposes.

House Bill No. 1319 allows air conditioning refrigerant, which is toxic or flammable, if the federal Environmental Protection Agency lists the refrigerant as a safe alternative.

House Bill No. 1196 makes the second violation of driving a snowmobile under the influence of alcohol or drugs a Class B misdemeanor instead of an infraction.

Senate Bill No. 2255 redefines garage liability insurance as liability insurance for the business operation that includes general, business automobile, and sales, repair, or service operations liability; requires an applicant for a trailer dealer license to submit a \$100 initial inspection fee; limits the use of dealer plates to direct functions of the business; defines a primary established place of business for trailer dealers; requires a bond before the renewal of a trailer dealer's license; allows for the denial or cancellation of a trailer dealer's license; and requires a trailer dealer to allow the director to inspect records.

Senate Bill No. 2107 no longer requires a Class C authorized emergency vehicle to have a blue flashing light that is rotating and removes the authority of the Division of Homeland Security to adopt rules on the use of blue lights by state and local disaster emergency services personnel.

House Bill No. 1103 defines a licensed health care provider with respect to who may provide advice to the director of the Department of Transportation on the medical aspect of a driver; adds drug-related offenses to current alcohol-related offenses that apply especially to minors; consolidates anatomical gift provisions into one section; clarifies that a nonimmigrant who is not eligible for a Social Security number does not need one to receive a photo identification card or driver's license; reimposes a suspension, revocation, or cancellation should an individual provide an insufficient fund check or stop payment on a debit or credit card used to pay a fee; clarifies that a license is suspended for driving under the influence until treatment requirements are satisfied; sets the lifetime disqualification for a commercial driver's license for offenses committed while operating a noncommercial motor vehicle after August 1, 2003; provides for the provision of an out-of-service order and the issuance of temporary licenses, instead of confiscation; clarifies the load carrying and capacity of front and rear wheels for three-wheeled motorcycles; clarifies the alignment of front and rear wheels for three-wheeled motorcycles; removes the requirement for vertical adjustment of handlebar grips; and clarifies other provisions of law.

May 2011

TITLE 40

Municipal Government

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 40. Bills primarily affecting other titles also may affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1313 allows a city governing body to permit permanent, on-duty or off-duty, full-time firefighters employed by the city or volunteers serving the city to solicit charitable contributions from motorists if the solicitation is limited to one charitable organization annually and is limited to three days in the calendar year and the charitable organization provides the city proof of commercial general liability insurance against claims for bodily injury and property damage that may occur on the public streets, roads, or right of ways as a result of the actions of those soliciting. The bill was declared to be an emergency measure and became effective on April 19, 2011.

House Bill No. 1039 repeals a section of law allowing cities to establish a local centennial coordinating committee to develop and implement special communitywide projects to celebrate this state's centennial of statehood in 1989.

House Bill No. 1027 prohibits a city, except for zoning regulations, from imposing any requirements or restrictions pertaining to the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of seed.

House Bill No. 1391 provides that the streamlined sales and use tax agreement does not apply to home rule county fuels taxes.

House Bill No. 1114 provides that a petition to request a special election to fill a vacancy for a city commissioner, council member, or mayor must be signed by 5 percent of the qualified electors as determined by the number of votes cast at the last city general election. The bill requires that for any city election not held in conjunction with a county election, the city canvassing board must consist of the city auditor, city attorney, mayor or commission president, and two members of the city commission or council, or appointed replacements for any of those officials. The bill repeals the requirement that before taking office each city commissioner must submit a bond of \$3,000. The bill was declared to be an emergency measure and became effective on April 4, 2011.

Senate Bill No. 2254 changes the deadline for filing a petition to establish a public library in a city or county from 60 days before a regular election to 90 days before a regular election.

House Bill No. 1310 provides that after a matter is transferred from municipal court to district court for trial, if the defendant waives a jury trial, the matter must be remanded to the municipal court unless the defendant and the prosecuting attorney agree that jurisdiction for the matter should remain with the district court.

Senate Bill No. 2356 allows a municipality to defray the expenses of an improvement for the maintenance of public places associated with the promotion of business activity and new business development by special assessment. The bill changes the definition of a municipality for the purposes of special assessments for business promotion by removing the requirement that the municipality be a city with a population of fewer than 10,000. The bill also prohibits a municipality from issuing warrants, bonds, or any other form of indebtedness in anticipation of the levy and collection of special assessments.

House Bill No. 1322 provides that if an action challenges the determination of benefits and special assessments imposed for agricultural property, the decision of the special assessment commission regarding agricultural property is not entitled to deference by the court and the court is required to consider the determination of benefits and special assessments imposed for agricultural property de

novo. The bill also provides that in an action to restrain special assessment collection, the amount of an assessment as the assessment appears on the assessment list is prima facie evidence of the true amount unless the action challenges the determination of benefits and special assessments imposed for agricultural property. The bill is effective for special assessments levied after July 31, 2011.

House Bill No. 1076 allows the governing body of a city or a board of county commissioners to authorize the payment of compensation for members of a board of directors of a public library. The bill also provides that a director is entitled to payment for mileage and travel expenses as provided for other public officers and employees. The bill was declared to be an emergency measure and became effective on March 28, 2011.

Senate Bill No. 2193 requires the governing body of a city petitioned to annex property to send by certified mail to each affected property owner and each directly affected city, county, and township a notice of consideration of the annexation petition at least seven days before the meeting. The bill requires similar notice to be sent to each affected property owner and each directly affected city, county, and township in situations in which the city governing body is proposing an annexation.

Senate Bill No. 2050 revises the definition of "blighted area" for purposes of tax increment financing districts to exclude any land that has been assessed as agricultural property within the last 10 years unless the land was located within the interior boundaries of a city for at least 10 years. The bill requires a city governing body to file a development or renewal plan that is being financed through tax increment financing with the Department of Commerce. The bill provides that for a tax increment district established before July 1, 2011, the base year for tax increments computed for a development or renewal area may not be used for more than 25 taxable years without the governing body of the municipality establishing a new base year using taxable values, established as of February 1 of the following year, which are not more than 15 years old. The bill provides that for a tax increment district established after July 1, 2011, the base year for tax increments computed for a development or renewal area may not be used for more than 25 taxable years without the governing body of the municipality establishing a new base year using taxable values, established as of February 1 of the following year, which are not more than 15 years old. The bill authorizes the governing body of a municipality with an active tax increment financing district to, at any time, identify funds on hand that are in excess of the costs it determines necessary to complete the activities included in the last approved urban renewal plan for that district and to cause the identified surplus to be transferred to the county treasurer to be distributed to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the most recent five-year average of the property tax levy within the district. The bill requires the governing body of a municipality, before approval of a development or renewal plan for any development or renewal area, to conduct a public hearing on the proposal. The bill also requires a municipality to file an annual report with the Department of Commerce for each development or renewal plan for any development or renewal area in existence at the end of a calendar year.

House Bill No. 1102 changes the procedure for electing to take a renaissance zone individual income tax credit to require that the election be made on the taxpayer's return as originally and timely filed. The bill is effective for zone projects approved after December 31, 2010.

Senate Bill No. 2048 requires a city in which a renaissance zone is located to provide the Department of Commerce an annual report regarding property that is included in a tax increment financing district. The bill provides the report must identify the property, provide the expected duration of inclusion of the property in the tax increment financing district and the renaissance zone, and identify any property and income tax benefits of the property and the expected duration of those benefits. The bill requires the Department of Commerce to deliver an annual report compiling the information to a Legislative Management interim committee on taxation issues or upon request of any other interim committee of the Legislative Management.

Senate Bill No. 2218 allows renaissance fund organization officers and employees to be actively involved in the enterprises in which the renaissance fund organization invests but prohibits the renaissance fund organization from investing in any enterprise if any one renaissance fund organization officer or employee owns more than 49 percent of the ownership interest in the enterprise. The bill prohibits a renaissance fund organization from investing in an enterprise if renaissance fund organization officers and employees collectively own more than 49 percent of the

ownership interests, either through direct ownership or through ownership of interest in a passthrough entity. The bill also allows a renaissance fund organization to finance projects other than zone projects if the projects are located within designated renaissance zones. The bill increases the total amount of income tax credits allowed for investments in renaissance zone organizations from \$7.5 million to \$8.5 million. The bill requires a renaissance fund organization that has received investments that qualify for income tax credits to use the investments to finance projects within a renaissance zone. The provisions of the bill relating to a renaissance fund organization financing projects located in a renaissance zone are effective for new financing initiated after December 31, 2011. The remainder of the bill is effective for investments made in or by a renaissance fund organization after December 31, 2011.

May 2011

TITLE 41
Uniform Commercial Code
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 41. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1137 adopts the Commission on Uniform State Laws' revisions to Article 9 of the Uniform Commercial Code relating to secured transactions, sales of accounts, and chattel paper.

Senate Bill No. 2249 provides that effective January 1, 2012, for purposes of the information required to be included as part of a financing statement under Article 9 of the Uniform Commercial Code relating to secured transactions, sales of accounts, and chattel paper, the Social Security number or Internal Revenue Service taxpayer identification number of the debtor is no longer required or allowed.

May 2011

TITLE 42
Nuisances
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 42. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 43

Occupations and Professions

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 43. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

ARCHITECTS

House Bill No. 1469 amends the law relating to the regulation of architects, amending the law that exempts the person who prepares the plans and specifications or who designs, plans, or administers the construction contract for the construction, alteration, remodeling, or repair of certain types of buildings from regulation by the State Board of Architecture and Landscape Architecture; provides the regulatory provisions of the law regulating architects does not supersede, override, or amend the law regarding registration of contractors; and makes some grammatical corrections.

AUDIOLOGISTS AND SPEECH-LANGUAGE PATHOLOGISTS

Senate Bill No. 2115 revises the law relating to the regulation of audiologists and speech-language pathologists, including increasing the membership of the Board of Examiners on Audiology and Speech-Language Pathology from seven members to eight members, clarifying an applicant for licensure must pass the licensure examination within one year of application, and providing board members are eligible to receive per diem for conducting board duties.

BARBERS

House Bill No. 1063 increases the amount of several fees relating to the regulation of barbers, including increasing from \$50 to \$100 the fee for renewal of a master barber's certificate, from \$10 to \$20 the restoration of an expired master barber's certificate, from \$10 to \$20 the penalty charged for restoration of an expired license, from \$35 to \$50 the annual barbershop license, from \$25 to \$75 the license to an applicant licensed in another state who is licensed in this state without taking the examination, from \$50 to \$100 to establish a barbershop, and creation of a fee of \$25 for renewal of an instructor's license.

CHIROPRACTORS

House Bill No. 1081 authorizes the State Board of Chiropractic Examiners to require an applicant or licensee to submit to and pay for a statewide and nationwide criminal history record check.

CONTRACTORS

House Bill No. 1355, as part of a bill that addresses fees charged by the Secretary of State, revises the fees charged by the Secretary of State to provide a certified copy of a record related to contracting.

COSMETOLOGISTS

Senate Bill No. 2098 revises the law regulating the practice of cosmetology and the State Board of Cosmetology. The revisions include changing from the use of the term "operator" to the term "cosmetologist"; increasing the board membership from three members to five members; increasing the board members' rate of compensation; removing the statutorily set maximum salary for the secretary of the board; providing an exemption from regulation for an individual who provides skin care under the supervision, control, and responsibility of a physician while in the physician's office, a clinic, or a hospital; revising the limitations for newly licensed schools of cosmetology; distinguishing between the practical examination and the written examination required for licensure as a cosmetologist or instructor; and revising the board's disciplinary authority.

COUNSELORS

Senate Bill No. 2097 directs the Board of Counselor Examiners to require a statewide and nationwide criminal history record check on applicants and allows the board to require such a criminal history record check on licensees. The bill also changes the licensure fees from a maximum of \$150 to an amount set by the board and changes the license renewal fees from a maximum of \$100 to an amount set by the board.

DENTISTS

Senate Bill No. 2146 clarifies that the community grant requirement under the new dental practice grant program may be a monetary or in-kind match.

DETECTION OF DECEPTION EXAMINERS

Senate Bill No. 2164 revises the laws relating to regulation of detection of deception examiners, including changing the instrument requirements and the protocol for providing examination results, increasing the minimum age of an examiner from 18 years to 21 years, removing the grandfather provision that exempted from testing an applicant who was engaged in the administration of examinations before July 1, 1975, and modifying the law relating to the exemption from testing requirements.

ELECTRICIANS

Senate Bill No. 2100 revises the law setting the per diem of members of the State Electrical Board providing the maximum amount is no longer \$50 per day but is instead an amount set by the board and increases the minimum public liability insurance policy limit requirements for master electricians from \$100,000 to \$500,000 and for Class B electricians from \$50,000 to \$250,000.

ENERGY WORKERS

House Bill No. 1304 provides energy workers are exempt from regulation by the Board of Massage.

INTEGRATIVE HEALTH

Senate Bill No. 2271 provides for the creation of the State Board of Integrative Health Care, which licenses and regulates naturopaths and music therapists.

MARRIAGE AND FAMILY THERAPISTS

House Bill No. 1039, as part of the technical corrections bill, removes an obsolete reference to the State Board of Health and changes the name of the North Dakota Marriage and Family Therapist Licensure Board to the North Dakota Marriage and Family Therapy Licensure Board.

NURSES AND NURSE AIDES

House Bill No. 1003 revises the eligibility provisions for the medical personnel loan repayment program and the physician loan repayment program by removing the prohibition that an applicant may not have practiced full time in this state for more than one year before the date of application.

House Bill No. 1041, as part of the bill that directs the State Department of Health to establish and administer a nurse aide registry, exempts an individual who is registered under the nurse aide registry from regulation by the State Board of Nursing, provides a nurse may delegate medication administration to an individual registered under the nurse aide registry, and provides a nurse may supervise and delegate nursing interventions to an individual registered under the nurse aide registry.

House Bill No. 1092 provides a person is exempt from the laws regulating nursing if the person is a student practicing nursing as part of an in-state board-approved nursing education program and is exempt if the person is a student practicing nursing as part of an out-of-state board-recognized nursing education program, upon written notification to the board and contingent upon clinical site availability.

Senate Bill No. 2148 changes the process under which the State Board of Nursing establishes rules relating to prescriptive practice standards for advanced practice registered nurse by removing the requirement that the board consult with the medical profession. The bill also removes the requirement that the prescriptive practices include evidence of a collaborative agreement with a licensed physician.

PHARMACISTS

Senate Bill No. 2035 authorizes a pharmacist to administer an immunization or vaccination by injection to an individual who is at least 11 years of age and to administer an influenza vaccination to an individual who is at least 5 years of age. The bill also clarifies the administration of a drug by injection by a pharmacist may be made upon the order of a physician assistant.

PHYSICIANS

House Bill No. 1003 revises the eligibility provisions for the medical personnel loan repayment program and the physician loan repayment program by removing the prohibition that an applicant may not have practiced full time in this state for more than one year before the date of application.

House Bill No. 1222 revises the State Board of Medical Examiners' licensure requirements for graduates of international schools, changing the requirement of three years' postgraduate training to 30 months and changing the experience and training equivalency to the second year and third year of postgraduate training to the last 18 months of postgraduate training.

Senate Bill No. 2154 increases the membership of the State Board of Medical Examiners from 12 to 13 by adding a physician assistant.

PRIVATE INVESTIGATORS AND SECURITY

House Bill No. 1433 provides the Private Investigative and Security Board may issue a license to an individual who is a peace officer if that peace officer license is on inactive status.

PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Senate Bill No. 2173 amends the law relating to qualifications to register as a professional engineer to allow an engineer intern who began the examination process before the 2004 amendments to the law took place to continue the registration process under the pre-2004 requirements.

Senate Bill No. 2243 revises the laws relating to the regulation of professional engineers and land surveyors, including amending the definitions of the term "practice of engineering and practice of professional engineering" and creating new definitions for the terms "engineering surveys" and "practice of land surveying"; clarifying that certain overlapping between the practices of engineering by a professional engineer and the practice of land surveying by a professional land surveyor does not require dual registration; and provides the performance of work ordinarily performed by a person that operates or maintains machinery or equipment is not subject to regulation by the State Board of Registration for Professional Engineers and Land Surveyors.

PSYCHOLOGISTS

Senate Bill No. 2155 directs the State Board of Psychologist Examiners to regulate the practice of applied behavior analysis and to register and license applied behavior analysts.

REAL ESTATE APPRAISERS

Senate Bill No. 2187 revises the law relating to the North Dakota Real Estate Appraiser Qualifications and Ethics Board and the regulation of real estate appraisers, providing for a modification in the selection of board members, directing the board to establish standards for approval and disapproval of applications for permits, directing the board to adopt rules that establish the standards for approval and disapproval of applications for permits, directing the board to keep permittees informed of board activities, and strengthening the law regarding issuance of permits to applicants licensed in other states. The bill included an emergency clause and became effective upon the bill's filing with the Secretary of State.

REAL ESTATE BROKERS

House Bill No. 1430 changes the law relating to the regulation of real estate brokerage firms, including creating definitions of the terms "customer" and "licensee" and revising the definition of "dual agency," "real estate broker," and "real estate salesperson" and specifying what duties a broker and the broker's licensees do and do not owe a customer or client.

REFLEXOLOGISTS

House Bill No. 1376 increases the maximum licensure fee that may be charged by the North Dakota Board of Reflexology and modifies the prohibited practices for a reflexologist, removing the prohibition from using lotions, creams, or mechanical devices; clarifying that a reflexologist may not prescribe or adjust prescription medication; and removing the prohibition from prescribing or administering vitamins.

RESPIRATORY THERAPISTS

Senate Bill No. 2199 authorizes the State Board of Respiratory Care to require an applicant or licensee to submit to and pay for a statewide and nationwide criminal history record check.

SIGN LANGUAGE INTERPRETERS

Senate Bill No. 2185 provides for the regulation of video remote sign language interpreting and provides violation of the interpreter regulation laws is a Class B misdemeanor.

VETERINARIANS

Senate Bill No. 2080 provides for the regulation of veterinary retail facilities and veterinary dispensing technicians by the State Board of Pharmacy.

Senate Bill No. 2088 provides the circumstances under which a veterinarian may dispense a veterinary prescription drug without first establishing a veterinarian-client-patient relationship.

Senate Bill No. 2341 modifies the veterinarian loan repayment program, providing the program is not limited in number how many recipients may receive assistance under the program but is limited by the funds available to support the program; removing the priority given to applicants who have not received state-funded student support fees; and making revisions in style.

WATER WELL CONTRACTORS

Senate Bill No. 2101 increases the fees the State Board of Water Well Contractors may charge for a certification examination from \$10 to \$100 and for a certificate renewal from a maximum of \$50 to a maximum of \$200 and repeals the grandfather provisions for the certification of water well contractors, water well pump and pitless unit installers, well contracting monitoring, and geothermal system drillers.

May 2011

TITLE 44

Offices and Officers

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 44. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to offices and officers may be classified in these subject areas: public officers, open records and open meetings, and notaries.

PUBLIC OFFICERS

House Bill No. 1426 increases the daily travel reimbursement for state officers and employees for travel within the state from \$5 for the first quarter to \$6, from \$7.50 during the second quarter to \$9, and from \$12.50 during the third quarter to \$15.

Senate Bill No. 2065 provides that if a higher education athletic team or other organized institution organization group meal is attended at the request of and on behalf of the institution, actual expenses for the entire group, including coaches, trainers, and other employees, may be paid or submitted for payment on a team or group travel expense report rather than on individual vouchers.

House Bill No. 1251 authorizes any appointive or elective agency or office of peace officers to establish policies and enter agreements with other agencies and offices and allows a state or local criminal justice agency to establish policies and procedures or enter agreements with other criminal justice agencies to assist other state and local criminal justice agencies and exchange the criminal justice agency's peace officers with peace officers of another criminal justice agency on a temporary basis. The bill allows a criminal justice agency to establish policies for assisting probation and parole officers who are supervising probationers or parolees in the criminal justice agency's jurisdiction.

OPEN RECORDS AND OPEN MEETINGS

Senate Bill No. 2232 provides that automation of public records must not erode the right of access to those records and requires public entities to provide reasonable public access to records electronically maintained. The bill prohibits a public entity from entering a contract for the creation or maintenance of a public records database if that contract impairs the ability of the public to inspect or copy the public records of the agency, including public records online or stored in an electronic recordkeeping system used by the agency. The bill requires a public entity to provide an electronic copy of a record upon request at no cost, other than costs allowed for searching for and copying the record, except if the nature or volume of the public records requested to be accessed or provided requires extensive use of information technology resources, the agency may charge no more than the actual cost incurred for the extensive use of information technology resources incurred by the public entity. The bill exempts from open records requirements a public employee's personal cellular phone number and public employee identification number; the medical condition of an individual, medical treatment provided to an individual, and the name of an individual who received medical treatment from a public entity during an emergency medical response; and crime scene images of a victim of a homicide or sex crime or any image of a minor victim of any crime. The bill prohibits the disclosure of information contained in a personnel record of an employee of the Department of Corrections and Rehabilitation to an inmate in the legal custody of the Department of Corrections and Rehabilitation confined in a jail, prison, or other correctional facility unless authorized by the director of the Department of Corrections and Rehabilitation. The bill includes within the definition of "criminal intelligence information" training materials and information obtained by a criminal justice agency regarding prospective criminal activities which impact officer safety until the information is publicly disclosed. The bill defines "information technology resources" as data processing hardware and software or technology support services necessary to facilitate a response to a request for electronic records. The bill allows a public entity to publish an annual schedule and regular notice of

meetings of the entity on the entity's website to satisfy the statutory publishing requirements. The bill contained an emergency clause and became effective on April 11, 2011.

House Bill No. 1396 authorizes a public library, archive, or museum to designate a donated record as an exempt record if the donor of the record requests as a condition of the donation that the record not be released to the public for a specific amount of time, which may not exceed 20 years beyond the death of the donor.

House Bill No. 1214 repeals a provision regulating the use of information provided to the followup information on North Dakota education and training system.

NOTARIES

House Bill No. 1136 adopts the provisions of the Revised Uniform Law on Notarial Acts and repeals several provisions of law relating to regulation of notaries.

May 2011

TITLE 45
Partnerships
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 45. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1366 amends the laws relating to partnership fictitious names and to trade names filed with the Secretary of State, providing the name must be expressed in letters or characters used in the English language as those letters or characters appear in the American Standard Code For Information Interchange and updates the list of possible business structures.

Senate Bill No. 2174 provides for extensive grammatical changes, technical clarifications, and substantive changes to the laws relating to limited partnerships, limited liability partnerships, and limited liability limited partnerships.

May 2011

TITLE 46
Printing Laws
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 46. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 47
Property
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 47. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1366 clarifies the requirements to register a trade name.

Senate Bill No. 2149 prohibits private transfer fee obligations.

House Bill No. 1367 provides that the Agriculture Commissioner shall monitor alien ownership of agricultural land and make reports available to the public. The bill limits the criminal penalty to violations in ownership and notification by aliens.

House Bill No. 1241 requires an operator of an oil and gas lease to pay interest on royalties after 150 days from when the oil and gas is marketed even if not requested by the mineral owner.

House Bill No. 1328 creates forms and fees for filing a farm lease containing reservation of title to the crop.

House Bill No. 1421 defines good funds for the purposes of real estate transactions and prohibits a closing agent from making disbursements from an escrow account unless the funds that are received from any single party to the transaction, which in the aggregate are at least \$10,000, are good funds.

House Bill No. 1136 repeals sections of law relating to notarial acts and acknowledgments due to the adoption of a uniform law.

Senate Bill No. 2195 creates statutory damages of \$1,000, in addition to other damages, for violation of laws relating to a tenant terminating a residential lease with a landlord due to domestic violence.

May 2011

TITLE 48

Public Buildings

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 48. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

Senate Bill No. 2025 increases the threshold for the requirement of bids for concessions for cafes, restaurants, and confectioneries on public buildings and grounds from an amount of more than \$500 to an amount of annual estimated gross sales of more than \$25,000.

Senate Bill No. 2015 provides that upon accepting a bid for a public improvement, if the accepted bid is less than all funds dedicated to the public improvement, the governing body of an entity that has received an appropriation of money from the general fund of the state treasury for the public improvement is required to immediately notify the Office of Management and Budget. The bill requires that any change order or expenses exceeding the bid amount be submitted to the Office of Management and Budget for approval and requires the Office of Management and Budget to report all approved change orders or additional expenses to the Budget Section of the Legislative Management.

Senate Bill No. 2026 centralizes the public improvement construction bid requirement threshold of \$100,000 in one section and provides that the threshold for procuring plans, drawings, and specifications from an architect or engineer for the construction of a public improvement is \$100,000.

Senate Bill No. 2027 provides a governing body may not specify a copyrighted brand or name in a request for bids or a product of any one manufacturer for the remodeling or expansion of an existing building unless otherwise provided by the law requiring preference for North Dakota bidders.

Senate Bill No. 2050 allows the governing body of a municipality with an active tax increment financing district to identify funds on hand that are in excess of the costs it determines necessary to complete the activities included in the last approved urban renewal plan for that district. The bill requires the governing body to cause the identified surplus to be transferred to the county treasurer to be distributed to the state and all political subdivisions having power to tax property in the area, in amounts proportionate to the most recent five-year average of the property tax levy within the district.

May 2011

TITLE 49

Public Utilities

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 49. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

Senate Bill No. 2196 expands the Public Service Commission's jurisdiction over wind energy conversion to facilities exceeding .5 megawatts and to other generating facilities exceeding 50 megawatts. The bill provides that the fee for a transfer of a certificate or permit for construction within an existing permit is the anticipated expense of processing the application.

Senate Bill No. 2322 requires an electric transmission provider to obtain a certificate of public convenience and necessity and prohibits issuance if an electric public utility is willing and able to construct the line. The bill allows the Public Service Commission to impose an application fee and applies provisions relating to electric public utilities that construct a transmission line to electric transmission providers.

House Bill No. 1221 requires periodic reports to the Public Service Commission by a public utility that has received an advanced determination of prudence. The bill removes a review of reasonableness in determining prudence and allows the recovery of reasonable amounts incurred during construction, even if the resource addition is not operational with an amortization period for a discontinued resource addition not to exceed five years. The bill prohibits return on amounts incurred after discontinuation and the public utility may request deferred accounting treatment for costs incurred for a discontinued resource addition.

House Bill No. 1382 adds showing the approximate horizontal location, including all lines, line direction, intersections, tees, and lateral lines to the definition of locate and pipelines, cables, gathering facilities, and carbon dioxide facilities to the definition of underground facility for the purposes of the one-call excavation notice system.

Senate Bill No. 2008 increases the salary of a public service commissioner from \$90,122 to \$92,826 for the first year of the biennium and to \$95,611 thereafter.

May 2011

TITLE 50

Public Welfare

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 50. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to public welfare may be classified in these subject areas: Department of Human Services, medical assistance, foster care, early childhood services, child abuse and neglect, long-term care and related facilities, and miscellaneous.

DEPARTMENT OF HUMAN SERVICES

Senate Bill No. 2012, which includes the appropriation for the Department of Human Services, requires the department to use \$250,000 of a federal funds appropriation for providing grants to support a statewide school and community-based youth network dedicated to implementing risk behavior prevention efforts.

Senate Bill No. 2043 requires the Department of Human Services, in conjunction with developmental disabilities service providers, to develop a prospective or related payment system with an independent rate model utilizing the support intensity scale.

Senate Bill No. 2163 appropriates \$110,000 to the Department of Human Services for providing traumatic brain injury case management services in eastern North Dakota.

Senate Bill No. 2268 provides for the establishment of a regional autism spectrum disorder center of early intervention and achievement pilot program. The bill appropriates up to \$200,000 for the pilot program.

Senate Bill No. 2270 provides that each county is required to annually provide the Department of Human Services a report of the total mills levied for human service purposes pursuant to Sections 50-03-01, 50-03-06, and 50-06.2-05 and the countywide value of a mill in each county.

Senate Bill No. 2326 requires the Department of Human Services to establish and administer a pilot voucher payment program to provide substance abuse services for the 2011-13 biennium.

MEDICAL ASSISTANCE

House Bill No. 1152 requires the Department of Human Services to provide a Medicaid supplemental payment to critical access hospitals. The department is required to seek federal Medicaid funding to support the supplemental payments.

House Bill No. 1320 provides that for purposes of determining medical assistance eligibility for nursing care services, the Department of Human Services is required to allow as a deduction from countable gross rental income the real estate taxes for rental property if the individual is responsible for paying the real estate taxes for that property.

Senate Bill No. 2074 provides for the preferred claims against a decedent's estate and the recovery by the state from the estate of a permanently institutionalized medical assistance recipient.

Senate Bill No. 2075, which relates to excess assets in pre-need funeral service contracts, prepayments, or deposits, provides that any amount in a pre-need funeral service contract, prepayment, or deposit that is not used for funeral or burial expenses must be returned to the estate of the medical assistance recipient and is subject to recovery by the Department of Human Services from the medical assistance recipient's estate.

Senate Bill No. 2077 requires an individual applying for assistance under the basic care assistance program to apply for and, if eligible, to receive benefits under the medical assistance program. The bill also requires individuals to apply for and receive, if eligible, any supplemental security income or Social Security disability benefits to assist with paying the cost of room and board in a licensed basic care facility. The bill creates a new chapter to Title 50 relating to expanded service payments for the elderly and disabled. The chapter separates the expanded service payments from the statutory provisions related to basic care.

Senate Bill No. 2024 requires the Department of Human Services to process claims submitted by enrolled medical providers on behalf of inmates at county jails. The bill establishes a processing fee that is assessed to the counties. The bill also provides that after the implementation of the medical assistance information system, the Department of Human Services is required to expand medical assistance coverage to include Medicaid-covered services provided to an inmate of the State Penitentiary or a county jail who would be eligible for medical assistance if the inmate was not incarcerated and who is admitted to an inpatient hospital setting.

FOSTER CARE

House Bill No. 1095 provides that for purposes of the approval process of group foster care facilities, "approval" means approval by the Department of Human Services of a home of a Native American family located on a recognized Indian reservation in North Dakota or of a facility owned by the tribe or a tribal member and located on a recognized Indian reservation in North Dakota not subject to the jurisdiction of the state of North Dakota for licensing purposes to allow the home or facility to receive Title IV-E funding.

House Bill No. 1115 clarifies that foster care records of facilities licensed by the Department of Human Services and its authorized agents are confidential and may be disclosed only under certain conditions.

Senate Bill No. 2079 provides that a person may not furnish foster care for an adult if the person has had a foster care license denied or revoked unless the Department of Human Services subsequently issues a license to that person. The bill contained an emergency clause and became effective on April 25, 2011.

EARLY CHILDHOOD SERVICES

House Bill No. 1085 authorizes the Department of Human Services to suspend an early childhood services license, self-declaration, or registration at any time after the onset of a child abuse and neglect investigation alleging the owner or operator has committed child abuse or has neglected a child. The bill also authorizes the department to notify the parent of any child receiving early childhood services at the early childhood program that the owner, operator, staff member, or an adult household member is under investigation. The bill provides that the parent may receive the name of the subject, a summary of the facts, and the results of an assessment conducted regarding an owner, operator, staff member, or household member of the early childhood program.

Senate Bill No. 2095 provides that the Department of Human Services' transition child care assistance program must pay assistance directly to the child care provider.

Senate Bill No. 2298 authorizes the Department of Human Services, in collaboration with the Department of Commerce, to establish an early childhood services inclusion grant program for licensed early childhood services providers that provide care for children with disabilities or developmental delays. The grant program must be designed to increase the number of staff in the adult-to-child ratio to expand supervision and the ability to care for children with disabilities or developmental delays and to assist in modifying or adapting the early childhood services setting as needed to address the health and safety needs of children with disabilities or developmental delays.

CHILD ABUSE AND NEGLECT

Senate Bill No. 2176 includes dental hygienists among those individuals who are required to report child abuse and neglect.

Senate Bill No. 2233 provides that a person who has knowledge of or reasonable cause to suspect that a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, is required to report the circumstances to the Department of Human Services.

LONG-TERM CARE AND RELATED FACILITIES

House Bill No. 1169 limits the amount of nonallowable costs in nursing home ratesetting which may be used for education expenses to \$3,750 for each individual.

House Bill No. 1423 authorizes the Department of Human Services to create emergency rules related to the compensation for top management personnel of a basic care facility that is combined with a hospital. The bill, which contained an emergency clause, became effective on April 25, 2011.

MISCELLANEOUS

House Bill No. 1039, which makes technical corrections throughout the North Dakota Century Code, removes a reference to a board that dealt with sexually violent predators' determinations, an appointment requirement that was eliminated by 1999 Session Laws Chapter 131.

House Bill No. 1041 authorizes money in the health care trust fund to be used for the operation and maintenance of the nurse aide registry.

Senate Bill No. 2142 changes terminology that refers to "mentally retarded" throughout the North Dakota Century Code to "individuals who are intellectually disabled" or "individuals with intellectual disabilities."

House Bill No. 1315 authorizes the Secretary of State to grant to a charitable organization an extension for the filing of an annual report. The bill provides that a filing date may not be extended beyond December 1 of any given year an annual report is due.

May 2011

TITLE 51

Sales and Exchanges

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 51. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1260 provides that in the case of shoplifting by a minor, if the merchant knows or reasonably should know that the individual believed to have committed theft is a minor, the merchant may not request that the individual sign an admission of theft or other similar declaration unless the minor's parent, guardian, or attorney is present; provides that an admission by a minor in violation of this prohibition is not valid and is inadmissible in a civil or criminal action; and provides that in the case of shoplifting, if a criminal theft charge is filed against the individual, the merchant may not pursue civil damages until completion of the criminal action.

Senate Bill No. 2086 provides a definition of "Internet auction" for purposes of regulating auctioneers.

Senate Bill No. 2182 amends the law relating to false and misleading advertising, provided it is a prohibited practice to mislead regarding a business location and clarifying that the false and misleading advertising prohibition imposes liability only on the offeror of the product or service and does not impose liability on the publisher, broadcaster, or other person that relies on the assurances of a person placing an advertisement that the claims or representations are true.

Senate Bill No. 2236 provides several prohibitions for a manufacturer, wholesaler, or distributor of automobiles or trucks or of parts of the automobiles or trucks which enters a contract with a person engaged in the business of selling or retailing automobiles, trucks, or parts for the automobiles or trucks and limits a motor vehicle manufacturer's authority to conduct a warranty or incentive audit or seek a chargeback on a warranty or incentive payment.

May 2011

TITLE 52
Social Security
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 52. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1016 and Senate Bill No. 2056 are identical in amending the law relating to the new jobs training program to clarify that one of the four institutions of higher education that is assigned primary responsibility for workforce training qualifies as a "community" under the program and to provide that the institutions of higher education assigned primary responsibility for workforce training shall use state funds the institutions receive under the program for business and customized training activities.

House Bill No. 1214, as part of a bill that revises the law relating to the Information Technology Department and the statewide longitudinal data system, provides Job Service North Dakota may disclose information relating to the administration of the unemployment compensation system to the Information Technology Department for purposes of the statewide longitudinal data system.

Senate Bill No. 2245 provides an employee may qualify for unemployment compensation benefits if the purpose for separation from employment is directly attributable to domestic violence or sexual assault; however, the account of a base-period employer is not charged for separation from employment with the most recent employer for reasons directly attributable to domestic violence or sexual assault.

May 2011

TITLE 53

Sports and Amusements

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 53. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to sports and amusements may be classified in these subject areas: charitable gaming, Racing Commission, recreational liability, and miscellaneous.

CHARITABLE GAMING

House Bill No. 1380, which relates to charitable gaming, includes in the definition of "eligible organization" a reference to raffles conducted under Chapter 20.1-04.

Senate Bill No. 2042 consolidates the allowable expense limit from a graduated rate to a flat rate of 60 percent for all licensed gaming organizations. The bill also consolidates all gaming taxes into single tax rates. The bill provides that gaming tax rates, which range from 1 percent to 2.5 percent, are based upon an organization's quarterly gross proceeds.

RACING COMMISSION

House Bill No. 1093 provides that for pari-mutuel wagering, the amount the licensee is required to pay the Racing Commission for all unclaimed tickets and all breakage is based on the first \$20 million wagered with each service provider. The bill also limits the amount the commission may receive from the promotion fund for the commission's operating expenses to \$25,000 or 25 percent of the balance, whichever is greater.

RECREATIONAL LIABILITY

House Bill No. 1142 relates to registered agritourism activity liability. The bill authorizes the Tourism Division to register a person as a registered agritourism operator. Under the bill, the Tourism Division is required to maintain a list of all registered agritourism operators and a list of all registered agritourism activities. The bill requires a registered agritourism operator to post in a conspicuous location and to include in each written contract a notice that the agritourism operator is not liable for any injury to or for the death of a participant if the injury or death results from an inherent risk.

Senate Bill No. 2295 creates exceptions to recreational immunity for a person who enters land to provide goods or services at the request of or at the direction or under the control of an owner or for an owner engaged in a for-profit business venture who invites members of the public onto the premises for commercial purposes.

MISCELLANEOUS

Senate Bill No. 2286 changes the name of the state athletic commissioner to the state commissioner of combative sports. The bill provides that the Secretary of State, who serves as the state commissioner of combative sports, is authorized to regulate the conduct of any boxing, kickboxing, mixed fighting style, or sparring match, competition, or exhibition through the use of the most recent uniform rules of boxing and the unified rules of mixed martial arts published by the Association of Boxing Commissions.

May 2011

TITLE 54

State Government

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 54. Bills primarily affecting other titles also may affect this title, and relevant provisions of those bills are summarized in this memorandum.

STATE EMBLEMS, SYMBOLS, AND AWARDS

House Bill No. 1219 declares the *convergent lady beetle*, or lady bug, as the official insect of the state.

House Bill No. 1346 establishes "*Serit ut alteri saeclo prosit*" as the state Latin motto. "One sows for the benefit of another age" is the English translation.

LEGISLATIVE ASSEMBLY AND LEGISLATIVE MANAGEMENT

House Bill No. 1001, effective July 1, 2011, increases the additional daily compensation of the Speaker of the House of Representatives and the House and Senate majority and minority leaders from \$10 to \$15 during any legislative session, increases the additional daily compensation for committee chairmen and assistant leaders from \$5 to \$10 during any legislative session, increases the daily compensation for members of the Legislative Assembly from \$148 to \$152 during any legislative session, increases the monthly compensation during the biennium for members of the Legislative Assembly from \$415 to \$427, increases the additional monthly compensation during the biennium for the majority and minority leaders and the chairman of the Legislative Management from \$298 to \$307, and increases the daily compensation for attendance at meetings of the Legislative Management from \$148 to \$152. Effective July 1, 2012, the bill increases the daily compensation for members of the Legislative Assembly from \$152 to \$157 during any legislative session, increases the monthly compensation during the biennium for members of the Legislative Assembly from \$427 to \$440, increases the additional monthly compensation during the biennium for the majority and minority leaders and the chairman of the Legislative Management from \$307 to \$316, and increases the daily compensation for attendance at meetings of the Legislative Management from \$152 to \$157. The bill requires the Legislative Management to make recommendations and submit any necessary legislation to adjust legislative compensation amounts before each regular legislative session.

Senate Bill No. 2015 increases the monthly maximum lodging reimbursement for members of the Legislative Assembly during a legislative session from 30 times 55 percent to 30 times 65 percent of the daily lodging reimbursement allowed for state employees and officers. The bill changes the membership of the Employee Benefits Programs Committee by increasing the number of members from the House of Representatives from five to seven and increasing the number of members from the Senate from four to six. The bill requires housing authorities not required to be audited by the federal Department of Housing and Urban Development to be audited by the State Auditor once every two years. The bill requires any petition to the Emergency Commission by a state officer to be approved or recommended by the Emergency Commission before submission for consideration by the Budget Section. The bill requires each state agency, excluding entities under the control of the State Board of Higher Education, to report to the Office of Management and Budget before applying for a federal grant for which the agency may receive estimated funding of \$25,000 or more.

Senate Bill No. 2169 requires the Senate to adopt rules regarding the recording of Senate floor sessions and the House of Representatives to adopt rules regarding the recording of House floor sessions. The bill requires the Legislative Council to archive all audio recordings of floor sessions and provides that audio recordings of floor sessions are public records that must be open and accessible for inspection during reasonable office hours.

Senate Bill No. 2309 provides that the federal laws known as the Patient Protection and Affordable Care Act [Pub. L. 111-148] and the Health Care and Education Reconciliation Act of 2010 [Pub. L. 111-152] likely are not authorized by the United States Constitution and may violate its true meaning and intent as given by the founders and ratifiers. The bill requires the Legislative Assembly to consider enacting any measure necessary to prevent the enforcement of the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 within this state and provides that no provision of the Patient Protection and Affordable Care Act or the Health Care and Education Reconciliation Act of 2010 may interfere with an individual's choice of a medical or insurance provider except as otherwise provided by the laws of this state.

House Bill No. 1261 eliminates the Legislative Compensation Commission.

House Bill No. 1397 revises the appointment procedures for the Legislative Management. The bill requires the majority leader in the House of Representatives to appoint to the Legislative Management four members elected by the members of the majority party and requires the House minority leader to appoint to the Legislative Management two members elected by the minority party. The bill requires the Senate majority leader to appoint to the Legislative Management four members elected by the majority party and requires the Senate minority leader to appoint to the Legislative Management two members elected by the minority party. The bill was declared to be an emergency measure and became effective on April 18, 2011.

Senate Bill No. 2053 extends the life of the Committee on Tribal and State Relations from July 31, 2011, to July 31, 2013. The bill requires the committee to study whether the members of the North Dakota Tribal Governments' Task Force should be voting members of the committee.

Senate Bill No. 2186 makes the Energy Development and Transmission Committee a permanent Legislative Management committee.

House Bill No. 1318 requires the Water-Related Topics Overview Committee to study the state's irrigation laws and rules and evaluate the process of prioritization of water projects during the 2011-12 interim.

LOBBYING

House Bill No. 1314 allows a lobbyist to obtain a duplicate lobbyist's official badge by applying to the Secretary of State and paying a fee of \$10. The bill allows the Secretary of State to assess a civil penalty, following written notice, in an amount not to exceed two times the lobbyist registration fee for a violation of the laws regulating lobbyists.

STATE EMPLOYEES AND OFFICERS

Senate Bill No. 2060 allows an employee in the state classified service approved absence from work, with pay, of up to 24 working hours per calendar year for the employee to participate in an honor guard for a funeral service of a veteran.

House Bill No. 1098 requires the Bank of North Dakota to adopt rules establishing the terms under which executive branch agencies may charge a service fee to be in compliance with a credit card company's rules and to approve the amount that may be charged by an executive branch agency. The bill also requires the Office of Management and Budget to adopt policies establishing mileage reimbursement for state employees and officers.

GOVERNOR AND LIEUTENANT GOVERNOR

Senate Bill No. 2001 increases the salary of the Governor from \$110,285 to \$113,594 through June 30, 2012, and to \$117,001 thereafter. The bill increases the salary of the Lieutenant Governor from \$85,615 to \$88,183 through June 30, 2012, and to \$90,829 thereafter.

SECRETARY OF STATE

Senate Bill No. 2002 increases the salary of the Secretary of State from \$87,728 to \$90,360 through June 30, 2012, and to \$93,071 thereafter.

House Bill No. 1355 provides that all certificates issued by the Secretary of State and all copies of records filed, when certified by the Secretary of State, may be taken and received in all courts, public offices, and official bodies as evidence of the facts stated. The bill provides that a certificate by the Secretary of State under the Great Seal of this state, as to the existence or nonexistence of the facts relating to records filed by the Secretary of State which would not appear from a certified copy of a record or certificate, may be taken and received in all courts, public offices, and official bodies as evidence of the existence or nonexistence of the facts stated. The bill provides that any certificate or certified copy issued by the Secretary of State may be created and disseminated as an electronic record with the same force and effect as if produced in a paper form. The bill provides, except as otherwise provided by law, if the Secretary of State is appointed as agent for service of process for any individual, service on the Secretary of State and the responsibilities of the Secretary of State with respect to the service must be made or executed in the manner provided in Section 10-01.1-13, to the extent practicable.

STATE AUDITOR

Senate Bill No. 2004 increases the salary of the State Auditor from \$87,728 to \$90,360 through June 30, 2012, and to \$93,071 thereafter.

House Bill No. 1145 increases from \$100,000 to \$200,000 the maximum amount of annual receipts a political subdivision may have to be eligible to submit an annual report to the State Auditor rather than being required to have a biennial audit.

STATE TREASURER

Senate Bill No. 2005 increases the salary of the State Treasurer from \$82,845 to \$85,330 through June 30, 2012, and to \$87,890 thereafter.

House Bill No. 1088 requires the State Treasurer, within 90 days of the beginning of each fiscal year, to provide a report to the Budget Section of all warrants and checks outstanding for more than 90 days and less than three years. The bill limits the authority of the State Treasurer to correct any underpayment, overpayment, or erroneous payment of tax distribution funds to corrections of \$100,000 per biennium unless approved by the Emergency Commission. The bill requires any adjustment to be made from the general fund unless otherwise provided by law.

ATTORNEY GENERAL

Senate Bill No. 2002 increases the salary of the Attorney General from \$130,228 to \$134,135 through June 20, 2012, and to \$138,159 thereafter.

House Bill No. 1117 repeals a provision that requires the Attorney General to regulate schools offering training and methods of conducting games of chance.

INDUSTRIAL COMMISSION

Senate Bill No. 2032 expands the purposes of the Oil and Gas Research Council to allow the promotion of innovation in safety, enhancement of environment, and increase in education concerning the distribution of petroleum products and allows the Industrial Commission, as manager of the Oil and Gas Research Council, to provide financial assistance for processes and activities directly related to the refining industry and petroleum marketing industry.

Senate Bill No. 2034 includes green diesel within the definition of "energy-related commodities." The bill directs the Office of Renewable Energy and Energy Efficiency to disseminate information regarding green diesel.

Senate Bill No. 2210 changes the definition of "multifamily" housing facility to include facilities containing four or more residential dwelling units rather than five or more residential dwelling units. The bill creates a housing incentive fund and requires the Housing Finance Agency to create an annual allocation plan for the distribution of the fund. The bill requires that at least 25 percent of the fund must be used to assist developing communities with a population of not more than 10,000 individuals to address an unmet housing need or alleviate a housing shortage and at least 50 percent of the fund must be used to benefit households with incomes at not more than 50 percent

of the area median income. The bill prohibits individuals from receiving direct assistance from the fund but provides that eligible recipients include units of local, state, and tribal government; local and tribal housing authorities; community action agencies; regional planning councils; and nonprofit organizations and for-profit developers of multifamily housing. The bill excludes from the definition of a "business incentive" assistance from the Housing Finance Agency through housing incentive funds.

ENERGY CONSERVATION STANDARDS

Senate Bill No. 2198 provides that any new construction or any remodeling of a public building which affects the heating, ventilation, or air-conditioning systems in the building and which is paid for using any state funds must be constructed to include open protocol heating, ventilation, and air-conditioning systems that provide for interoperability of the systems. The bill becomes effective on January 1, 2012.

STATE BUILDING CODE

House Bill No. 1425 requires the State Building Code, plumbing code, electrical code, or an equivalent code adopted by a political subdivision to provide that a building designed for and used as a school portable classroom may be constructed and inspected as a temporary structure as defined by the State Building Code or may be permitted as a permanent school portable classroom. The bill requires the foundation system of such a structure to comply with the recommendations of the manufacturer's engineering report for a preengineered unit or a structural engineer's report.

Senate Bill No. 2361 defines "temporary work camp housing" for the purposes of the State Building Code. The bill authorizes state or local government code enforcement agencies to allow exemptions or accept alternate methods for construction and placement of temporary work camp housing that has been previously used as housing or temporary work camp housing in a different location if the waiver does not substantially compromise the health or safety of workers. The bill was declared to be an emergency measure and became effective on April 26, 2011.

Senate Bill No. 2366 provides that a manufacturer of modular residential or commercial structures which operates a factory manufacturing fewer than two residential or commercial structures per year is exempt from the statutory third-party inspection requirement.

Senate Bill No. 2284 adopts the Interstate Compact on Industrial or Modular Buildings, the policy of which is to provide the compacting states which regulate the design and construction of industrialized or modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings in a manner to assure interstate reciprocity.

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Senate Bill No. 2190 authorizes the director of the Department of Corrections and Rehabilitation to employ personnel and establish policies and procedures to supervise sexually dangerous individuals released to community placement on an outpatient basis. The bill was declared an emergency measure and became effective on April 19, 2011.

STATE LIBRARY

Senate Bill No. 2099 provides that the biennial report of the State Librarian address the work done at the State Library.

OFFICE OF MANAGEMENT AND BUDGET AND FISCAL POLICIES

Senate Bill No. 2103 provides that unless otherwise directed, interest earned on money remaining in a fund that has been closed must be credited to the state general fund. The bill was declared an emergency measure and became effective on April 25, 2011.

Senate Bill No. 2204 prohibits state funds from being expended or transferred from state agencies to match federal money for the Northern Plains National Heritage Area or any similar or successor designated areas without the approval of the Legislative Assembly. The bill prohibits state lands, water, property, or facilities from being included in the designated Northern Plains National Heritage

Area or any similar or successor designated areas without the approval of the Legislative Assembly and prohibits any further lands, water, property, or facilities from being designated as heritage areas within this state without the approval of the Legislative Assembly.

Senate Bill No. 2203 allows a township to provide a copy of the annual township financial report to the Tax Commissioner to satisfy the requirement that the township provide an annual report on funding and expenditures relating to transportation projects and programs. The bill was declared an emergency measure and became effective on April 27, 2011.

House Bill No. 1089 revises the formula for distributing funds to cities from the highway tax distribution fund to provide that for counties having no cities with a population of 10,000 or more, a statewide per capita average must be used, as determined by calculating 27 percent of the amount allocated to all of the counties divided by the total population of all of the incorporated cities in the state. The bill requires that each city be paid an amount equal to the product of the statewide per capita and that city's population. The bill also states that effective March 1, 2011, the effective date for federal decennial census data on any population-based tax distributions made by the State Treasurer is July 1 following the release of the federal decennial census data. The bill was declared an emergency measure and became effective on April 11, 2011.

House Bill No. 1451 changes the threshold at which funds in the budget stabilization fund are transferred to the general fund to any time at which the balance in the fund exceeds 9.5 percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the Legislative Assembly. The bill was declared an emergency measure and becomes effective on July 1, 2011.

House Bill No. 1034 provides for the continuation of the North Dakota University System's authority to carry over at the end of the biennium unspent general fund appropriations through July 31, 2013.

House Bill No. 1033 continues the requirement that the budget request for the University System include budget estimates for block grants for a base funding component and for an initiative funding component and a budget estimate for an asset funding component and the requirement that the appropriation for the University System include block grants for a base funding appropriation and for an initiative funding appropriation and an appropriation for an asset funding component through July 31, 2013.

House Bill No. 1031 implements recommendations from a classified state employee compensation system study. The bill provides a state compensation philosophy statement, provides directives to the Office of Management and Budget for the implementation of the recommendations, and requires the Office of Management and Budget to provide status reports on the implementation of the recommendations to the Budget Section during the 2011-12 interim. The bill was declared an emergency measure and became effective on April 19, 2011.

House Bill No. 2265 allows limited competitive, noncompetitive, or negotiated purchases by the Office of Management and Budget and executive branch state agencies for acceptable commodities or services provided by a work activity center.

House Bill No. 1075 requires each state agency and political subdivision to notify the state records management administrator of unlawful actions affecting records and requires that public records that have been unlawfully removed must be returned to the office of origin or to the state archivist. The bill also defines a state record for purposes of the Records Management Act to include a record of the Legislative Assembly which is held by an agency of the executive branch.

JOINT POWERS AGREEMENTS

Senate Bill No. 2232 provides that if a joint powers agreement is entered between a political subdivision of this state and a political subdivision of another state which creates a joint emergency services communications system, the joint powers agreement must address which jurisdiction's open records law will apply if a request is made for records that originated from the partner state but is in the possession of the joint emergency services communications system located in North Dakota. The bill provides that if the joint powers agreement does not address open records, it will be

presumed that records will be provided pursuant to North Dakota law. The bill was declared an emergency measure and became effective on April 11, 2011.

House Bill No. 1251 allows a state or a local criminal justice agency of the state, with the approval of its governing body, to enter an agreement with another state or a political subdivision of another state, for the joint exercise of peace officer duties. The bill provides that a peace officer acting under such an agreement has full peace officer authority in any jurisdiction that is a party to the agreement. The bill requires that before an agreement becomes effective, the governing body for each criminal justice agency must have approved the agreement and the Attorney General must have determined the agreement is legally sufficient.

PUBLIC EMPLOYEES RETIREMENT SYSTEM

Senate Bill No. 2108 increases the employee contribution for a temporary employee participating in the Public Employees Retirement System retirement plan by 2 percent times the employee's monthly salary beginning with the monthly reporting period of January 2012, and with an additional 2 percent increase beginning with the reporting period of January 2013. The bill increases the employee and employer contribution for eligible governmental unit employees, judges, Bureau of Criminal Investigation peace officers, and other participating employee members by 1 percent beginning with the monthly reporting period of January 2012, and by an additional 1 percent beginning with the reporting period of January 2013. The bill increases the political subdivision peace officer and correctional officer employee contribution by one-half of 1 percent of a member's monthly salary beginning with the monthly reporting period of January 2012, and by an additional 2 percent beginning with the reporting period of January 2013.

Senate Bill No. 2109 clarifies that employees of the University System who are members of the Public Employees Retirement System, including members of the defined contribution plan, and who are entitled to participate in the alternate retirement programs may make a special annuity purchase in such alternate retirement programs; eliminates the 60-month certain option as a form of payment for surviving spouses in the Highway Patrolmen's retirement system; calculates benefits for members of the Highway Patrolmen's retirement system who have membership in more than one retirement system using the highest salary received for 36 months, regardless of whether such months are consecutive, within the last 120 months of employment; changes the pool of candidates for a board member who is elected by retirees to exclude those individuals who are eligible for a deferred vested benefit but not yet retired; changes the normal retirement date for peace officers and correctional officers in the hybrid plan to age 55 and three years of employment in such officer positions, regardless of whether employment in such officer positions immediately precedes retirement; for purposes of payment of a member's account balance at death, clarifies that any surviving beneficiary who dies before receiving a distribution of such account balance is treated as predeceasing the member; permits conversion of sick leave to retirement credit under the hybrid plan at any time, rather than within 60 days of termination of employment only; clarifies that a surviving spouse of a retiree may continue to participate in the uniform group insurance program by paying the required premiums; updates federal compliance provisions of the hybrid plan and the Highway Patrolmen's retirement system; and updates the employer contribution pickup process.

Senate Bill No. 2110 modifies the Public Employees Retirement System uniform group insurance program to allow another low-cost coverage option for retired employees not eligible for Medicare, allows the board to receive separate bids for prescription drug coverage, allows the Public Employees Retirement System Board to consider self-insurance of the health insurance benefits as well as part or all of the prescription drug coverage, and establishes a target range of contingency reserve funds and a timeline to meet the reserve requirement.

House Bill No. 1364 requires the Public Employees Retirement System Board to implement and administer a consumer-directed health savings account option for eligible employees. The bill allows the board to adopt incentives to encourage participation by eligible employees in a consumer-directed health savings account option implemented by the board. The bill appropriates \$91,000 to the board to implement the health savings account option.

Senate Bill No. 2022 increases the daily compensation amount for members of the Public Employees Retirement System Board from \$62.50 to \$148.

Senate Bill No. 2213 increases from 40 hours to 80 hours the amount of leave a state employee may utilize as family medical leave during any 12-month period. The bill also allows a state employee, upon approval of the employee's supervisor and pursuant to rules adopted by the director of the Office of Management and Budget, to take, in any 12-month period, up to an additional 10 percent of the employee's accrued sick leave to care for the employee's child, spouse, or parent if the child, spouse, or parent has a serious health condition. The bill was declared an emergency measure and became effective on April 26, 2011.

UPPER GREAT PLAINS TRANSPORTATION INSTITUTE

House Bill No. 1200 changes the membership of the Advisory Transportation Council to the Upper Great Plains Transportation Institute by removing the representative of the North Dakota Farm Bureau and adding a representative of the North Dakota Corn Council.

COMMISSION ON UNIFORM STATE LAWS

House Bill No. 1240 changes the eligibility requirements for the North Dakota members of the Commission on Uniform State Laws to require that commissioners first appointed after July 21, 2011, be residents of the state.

INFORMATION TECHNOLOGY DEPARTMENT

Senate Bill No. 2037 changes the membership of the Health Information Technology Advisory Committee by adding the chairman of the House Human Services Committee and the chairman of the Senate Human Services Committee or if either or both of them are unwilling or unable to serve a replacement selected by the chairman of the Legislative Management. The bill authorizes the Health Information Technology Advisory Committee to accept private contributions, gifts, and grants. The bill requires the director of the Health Information Technology Office to implement and administer a health information exchange that utilizes information infrastructure and systems in a secure and cost-effective manner to facilitate the collection, storage, and transmission of health records; adopt rules for the use of health information, use of the health information exchange, and participation in the health information exchange; and adopt rules for accessing the health information exchange to ensure appropriate and required privacy and security protections and relating to the authority of the director to suspend, eliminate, or terminate the right to participate in the health information exchange. The bill also requires the director to determine fees and charges for access and participation in the health information exchange and to consult and coordinate with the State Department of Health and the Department of Human Services to facilitate the collection of health information from health care providers and state agencies for public health purposes. The bill requires each executive branch state agency and each institution of higher education that implements, acquires, or upgrades health information technology systems, by January 1, 2015, to use health information technology systems and products that meet minimum standards adopted by the Health Information Technology Office for accessing the health information exchange. The bill provides that any individually identifiable health information submitted to, stored in, or transmitted by the health information exchange is confidential and any other information relating to patients, individuals, or individually identifiable demographic information contained in a master client index submitted to, stored in, or transmitted by the health information exchange is an exempt record. The bill provides immunity from criminal or civil liability for any health care provider that relies in good faith upon any information provided through the health information exchange in the treatment of a patient for any damages caused by that good-faith reliance. The bill provides that effective January 1, 2015, an executive branch state agency, an institution of higher education, and any health care provider or other person participating in the health information exchange may use only an electronic health record system for use in the exchange which is certified under rules adopted by the Office of the National Coordinator for Health Information Technology.

DEPARTMENT OF COMMERCE

House Bill No. 1122 revises the state tourism policy and revises the duties and responsibilities of the Division of Community Services. The bill provides that private sector funds used by the North Dakota Economic Development Foundation for commerce-related activities are not public money and not subject to Article X, Section 12, of the Constitution of North Dakota. The bill repeals a provision that would have taken effect after June 30, 2011, which would have authorized the

Commissioner of Commerce to contract with a third party for the provision of services for the International Business and Trade Office and makes permanent authorization for the commissioner to designate a nonprofit corporation incorporated in this state that has the primary purpose of assisting North Dakota exporters or contract with a third party for the provision of services for the International Business and Trade Office. The bill changes the appointment requirements for members of the North Dakota Rural Development Council to provide that the appointments must ensure representation from four regions of the state designated by the Commissioner of Commerce, rather than eight designated regions. The bill eliminates the Value-Added Agriculture Promotion Board.

Senate Bill No. 2056 changes the Operation Intern program eligibility requirements by removing the provision that provides that employers are eligible for funding under the program only for new or expanded internship, apprenticeship, and work experience opportunities. The bill was declared an emergency measure and became effective on May 15, 2011.

Senate Bill No. 2057 requires the Division of Workforce Development, the University System, Job Service North Dakota, and representatives of the institutions of higher education under the control of the State Board of Higher Education to work together to establish a pilot program through which an electronic portfolio system will be implemented by selected institutions of higher education under the control of the State Board of Higher Education to address the needs of students, faculty, and employers. The bill creates an internship fund in the state treasury which became effective on May 5, 2011. The bill requires the Department of Commerce to establish a centers of research excellence program and requires the Centers of Excellence Commission to make funding award determinations under the program. The bill requires a center of research excellence to use grant funds to enhance capacity and leverage state, federal, and private sources of funding and prohibits the use of the funds for infrastructure, to supplant funding for current operations or academic instructions, or to pay indirect costs. The bill requires the Department of Commerce, as part of the centers of research excellence program, to establish and administer a base realignment grant program to provide grants to a research university or a nonprofit university-related foundation to enhance economic development and employment opportunities associated with the Grand Forks Air Force Base resulting from action by the federal Defense Base Closure and Realignment Commission and infrastructure and economic development projects or programs to accommodate growth in proximity to or at the Grand Forks Air Force Base. The bill establishes a centers of research excellence fund.

May 2011

TITLE 55

State Historical Society and State Parks

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 55. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

Senate Bill No. 2117 authorizes the director of the Parks and Recreation Department to establish noncriminal penalties for violations of rules adopted by the director for which the maximum noncriminal penalty is a fine of \$250. The bill contained an emergency clause and became effective April 20, 2011.

Senate Bill No. 2018 appropriates \$13,034,891 to the State Historical Society. The bill also designates the director of the Facility Management Division of the Office of Management and Budget as the state onsite project manager for the Heritage Center addition project until completion of the project.

Senate Bill No. 2019 appropriates \$15,582,857 to the Parks and Recreation Department and \$1,040,699 to the International Peace Garden. The bill transfers \$122,000 from the game and fish operating fund to the Parks and Recreation Department for maintenance, operating, and extraordinary repairs expenses relating to boat ramps at state parks. The bill transfers \$400,000 from the game and fish operating fund to the Parks and Recreation Department to pay a portion of the nonfederal costs to raise the elevation of the Grahams Island State Park access road.

May 2011

TITLE 57

Taxation

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 57. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

The legislation relating to taxation may be classified in these subject areas: property taxes; income taxes; sales, use, and motor vehicle excise taxes; fuels taxes; mineral taxes; emergency services communication fees; and miscellaneous tax provisions.

PROPERTY TAXES

House Bill No. 1047 provides property tax relief by appropriating \$341,790,000 for the 2011-13 biennium for allocation to school districts to reduce school district property taxes. The bill provides for a reduction of up to 75 mills in school district property tax levies and replacement of the revenue to school districts through mill levy reduction grants. The bill limits the grant to a school district from exceeding the grant in the preceding school year by more than the percentage increase in statewide taxable valuation. The bill also reduces financial institutions taxes and corporate and individual income taxes, which is described in the portion of this memorandum relating to income taxes.

House Bill No. 1194 provides that a taxing district may not impose a property tax levy exceeding a zero increase number of mills unless the taxing district publishes newspaper notice of a public hearing on the property tax levy and conducts that hearing. For purposes of the requirement, "zero increase number of mills" means the number of mills against current taxable valuation, excluding consideration of new growth, which provides the same amount of property tax revenue as the property tax levy in the prior year.

House Bill No. 1144 allows a city or county to impose crew housing permit fees for lodging units or skid units that are not taxable as real property or as mobile homes. The bill allows the city or county to establish reporting requirements for crew housing facilities within the jurisdiction of the county or city.

Senate Bill No. 2049 provides that property is not eligible for the property tax exemption for charitable property if that property is residential rental units leased to tenants based on income levels that enable the owner to receive a federal low-income housing income tax credit.

House Bill No. 1223 provides a property tax exemption for the leasehold interest in property leased by a political subdivision from another political subdivision.

House Bill No. 1246 expands the property tax exemption for church property from the current limitation of two acres of exempt property to now provide exemption for buildings used for religious services and dwellings used for the residence of the minister in charge of services plus the land directly under those buildings and parking and landscaping and sidewalk adjoining the main church building plus up to a maximum of two additional acres. If the residence of the minister in charge of services is on property not adjacent to the church, that residence and up to two acres of land on which it is located is exempt.

Senate Bill No. 2294 is intended to improve administration and uniformity of property tax assessments. The bill provides an updated process for ordering and conducting large-scale new assessments within deadlines intended to provide a realistic time frame for completing assessment work. The bill provides the State Board of Equalization additional authority to ensure property assessment equalization is taking place throughout the state and among jurisdictions. The State Board of Equalization is given authority to determine the classification and tax status of property, equalize classification and tax status of property among assessment districts of the same county

and among different counties of the state, order reviews of property to verify accuracy of assessments and property taxes, and pursue a remedy if a county or county official fails to follow orders of the State Board of Equalization. The bill expands record requirements for local assessment officials. The bill provides for suspension or revocation of a local assessment official's certificate by the Tax Commissioner for failure to comply with law or perform duties provided by law.

House Bill No. 1217 extends the property tax exemption for the residence of a disabled veteran to include a disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to 100 percent and extends the exemption to an unremarried surviving spouse who is receiving Department of Veterans' Affairs dependency and indemnity compensation.

House Bill No. 1101 allows a township to establish property valuations that recognize the supply of vacant lots available for sale.

House Bill No. 1071 provides that land that was assessed agricultural property at the time it was put to use for extraction of oil, natural gas, or subsurface minerals must continue to be assessed as agricultural property if the remainder of the surface owner's parcel of property on which the subsurface mineral activity is occurring continues to qualify for assessment as agricultural property.

House Bill No. 1048 provides that the penalty that applies to counties that have not fully implemented use of soil type and soil classification data from soil surveys is to be deposited in the agricultural land valuation fund. The penalty for noncompliance is withholding of 5 percent of the county's allocation each quarter from the state aid distribution fund. The amounts deposited in the agricultural land valuation fund are available as a continuing appropriation for allocation to the county from which the withholding was made when it is certified by the Tax Commissioner that the county has implemented use of soil surveys in agricultural assessments.

Senate Bill No. 2242 increases the state matching funds provided for county senior citizen services and programs levies. The bill increases the matching funds from two-thirds to three-fourths of up to one mill levied by the county.

House Bill No. 1225 provides that the two mill levy limit for the county emergency fund applies to counties with a population of 30,000 or more. The bill provides an increased levy limitation of four mills in a county with a population under 30,000 but more than 5,000 or six mills in a county with a population of 5,000 or fewer. The bill provides that the emergency fund may not be used for purchase of road equipment.

House Bill No. 1116 makes technical corrections in certification dates for the homestead credit and disabled veteran credit and provisions regarding taxation of property destroyed or damaged by natural disaster and determination of the property tax reduction for new transmission lines.

House Bill No. 1100 eliminates the annual requirement for the county auditor to report to the Office of Management and Budget the amount of state uncollectible property taxes canceled for personal property.

INCOME TAXES

House Bill No. 1047 reduces the financial institutions tax rate from 7 percent to 6.5 percent. Only the state general fund share of the tax revenue is impacted by this change, resulting in an estimated state general fund revenue reduction of approximately \$2.125 million for the 2011-13 biennium. The bill reduces corporate income tax rates by 19.5 percent, resulting in an anticipated reduction in state general fund revenues of approximately \$25 million for the 2011-13 biennium. The bill reduces individual income tax rates by 17.9 percent, which is expected to reduce state general fund revenues \$120 million for the 2011-13 biennium. The bill also provides property tax relief, which is described in the property taxes section of this memorandum.

House Bill No. 1072 provides an adjustment to allow an income tax deduction to eliminate the marriage penalty for married persons filing jointly which results from use of the federal standard deduction.

Senate Bill No. 2034 provides an income tax credit for a fuel supplier who blends green diesel fuel of at least 5 percent blend. The bill provides an income tax credit for a seller of green diesel fuel equal to 10 percent per year for five years of the direct costs incurred to adapt or add equipment to allow sale of diesel fuel containing at least 2 percent green diesel fuel.

Senate Bill No. 2160 expands the income tax credit for charitable gifts to qualified endowments. The credit is 40 percent of the gift, which must be \$5,000 or more. The credit is limited to \$10,000 per year for an individual or \$20,000 for married individuals filing a joint return. The bill creates a credit against financial institutions taxes equal to 40 percent of charitable gifts to a qualified endowment, not exceeding \$10,000 per year.

Senate Bill No. 2210 establishes a housing incentive fund and creates income tax and financial institutions tax credits for contributions to the fund. The credit allowed is equal to the amount of the contribution to the housing incentive fund. A taxpayer may not claim more than 20 percent of the credit during a taxable year and the unused portion of the credit may be carried forward for up to ten years. The aggregate amount of tax credits for all contributors is limited to \$4 million per biennium.

Senate Bill No. 2057 creates a corporate and individual income tax credit for purchasing manufacturing machinery and equipment to automate manufacturing processes. The amount of the credit is 20 percent of the costs incurred and the aggregate amount of credits allowed for all taxpayers may not exceed \$2 million in any calendar year.

House Bill No. 1057 makes changes in the angel fund investment tax credit available to corporate and individual income taxpayers to allow passthrough entities to qualify and to allow investors to transfer their credits. Aggregate lifetime credits for angel fund investments is limited to \$150,000. Angel fund investments are required to be in primary sector companies and the angel fund is required to provide the Tax Commissioner a report showing the name and principle place of business of each enterprise in which the angel fund has an investment. The angel fund is also required to provide information on each investor in the angel fund showing the name, address, Social Security number or employer identification number, amount of investment, and date of investment. For tax years 2011 and 2012, a taxpayer may elect to sell, transfer, or assign an angel fund investment tax credit subject to certain conditions and limited to \$100,000 of transfers over any combination of taxable years.

Senate Bill No. 2170 provides that beginning in the 2013 tax year, wages received by a nonresident individual for working in North Dakota are exempt from income taxes if the individual has no other income from North Dakota sources, the individual works in North Dakota no more than 20 days during the tax year, and the individual's state of residence provides a substantially similar exemption or does not impose an income tax. An employer is not required to withhold North Dakota income tax from wages paid to a nonresident individual working in North Dakota if the individual works in North Dakota no more than 20 days during the tax year and the individual's state of residence provides a substantially similar exemption or does not impose an income tax.

Senate Bill No. 2208 makes clear that income of an enrolled member of a federally recognized Indian tribe who resides within the boundaries of a reservation in this state or in this state and an adjoining state is exempt if the income is from activities or sources within the boundaries of the reservation.

House Bill No. 1124 makes technical changes to income and financial tax laws. The bill expands the energy device income tax credit for individuals who install geothermal energy devices.

SALES, USE, AND MOTOR VEHICLE EXCISE TAXES

Senate Bill No. 2207 imposes motor vehicle registration fees for vehicles that will be operating in North Dakota for 90 or more consecutive days if the owner is gainfully employed. The registration requirement does not apply to college students or a daily commuter from another jurisdiction that has a reciprocity provision for residents of this state. Vehicles subject to the temporary registration requirement are exempt from motor vehicle excise tax at the time of registration.

House Bill No. 1391 updates statutory provisions to maintain North Dakota compliance with the Streamlined Sales and Use Tax Agreement.

House Bill No. 1424 creates a sales and use tax exemption for agrichemical tank cleaners and foam markers. The bill also increases retailer compensation for collection, reporting, and remittance of sales, use, and gross receipts taxes. The maximum amount retailers are allowed to retain is increased from \$85 per month to \$93.75 per month.

Senate Bill No. 2202 allows the owner or operator of a facility entitled to the sales and use tax exemption for materials used to compress, process, gather, or refine gas or materials used in constructing or expanding an oil refinery to pass the exemption through to a contractor working on the project.

Senate Bill No. 2172 provides a sales tax exemption for receipts from coin-operated amusement or entertainment machines.

Senate Bill No. 2336 provides a sales tax exemption for the first \$5 million of sales and use taxes on machinery or equipment acquired to produce coal from a new mine located in this state and permitted by the Public Service Commission after December 31, 2010.

House Bill No. 1334 provides a sales tax exemption for gross receipts from memberships, admissions, and entrance fees to activities and events organized and operated by a nonprofit social and recreation club.

Senate Bill No. 2292 increases the amount of gross receipts from educational, religious, or charitable activities that is exempt from sales taxes from \$5,000 per event to \$10,000 per event and provides that the exemption does not apply to a seller that competes with retailers by maintaining inventory, conducting regular retail sales from a permanent or seasonal location, or solicits from a website maintained by the seller.

Senate Bill No. 2171 extends the sales tax exemption for telecommunications infrastructure equipment from its scheduled expiration of June 30, 2011, until December 31, 2012.

House Bill No. 1217 extends the motor vehicle excise tax exemption for disabled veterans to include a resident disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to 100 percent as determined by the Department of Veterans' Affairs and to the unremarried surviving spouse receiving Department of Veterans' Affairs dependency and indemnity compensation.

House Bill No. 1046 provides a sales and use tax exemption from the sale of potash or potash byproducts taxable at the time of production in this state. The bill also provides for a tax on potash and potash byproducts production, which is described in the portion of this memorandum relating to taxation of minerals.

House Bill No. 1157 provides an aircraft excise tax exemption for aircraft acquired by a nonprofit aviation museum.

House Bill No. 1153 allows a motor vehicle title transfer without payment of motor vehicle excise tax when the transfer returns the ownership of the vehicle to the previous owner who transferred the vehicle title during a business reorganization.

Senate Bill No. 2253 revises the allocation formula for the portion of sales tax receipts allocated through the state aid distribution fund. The detailed allocation provisions based on city populations are replaced by an allocation based on the proportion each city's population bears to the total population of all cities.

FUELS TAXES

Senate Bill No. 2197 allows the Tax Commissioner to waive special fuels retailer licensing requirements for special fuels retailers who do not collect and remit special fuels taxes because all taxes they pay are paid to the distributor.

House Bill No. 1132 extends the restriction on aircraft fuel excise tax revenue, limiting matching funds from the Aeronautics Commission special fund to 90 percent of political subdivision or airport authority project costs for certain projects.

Senate Bill No. 2003 eliminates the requirement that the Attorney General determine the amount of fuels tax refunds due to Native American tribal members for fuel purchases on a reservation.

MINERAL TAXES

House Bill No. 1467 extends the effective date through June 30, 2013, for a triggered oil extraction tax rate reduction. If the trigger price is reached, the first 75,000 barrels or \$4.5 million of oil produced during the first 18 months from a horizontal well is subject to a reduced tax rate of 2 percent, instead of the normal 6.5 percent oil extraction tax. The rate reduction would become effective on the first day of the month following a month for which the average price of a barrel of crude oil is less than the trigger price of \$55.

House Bill No. 1013 increases from \$8 million to \$100 million per biennium the amount to be deposited in the oil and gas impact grant fund from the first one percentage point of the oil and gas gross production tax. The bill also changes the name of the Energy Development Impact Office to the Energy Infrastructure and Impact Office. The bill transfers the authority to make grants for oil and gas impact from the Energy Development Impact Office to the Board of University and School Lands. The Energy Infrastructure and Impact Office is to make recommendations to the board on grants to political subdivisions. The recommendations are to include recommendations for 35 percent of impact funding to go to cities of 10,000 or more population and the remainder to go to smaller cities and counties, school districts, and other political subdivisions impacted by oil and gas development.

House Bill No. 1077 eliminates the \$750 per capita limit on the amount a city may receive under the oil and gas gross production allocation formula.

Senate Bill No. 2129 makes statutory changes to implement the requirements of Article X, Section 26, of the Constitution of North Dakota, requiring deposit of 30 percent of all oil and gas tax revenue in the legacy fund. Under this bill, political subdivisions are held harmless against allocation reductions because of the legacy fund deposit and each political subdivision is to receive the same proportion of oil and gas gross production tax revenues as it received before the legacy fund was established. The entire amount of the deposits in the legacy fund is to be deducted from the state's share of oil and gas gross production taxes and oil extraction taxes.

House Bill No. 1451 eliminates the permanent oil tax trust fund and provides for biennial revenues from oil and gas taxes designated for deposit in the state general fund to be deposited as follows:

1. The first \$200 million into the state general fund;
2. The next \$341,790,000 into the property tax relief sustainability fund;
3. The next \$100 million into the state general fund;
4. The next \$100 million into the strategic investment and improvements fund;
5. The next \$22 million into the state disaster relief fund; and
6. Any additional revenues into the strategic investment and improvements fund.

House Bill No. 1046 establishes a tax of 2 percent of the sales price of potash and 4 percent of the gross value of potash byproducts extracted in this state. The bill does not provide for allocation of revenue from the taxes. It is not anticipated that potash mining will occur before 2013 and that an allocation formula will be established in 2013. The bill provides that the land and processing plant, mining facility, or satellite facility is to be assessed and taxed by local taxing authorities.

EMERGENCY SERVICES COMMUNICATION FEES

Senate Bill No. 2246 provides that after June 30, 2012, the city or county maximum emergency services communication fee is increased from \$1 to \$1.50 per month per communication connection. The bill eliminates the initial limit of a six-year term for imposition of a fee and provides that once a fee is established, the maximum fee may be increased, decreased, or eliminated by majority vote of the electors.

House Bill No. 1045 revises statutory definitions and terminology relating to emergency services communication systems. Statutory references to emergency 911 telephone systems are replaced by references to emergency services communication systems. The bill establishes statutory duties for emergency services communication system coordinators, public safety answering points, and public safety telecommunicators.

House Bill No. 1156 provides that an audio recording of a request for emergency services or report of an emergency is exempt from the open records laws but a person may listen to the audio recording but may not copy or record the audio. A person may request a written transcript of the audio recording.

House Bill No. 1139 provides that a quick response unit whose primary function is not emergency medical services may elect not to be dispatched to medical emergencies outside the entity's primary response area if the outside area is served by an advanced life support ambulance service. An entity that makes the election not to be dispatched is not eligible for an emergency medical services allocation under Chapter 23-40.

House Bill No. 1205 provides that upon request of a law enforcement agency or public service answering point, a wireless telecommunications service provider shall provide call location information concerning the telecommunications device of a user if the location information is requested for the purpose of responding to a call for emergency services or in an emergency situation that involves risk of death or serious physical harm. The bill provides that the Bureau of Criminal Investigation shall obtain contact information from all wireless service providers authorized to do business in this state to facilitate requests for call location information. The Bureau of Criminal Investigation is required to disseminate the contact information to each public safety answering point in this state.

MISCELLANEOUS TAX PROVISIONS

Senate Bill No. 2263 advances the reporting date for transmission and distribution tax line reports to allow time for corrections to be made as suggested by counties. The bill also adjusts the allocation formula for generation taxes on wind farms to be based on rated capacity and location of wind generators.

Senate Bill No. 2249 removes statutory requirements for inclusion of Social Security number and federal employer identification number information on tax lien filings.

House Bill No. 1099 makes technical corrections in administrative provisions relating to tobacco, use, motor vehicle excise, fuels, and alcohol taxes.

House Bill No. 1039 eliminates obsolete provisions from the corporate income tax and special fuel tax laws.

Senate Bill No. 2142 changes references in state laws to eliminate use of the term mental retardation and to substitute use of the term intellectual disability.

Senate Bill No. 2006 increase the statutory salary for the Tax Commissioner to \$98,068 effective July 1, 2011, and \$101,010 beginning July 1, 2012.

May 2011

TITLE 58

Townships

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 58. Bills primarily affecting other titles also may affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1259 increases the daily compensation for township supervisors, clerks, and treasurers from \$20 to an amount determined by the electors of the township, not to exceed \$60. The bill increases the maximum yearly compensation amount for those officers from \$1,000 to \$2,000. The bill changes the allowable mileage reimbursement for township officers to the amount provided under law for state employees and officers rather than tying it to the maximum amount allowed by the Internal Revenue Service.

Senate Bill No. 2219 changes the conditions under which a township officer may be a party to a contract made by the board of township supervisors. The bill allows a township officer to be a party to a township contract if the officer is qualified to undertake the contract; the board, when possible, has requested bids or offers from at least two other persons; the board gives due consideration to all reasonable bids or offers to provide the same service to the township; the officer, if a supervisor, does not vote on the contract; the other members of the board vote unanimously in favor of the contract; and if the officer having an interest in the contract is not a supervisor, the entire board votes in favor of the contract.

Senate Bill No. 2301 provides that upon dissolution of a township and payment of the township debts and liabilities, any funds on hand derived from property taxes levied by the township may be allocated among taxpayers of the township in proportion to their relative ownership shares of the taxable valuation of property in the township, any funds on hand from sources other than property taxes levied by the township must be transferred by the township treasurer to the treasurer of the county in which the township is located for deposit in the county general fund, and any real or personal property must be disposed of in the manner directed by a majority of the voters of the township at any special meeting. The bill contained an emergency clause and became effective on March 9, 2011.

House Bill No. 1027 prohibits a township from imposing any requirements or restrictions pertaining to the registration, labeling, distribution, sale, handling, use, application, transportation, or disposal of seed.

May 2011

TITLE 59

Trusts

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 59. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1135 allows a trustee to have an insurable interest in the life of a person under a life insurance policy if the settlor would have had an insurable interest and the trust beneficiaries have an insurable interest in the life of the insured or are closely related.

May 2011

TITLE 60
Warehousing and Deposits
Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 60. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

House Bill No. 1027 rewrites portions of the North Dakota Century Code pertaining to the state's seed laws and reconciles two statutory references found in the definition of a public warehouseman and a grain buyer.

May 2011

TITLE 61

Waters

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 61. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to waters may be classified in these subject areas: State Water Commission and State Engineer, appropriation of water, drainage projects, Garrison Diversion Conservancy District, Western Area Water Supply Authority, water pollution, and miscellaneous.

STATE WATER COMMISSION AND STATE ENGINEER

Senate Bill No. 2020 appropriates \$459,415,420 to the State Water Commission. The bill amends Chapter 20 of the 2009 Session Laws, relating to Fargo flood control project funding, to provide that funds appropriated for Fargo flood control may be used for right of way acquisition costs, excluding the purchase of dwellings, in addition to land purchases and construction. The bill further amends Chapter 20 of the 2009 Session Laws to provide that no more than 10 percent of Fargo flood control project funds may be used for engineering, legal, planning, or other similar purposes and deletes the requirement that these funds are not subject to the 65 percent funding requirement contained in 2009 Senate Bill No. 2316. The bill also amends Chapter 20 of the 2009 Session Laws to provide that the City of Fargo, Cass County, and the Cass County Joint Water Resource District must approve any expenditures made under that section and that costs incurred by nonstate entities for dwellings or other real property that are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state. The bill would have required the State Engineer to require water permit holders to purchase and maintain remote metering devices for the metering of water used pursuant to temporary, conditional, or perfected water permits and sold for oil and gas purposes and would have provided that the State Water Commission may provide up to \$500,000 for a reimbursement program for the purchase and installation of remote water metering devices. The Governor vetoed the remote water metering and reimbursement provisions on May 18, 2011. The bill included an emergency clause and became effective upon the bill's filing with the Secretary of State.

House Bill No. 1413 removes the requirement that if the State Engineer finds that buildings, structures, boat docks, debris, or other manmade objects situated in, on the bed of, or adjacent to waters that have been determined to be navigable by a court are likely to be a menace to life or property or public health or safety, the State Engineer may issue an order to the person responsible for the object that the danger be imminent. This bill became effective April 20, 2011.

Senate Bill No. 2068 provides that the State Engineer or the State Engineer's authorized designee may execute contracts approved by the State Water Commission.

Senate Bill No. 2282 increases compensation for the appointed members of the State Water Commission from \$62.50 per day to the amount provided for members of the Legislative Management under Section 54-35-10 and increases the compensation of the members of the North Dakota Atmospheric Resource Board from \$62.50 per day to the amount provided for members of the Legislative Management under Section 54-35-10.

APPROPRIATION OF WATER

House Bill No. 1107 provides that a person filing written comments regarding a proposed appropriation may also request an informational hearing on the application. If a request for an informational hearing is made and if the State Engineer determines an informational hearing is necessary to obtain additional information to evaluate the application or to receive public input, the State Engineer is required to designate a time and place for the informational hearing and serve a copy of the notice of hearing upon the applicant and person who filed written comments.

DRAINAGE PROJECTS

House Bill No. 1459 requires artificial subsurface drainage systems comprising 80 acres of land area or more to have a permit. The person seeking to construct the artificial subsurface drainage system must submit an application to the water resource district within which is found a majority of the land area for consideration and approval. A water resource district may attach any necessary conditions to an approved permit but may not deny an application unless the water resource district determines the application is of statewide significance or the proposed drainage will flood or adversely affect downstream landowners within one mile of the proposed subsurface drainage. Water resource districts must forward copies of all approved permits to the State Engineer. Water resource districts must determine whether an application proposes drainage of statewide significance, and, if so, the application must be referred to the State Engineer for consideration and approval. If an investigation by a water resource district or a downstream landowner within one mile shows that the proposed drainage will flood or adversely affect downstream landowners within one mile, the water resource district may require flowage easements before issuing a permit. If an artificial subsurface drainage system drains into an assessment drain; natural water course; or pond, slough, or lake, a flowage easement is not required. A person that installs an artificial subsurface drainage system without first securing a permit to do so is liable for all damage sustained by a person caused by draining and is guilty of an infraction. This bill became effective April 20, 2011.

Senate Bill No. 2280 requires artificial subsurface drainage systems comprising 80 acres of land area or more to have a permit. The person seeking to construct the artificial subsurface drainage system must submit an application to the water resource district within which is found a majority of the land area for consideration and approval. A water resource district may attach any necessary conditions to an approved permit but may not deny an application unless the water resource district determines the application is of statewide significance or the proposed drainage will flood or adversely affect downstream landowners within one mile of the proposed subsurface drainage. Water resource districts must forward copies of all approved permits to the state engineer. Water resource districts must determine whether an application proposes drainage of statewide significance and if so, the application must be referred to the state engineer for consideration and approval. If an investigation by a water resource district or a downstream landowner within one mile shows that the proposed drainage will flood or adversely affect downstream landowners within one mile, the water resource district may require flowage easements before issuing a permit. If an artificial subsurface drainage system drains into an assessment drain, natural water course, or pond, slough, or lake, a flowage easement is not required. A person that installs an artificial subsurface drainage system without first securing a permit to do so is liable for all damage sustained by a person caused by draining and is guilty of an infraction. This bill became effective April 20, 2011.

Senate Bill No. 2283 increases the maximum levy for maintaining, cleaning out, and repairing a drain from \$1.50 per acre in any year to \$2 per acre in any year.

GARRISON DIVERSION CONSERVANCY DISTRICT

House Bill No. 1318 authorizes the board of directors of the Garrison Diversion Conservancy District to establish special assessment districts for irrigation works.

WESTERN AREA WATER SUPPLY AUTHORITY

House Bill No. 1206 establishes the Western Area Water Supply Authority. The mission of the authority is to treat, store, and distribute water to western North Dakota to provide for the supply and distribution of water to the people of western North Dakota for domestic, rural water, municipal, livestock, industrial, oil and gas development, and other purposes. The authority may acquire, construct, improve, develop, and own water supply infrastructure and may enter water supply contracts with member cities; water districts; and private users, such as oil and gas producers, for the sale of water for use within or outside the authority boundaries or the state. The authority consists of participating political subdivisions located within McKenzie, Williams, Burke, Divide, and Mountrail Counties which enter a water supply contract with the authority. The bill provides that the Bank of North Dakota is to provide a loan of \$50 million to the authority for the construction of the project. The State Water Commission is required to make available from funding appropriated to the commission \$25 million as a zero interest loan to the authority. The bill also appropriates \$25 million from the general fund to the Bank of North Dakota to provide a loan to the authority for a maximum term of eight years from the completion of the \$50 million loan from the Bank at 5 percent interest

per year. The bill appropriates \$10 million from the resources trust fund to the Bank of North Dakota for the purpose of providing a loan to the authority for a maximum term of two years from the completion of the \$25 million loan from the general fund at 5 percent interest per year. The bill provides that this funding must be structured so that funding is provided, as needed, first from the \$25 million zero interest loan from the State Water Commission, second from the \$50 million loan from the Bank of North Dakota, third from the \$25 million loan from the general fund, and last from the \$10 million loan from the resources trust fund. Repayment of loans must be structured so that repayment is first of the \$50 million loan from Bank of North Dakota, second of the \$25 million loan from the general fund for deposit of the principal in the general fund and interest in the resources trust fund, third from the \$10 million loan from the resources trust fund for deposit in the resources trust fund, and last of the \$25 million zero interest loan from the State Water Commission for deposit in the resources trust fund. The authority is required to repay the loans from revenues from the project. Upon repayment of the State Water Commission zero interest loan, the authority is required to provide 5 percent of the net profits to the State Water Commission for deposit by in the resources trust fund until June 30, 2040. Concerning second phase funding, at the request of the authority, the State Water Commission is required to consider a loan of \$40 million from the resources trust fund for inclusion within the State Water Commission's budget. The bill included an emergency clause and became effective upon the bill's filing with the Secretary of State.

WATER POLLUTION

House Bill No. 1335 exempts water transfers used to control flooding from actions that may be brought under either Chapter 32-40 or 61-28 against an owner or operator of a water transfer used to control flooding for violation of the state's water pollution control laws if the water transfer does not require a national pollutant discharge elimination system permit and complies with the conditions in the state's water quality standards established to protect aquatic life. The bill became effective April 19, 2011.

MISCELLANEOUS

Senate Bill No. 2254 extends the time period within which a petition requesting an election upon the abolishment of a weather modification authority must be presented to the board of county commissioners from not later than 45 days before the next countywide election to not later than 60 days before the next countywide election.

May 2011

TITLE 62.1

Weapons

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 62.1. Bills primarily affecting other titles also affect this title, and relevant provisions of those bills are summarized in this memorandum.

House Bill No. 1461 provides more requirements of a Class 1 concealed weapons permit which include not being convicted of a crime of violence or an offense involving the use of alcohol and allows a denial if there is reason to believe the applicant is a danger to self or others.

House Bill No. 1438 prohibits public or private employers from prohibiting a customer, employee, or invitee from possessing a firearm locked inside a private motor vehicle, limits the liability of the employer, and provides exceptions for certain employers, including schools and correctional facilities.

House Bill No. 1209 excludes muzzleloaders from the prohibition on the use of firearms for certain felons and allows a court to restore the right of a felon to possess firearms under certain circumstances.

House Bill No. 1269 allows for a court procedure for a person who may not possess firearms to regain the right to possess firearms if the court finds that the person will not act in a manner dangerous to public safety and that the relief would not be contrary to the public interest. In addition, the bill gives the Bureau of Criminal Investigation an additional 15 days, 45 days total, to process a concealed weapons permit.

May 2011

TITLE 63

Weeds

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 63. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

Senate Bill No. 2147 provides that landowners or operators with land adjoining regularly traveled county and township highways must cut all weeds and grasses by September 15 or October 1, as prescribed by the board of county commissioners. In addition, the bill authorizes the board of county commissioners to require that an additional cutting be completed by August 1.

May 2011

TITLE 64
Weights, Measures, and Grades
Summary of Bills Enacted by 2011 Legislative Assembly

There was no 2011 legislation enacted which primarily affected North Dakota Century Code Title 64. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in this memorandum.

May 2011

TITLE 65

Workforce Safety and Insurance

Summary of Bills Enacted by 2011 Legislative Assembly

This memorandum summarizes 2011 legislation primarily affecting North Dakota Century Code Title 65. Bills primarily affecting other titles also may affect this title, but those bills are not summarized in the memorandum.

The legislation relating to Workforce Safety and Insurance (WSI) may be classified in these subject areas: administration and benefits.

ADMINISTRATION

House Bill No. 1037 replaces the current WSI safety audit of the Roughrider Industries work programs with a review and replaces the current WSI performance audit of the program of modified workers' compensation coverage with a review and removes the requirement that WSI provide a report with recommendations based on each of these two reviews to the Legislative Management no later than 30 days before the commencement of each regular session of the Legislative Assembly, unless either review includes any recommendation for change.

House Bill No. 1056 decreases the frequency of WSI performance evaluations from once each biennium to once every four years.

House Bill No. 1039, as part of the technical corrections bill, corrects an obsolete reference by changing North Dakota Healthcare Association to the North Dakota Hospital Association.

BENEFITS

House Bill No. 1050 creates a WSI grant program to promote and provide necessary educational opportunities for injured employees within the vocational rehabilitation process through providing up to \$100,000 in grants annually to promote necessary skills upgrading and to provide for the completion of remedial educational requirements which allow for optimal transition into the labor force. The program uses funds already in the WSI educational revolving loan fund.

Senate Bill No. 2114 authorizes WSI to issue an administrative order on any decision made by informal internal review without first issuing a notice of decision and receiving a request for reconsideration; authorizes WSI to pay for aids or programs primarily intended to help the injured employee lose weight or stop smoking; expands the WSI scholarship program to apply to the spouse and child of a catastrophically injured employee and to certain injured employees, increases the maximum annual amount of scholarships per year, and increases the annual maximum amount payable on behalf of an applicant; loosens the verification requirements for an injured employee's request for travel and other personal reimbursement for seeking and obtaining medical care; clarifies an injured employee's rehabilitation services work search requirements; and expands the WSI educational revolving loan program to apply to the spouse and child of a catastrophically injured employee and to certain injured employees.

House Bill No. 1051 provides for up to two years of workers' compensation disability rehabilitation benefits to an employee who is injured within the two years preceding the employee's presumed retirement age.

House Bill No. 1055 provides for the transition from the fifth edition to the sixth edition of the American Medical Association's *Guides to the Evaluation of Permanent Impairment*, revises the permanent partial impairment calculation formula by basing the calculation on 35 percent instead of 33 1/3 percent of the average weekly wage in this state, revises the permanent partial impairment schedule so the minimum whole body impairment is based on 14 percent instead of 16 percent, and removes the lump sum payment option for permanent partial impairment awards.

House Bill No. 1453 increases from \$50,000 to \$75,000 the amount WSI may pay an employee who sustained a catastrophic injury for the purpose of providing permanent additions, remodeling, or adaptations to real estate.

Senate Bill No. 2089 revises the law addressing ineligibility for workers' compensation benefits based on an alcohol concentration level or a level of an illegally used controlled substance, updating the reference to the most recent version of the United States Secretary of Labor's administrative rules.

Senate Bill No. 2205 makes more uniform the procedure a party to a WSI decision may use to request reconsideration and the procedure an employee may use to request assistance from the Decision Review Office, including clarifying a request for consideration does not need to be made through an attorney, clarifying the 30-day period in which to make a request begins from the day the order or notice of decision was mailed, and modifying the minimum requirements of the written request so it must include a statement of the reason for disagreement with WSI's decision and the desired outcome.