

HEALTH AND SAFETY

CHAPTER 311

HOUSE BILL NO. 1113
(Committee on State and Federal Government)
(At the request of the Health Department)

BIRTH REGISTRATION

AN ACT to amend and reenact section 23-02.1-13 of the North Dakota Century Code, relating to the registration of births.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-02.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-02.1-13. BIRTH REGISTRATION.)

1. A certificate of birth for each live birth which occurs in this state shall be filed with the local registrar of the district in which the birth occurs within seven days after such birth and shall be registered by such registrar if it has been completed and filed in accordance with this section; provided, that when a birth occurs on a moving conveyance, a birth certificate shall be filed in the district in which the child is first removed from the conveyance.
2. When a birth occurs in an institution, the person in charge of the institution or his designated representative shall obtain the personal data, prepare the certificate, secure the signatures required by the certificate and file it with the local registrar. The physician in attendance shall certify to the facts of birth and provide the medical information required by the certificate within six days after the birth.
3. When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:
 - a. The physician in attendance at or immediately after the birth, or in the absence of such a person,

- b. Any other person in attendance at or immediately after the birth, or in the absence of such a person,
- c. The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred.

4.---a.---If---the---mother---was---married---either---at---the---time---of---conception---or---birth---and---indicates---that---her---husband---at---that---time---is---the---natural---father---of---the---child,---the---name---of---the---husband---shall---be---entered---on---the---certificate---as---the---father---of---the---child---unless---paternity---has---been---determined---otherwise---by---a---court---of---competent---jurisdiction---in---which---case---the---name---of---the---father---as---determined---by---the---court---shall---be---entered.

b.---If---the---mother---was---married---either---at---the---time---of---conception---or---birth---and---indicates---that---her---husband---at---that---time---is---not---the---natural---father---of---the---child,---the---name---of---the---father---of---the---child---and---the---name---of---the---husband---will---not---be---entered---on---the---certificate---of---birth---without---the---written---consent---of---the---mother---and---the---person---to---be---named---as---father---or---unless---a---determination---of---paternity---has---been---made---by---a---court---of---competent---jurisdiction,---in---which---case---the---name---of---the---father---as---determined---by---the---court---shall---be---entered.

c.---If---the---mother---was---not---married---either---at---the---time---of---conception---or---birth,---the---name---of---the---father---shall---not---be---entered---on---the---certificate---of---birth---without---the---written---consent---of---the---mother---and---the---person---to---be---named---as---father---or---unless---a---determination---of---paternity---has---been---made---by---a---court---of---competent---jurisdiction,---in---which---case---the---name---of---the---father---as---determined---by---the---court---shall---be---entered.

d.---If---the---mother---was---not---married---either---at---the---time---of---conception---or---the---time---of---birth,---the---child's---surname---shall---be---shown---on---the---birth---certificate---as---the---legal---surname---of---the---mother---at---the---time---of---birth---unless---an---affidavit---or---an---acknowledgment---of---paternity---signed---by---both---parents---is---received---stating---the---surname---to---be---that---of---the---father.

e.---In---the---case---of---a---child---born---out---of---wedlock,---the---certificate---shall---be---filed---directly---with---the---state---registrar.

4. If a man and the mother are or have been married or have attempted to marry each other in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born during the marriage or attempted marriage, or within three hundred days after the termination of cohabitation or after the

marriage or attempted marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of such man shall be entered on the certificate as the father of the child unless the presumption of paternity has been rebutted by a court decree.

5. If the child is not born during the marriage of the mother, or within three hundred days after any such marriage is terminated by death, annulment, declaration of invalidity, or divorce, or after a decree of separation is entered by a court, the name of the father shall not be entered on the birth certificate unless:
 - a. After the child's birth, the father and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and:
 - (1) He has acknowledged his paternity of the child in writing filed with the state registrar,
 - (2) With his consent, he is named as the child's father on the child's birth certificate, or
 - (3) He is obligated to support the child under a written voluntary promise or by court order.
 - b. While the child is under the age of majority, he received the child into his home and openly holds out the child as his natural child; or
 - c. He acknowledges his paternity of the child in a writing filed with the state registrar which shall promptly inform the mother of the filing of the acknowledgement, and she does not dispute the acknowledgement within a reasonable time after being informed thereof, in a writing filed with the state registrar.
6. If, in accordance with subsections 4 and 5 hereof, the name of the father of the child is not entered on the certificate of birth, the child's surname shall be shown on the birth certificate as the legal surname of the mother at the time of birth unless an affidavit or an acknowledgement of paternity signed by both parents is received stating the surname to be that of the father.
7. In the case of a child born out of wedlock, the certificate shall be filed directly with the state registrar.

Approved March 3, 1979

CHAPTER 312

HOUSE BILL NO. 1330
(Representative G. Larson)
(Senator Melland)

BURIAL OF DECEASED PERSONS

AN ACT to amend and reenact subsection 4 of section 23-06-03 of the North Dakota Century Code, relating to duty and cost of burial by the county social service board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 23-06-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. If the deceased ~~left--no--husband--wife--or--kindred~~
~~answering-the-feregoing--description~~ is survived by no
person described by subsection 1 or 2 and did not leave
sufficient means ~~suffieiently~~ to defray ~~his~~ funeral
expenses, including the cost of a casket, the county
social service board of the county in which the deceased
had residence for poor relief purposes or if ~~such~~
residence cannot be established, then the county social
service board of the county in which the death occurs,
shall employ some person to arrange for and supervise the
burial. The cost of ~~such~~ the burial shall be paid by the
county social service board, subject to the following:
 - a. The sum of ~~four~~ five hundred dollars shall be allowed
for personal property and burial services furnished by
a funeral director or funeral home.
 - b. The reasonable costs of transporting the body to the
place of burial, but not exceeding one hundred
dollars.
 - c. The cost of the grave box or vault, not to exceed the
sum of one hundred ~~twenty~~ fifty dollars, provided that
a grave box or vault is required by the cemetery
before a burial may be made.

- d. The cost of a grave space, not to exceed the sum of ~~fifty~~ seventy-five dollars.
- e. Any grave opening and closing expenses, not to exceed the sum of ~~seventy-five~~ one hundred dollars.

Payment for services rendered or personal property furnished under subdivisions a, b, and c shall be made to the funeral home or funeral director furnishing the same, while payment for a grave space, services rendered, or personal property furnished under subdivisions d and e shall be made to the cemetery furnishing the same.

Approved March 3, 1979

CHAPTER 313

HOUSE BILL NO. 1389
(Olson, Kretschmar)

ANATOMICAL GIFT EXECUTION

AN ACT to amend and reenact subsection 4 of section 23-06.1-04 of the North Dakota Century Code, relating to the manner of executing anatomical gifts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 23-06.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Notwithstanding subsection 2 of section 23-06.1-07, the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation, or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose or, in the case of a gift of eyes, he may employ or authorize an embalmer licensed by the state board of embalmers who has successfully completed a course in eye enucleation conducted by the department of ophthalmology of any accredited college of medicine, which college has been approved by the state board of medical examiners, who may enucleate eyes for the gift after certification of death by a physician. The gift may be made by a relative or other person in the order of priority stated in subsection 2 of section 23-06.1-02. A licensed embalmer acting in accordance with the provisions of this subsection shall have no liability, civil or criminal, for the eye enucleation.

Approved March 8, 1979

CHAPTER 314

HOUSE BILL NO. 1509
(Eagles)

CHILD INOCULATIONS

AN ACT to amend and reenact section 23-07-17.1 of the North Dakota Century Code, relating to inoculations required before admission to school and providing exemptions; and to repeal section 23-14-02 of the North Dakota Century Code, relating to compulsory vaccination or inoculation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-07-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-07-17.1. INOCULATION REQUIRED BEFORE ADMISSION TO SCHOOL.)

1. No child shall be admitted to any public, private, or parochial ~~elementary~~ school, or day care center, child care facility, head start program, or nursery school operating in North Dakota unless such child's parent or guardian presents to the ~~school~~ institution authorities a certification from a licensed physician or authorized representative of the state department of health that such child has received immunization against diphtheria, pertussis, tetanus, measles ~~(rubella)~~, rubella (German measles), mumps, and poliomyelitis.
2. A child may enter ~~school~~ an institution upon submitting written proof from a licensed physician or authorized representative of the state department of health stating that he has started receiving the required immunization or has a written consent by the child's parent or guardian for a local health service or department to administer the needed immunization without charge or has complied with the requirements for certificate of exemption as provided for in subsection 3.
3. ~~The--immunizations--required--and--the--procedure--for--their--administration--as--prescribed--by--the--state--department--of~~

~~health,--shall--conform--to--recognized--standard--medical practices--in--the--state--The--state--department--of--health shall--administer--the--provisions--of--this--section--and--shall promulgate--rules--and--regulations--in--the--manner--prescribed by--chapter--28-32--for--the--purpose--of--administering--this section.~~ Any minor child, through his parent or guardian, may submit to the institution authorities either a certificate from a licensed physician stating that the physical condition of the child is such that immunization would endanger the life or health of the child or a certificate signed by his parent or guardian whose beliefs are opposed to such immunization. The minor child shall then be exempt from the provisions of this section.

4. ~~The--list--of--diseases--in--subsection--1--may--be--revised through--regulations--by--the--state--department--of--health--upon the--development--of--a--nationally--recognized--effective vaccine--against--a--disease~~ The enforcement of subsections 1, 2, and 3 shall be the responsibility of the designated institution authority.
5. ~~Any--minor--child,--through--his--parents--or--guardian,--may submit--to--the--school--authorities--a--certificate--from--a licensed--physician--stating--that--the--physical--condition--of the--child--is--such--that--immunization--would--endanger--the life--or--health--of--the--child--and--the--minor--child--shall--then be--exempt--from--the--provisions--of--this--section~~ The immunizations required, and the procedure for their administration, as prescribed by the state department of health, shall conform to recognized standard medical practices in the state. The state department of health shall administer the provisions of this section and shall promulgate rules and regulations in the manner prescribed by chapter 28-32 for the purpose of administering this section.
6. ~~Before--any--child--is--immunized--the--school--authorities--shall notify--the--parent--or--guardian--of--their--right--to--refuse such--immunization~~ When, in the opinion of the health officer, danger of an epidemic exists from any of the communicable diseases for which immunization is required under this Act, the exemptions from immunization against such disease shall not be recognized and children not immunized shall be excluded from an institution listed in subsection 1 until, in the opinion of the health officer, the danger of the epidemic is over. The designated institution authority shall notify those parents or guardians taking legal exception to the immunization requirements that their children are excluded from school during an epidemic as determined by the state department of health.

SECTION 2. REPEAL.) Section 23-14-02 of the North Dakota Century Code is hereby repealed.

Approved March 15, 1979

CHAPTER 315

SENATE BILL NO. 2113
(Committee on State and Federal Government)
(At the request of the Health Department)

TUBERCULAR TREATMENT

AN ACT to provide for responsibility of inpatient and outpatient care to persons afflicted or suspected of being afflicted with tuberculosis; to create and enact a new section to chapter 25-04 of the North Dakota Century Code, relating to biennial reports and assistant superintendent at the San Haven state hospital; to amend and reenact subsection 5 of section 25-01-01 and sections 25-04-01 and 25-04-03 of the North Dakota Century Code, concerning the Grafton state school, and the San Haven state hospital and the powers and duties of the assistant superintendent; to repeal subsection 6 of section 25-01-01 and chapter 25-05 of the North Dakota Century Code, relating to the state sanitorium and to the care of tubercular persons.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION OF LEGISLATIVE INTENT.) It is hereby declared that it is the intent of the legislative assembly, as follows: It is the policy of the state of North Dakota to treat persons having tuberculosis in a communicable and contagious stage as dangerous to the health and welfare of the citizens of the state. It is also the policy of the state to declare that all cases of tuberculosis in a communicable or contagious stage should be treated in a licensed hospital, or at home if such home treatment is approved by the state health officer under the guidelines of the state health council. To this end, it is declared that isolation provisions to achieve treatment of such communicable or contagious tuberculous persons should be accomplished to the fullest extent regardless of such person's ability to pay. It is further declared that such persons with communicable or contagious tuberculosis shall be given full opportunity to enter treatment voluntarily and to seek treatment from physicians and hospitals of their own choice at their own expense. In order to prevent effectively the spread of this disease it is necessary that the state:

1. Further the discovery, care, supervision and treatment of persons having tuberculosis in a communicable or contagious stage.
2. Encourage the use of all available public and private facilities to that end.
3. Regard this tuberculosis program as one of public health and one to be dealt with according to public health requirements rather than those of indigency.

SECTION 2. CARE AND TREATMENT OF TUBERCULOSIS PATIENTS OR SUSPECTS PROVIDED WITHOUT CHARGE BY STATE.) Care and treatment provided by the state of North Dakota for persons suffering from tuberculosis, including diagnosis, tests, studies, and analyses for the discovery of tuberculosis shall be available without cost or charge to anyone who is suffering from tuberculosis or is suspected of having tuberculosis. Any such person who volunteers to assume and pay for the cost of such care and treatment or for the cost of such diagnosis, test, studies or analyses shall be permitted to do so; but no state, county or other public official shall request or require such payment or make or cause to be made any inquiry or investigation for the purpose of determining the ability of such person or of his legally responsible relatives to pay therefor. This section shall in no way bar freedom of the individual to seek treatment from a physician or in an institution of his choice at his own expense.

SECTION 3. STATE HAS PRIOR CLAIM ON PATIENT BENEFITS.) Notwithstanding any provision contained in this Act, the state of North Dakota shall have prior claim on benefits for the care and treatment of tuberculosis, including diagnosis, tests, studies, and analyses, accruing to patients for whom care and treatment is provided by the state of North Dakota under entitlement by the federal government, medical or hospital insurance contracts, workmen's compensation or the medical care and disability provisions of programs under the supervision of the social service board of North Dakota.

SECTION 4. STATE HEALTH OFFICER - DESIGNEE - RESPONSIBILITY.) The state health officer or his designee, under the guidelines of the state health council, is responsible for the inpatient and outpatient care of persons afflicted or suspected of being afflicted with tuberculosis in a contagious state. If the state health officer determines that suspected or actual tuberculous patients may be adequately cared for on an inpatient basis by contract basis with general hospitals, authority for contracting with such hospitals is granted to the state health officer. In addition, the state health officer is authorized to establish and maintain the necessary outpatient clinics for diagnostic workup and evaluation on all suspected or actual tuberculous patients in the state. The state health officer shall pay the contract fee to general hospitals and provide funds to the outpatient evaluation clinics from funds to be appropriated for this purpose by the legislative assembly. The

state's claim on patient benefits as provided in section 3 shall apply insofar as applicable to tuberculous patients in general hospitals and for services rendered in outpatient clinics. The state health officer or his designee, under the guidelines of the state health council, shall have the power to:

1. Do any act necessary and proper in the performance of the functions imposed upon the state health officer by the provisions of this chapter.
2. Issue temporary orders and compel obedience thereto.
3. Administer oaths.

SECTION 5. REPORTS - TEMPORARY ORDERS FOR THE CUSTODY OF PERSONS.) Upon a report to or receipt of information by the state health officer or any physician in the state that any person is afflicted with tuberculosis and as a source of infection endangers other persons, a report shall be made to the state health officer. Upon the receipt of such information by the state health officer, an investigation shall be made and if the state health officer is convinced that an active case of infectious tuberculosis in a communicable and contagious stage which endangers other persons exists, the state health officer shall request such person to voluntarily seek appropriate care and treatment. If the person refuses to accept voluntary care and treatment, the state health officer, under the guidelines of the state health council, is authorized to issue a temporary order for care and treatment as is determined by the state health officer. If the state health officer's temporary order is ignored, the state health officer may issue an order directing the sheriff or any constable of the county where the alleged tubercular person resides to compel the attendance of the alleged tubercular person and may provide for suitable housing and care of the person until a hearing is held pursuant to section 8 of this Act.

Prior to issuing a temporary order pursuant to this section, the state health officer or his designee, under the guidelines of the state health council, shall hear all relevant testimony for or against the temporary order and the examination and hearing on the order shall be in the presence of the alleged tubercular person. The alleged tubercular person and any relative may resist the order and the parties may be represented by counsel.

SECTION 6. PHYSICIAN'S EXAMINATION - FINDINGS - ORDER.) The state health officer, under the guidelines of the state health council, may appoint a practicing physician to make a personal examination of the alleged tubercular person and to make such thorough investigation of his condition as will enable the state health officer to determine whether or not such person has active, infectious tuberculosis in a communicable and contagious stage and is dangerous to the public health. As soon as practical after the return of the physician's statement to the state health officer, the state health officer shall conclude his investigation and make his

determination. If the state health officer finds that the alleged tubercular person does not have active, infectious tuberculosis and is not dangerous to public health he shall make an order dismissing the case. If the state health officer, under the guidelines of the state health council, finds that the person does have active, infectious tuberculosis and is dangerous to public health he shall issue his temporary order which shall:

1. State his findings that such person does have active, infectious tuberculosis and is dangerous to public health; and
2. Authorize the medical facility specified in the temporary order to receive and keep such person in its facility for necessary and appropriate care, treatment, quarantine, and isolation until a hearing is held pursuant to section 8 of this Act.

SECTION 7. SHERIFF'S EXECUTION OF STATE HEALTH OFFICER'S TEMPORARY ORDER.) The temporary order of the state health officer, in duplicate, together with the findings of the physician and the findings of the state health officer shall be delivered to the sheriff who shall execute the same by conveying the person named therein to the medical facility specified in the order and delivering him together with the findings of the physician and the state health officer's findings and the duplicate of the order to the person in charge of such medical facility. The person in charge, over his official signature, shall acknowledge the delivery on the original order and the sheriff shall return the order to the state health officer. Return to the state health officer may be by certified mail. The sheriff shall be allowed reasonable travel expenses, paid by the county, in the same manner and at the same rate as the expenses of other county officials are paid.

SECTION 8. HEARING - ORDER.) Unless waived by the alleged tubercular person, a hearing shall be held by a law-trained county justice or a judge of a county court of increased jurisdiction of the county in which the alleged tubercular person resides within one hundred twenty hours, exclusive of weekends and holidays, after the date of the state health officer's temporary order. The court may consider all relevant evidence, including the results of a physical examination made pursuant to section 6 of this Act, and the state health officer and the alleged tubercular person shall be afforded an opportunity to testify, to present and cross-examine witnesses, and to be represented by counsel. Upon the request of the state health officer, the state's attorney of the county wherein the hearing is held shall represent the state health officer without additional compensation.

If, upon completion of the hearing, the court finds that the allegation that the person has active, infectious tuberculosis in a communicable and contagious stage has not been sustained by clear and convincing evidence, the court shall dismiss the case and order that the alleged tubercular be discharged if he had been in custody

prior to the hearing. If the court finds that the allegation has been sustained by clear and convincing evidence, the court shall issue an order which shall:

1. State its findings that the person does have active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health; and
2. Authorize the medical facility specified in the order to receive and keep such person in its facility for necessary and appropriate care, treatment, quarantine, and isolation for so long as the disease remains in a communicable and contagious stage and the danger to public health exists.

SECTION 9. APPEAL TO DISTRICT COURT - HABEAS CORPUS - HEARING.) An appeal from an order of the county justice or judge of a county court with increased jurisdiction authorizing a specified medical facility to receive a person for care, treatment, quarantine and isolation may be taken to the district court of the county. In such a proceeding, the state's attorney of the county wherein the appeal is taken, without additional compensation, shall represent the state health officer. The clerk of court of the county in which the appeal is taken shall notify the state's attorney of the filing of such appeal. The hearing shall be limited to a review of the procedures, findings, and conclusions of the lower court. All persons placed in the custody of the state health officer under the provisions of this chapter for care, treatment, quarantine and isolation shall be entitled to the benefit of the writ of habeas corpus and a determination as to whether a person in such custody has active, infectious tuberculosis in a communicable and contagious stage and is dangerous to public health shall be made at the hearing. If the court shall decide that the person does have active, infectious tuberculosis and is dangerous to public health, such decision shall not preclude a subsequent application for a writ or the issuing of a writ upon a subsequent application, if it shall be alleged that such person shall have been restored to health.

SECTION 10. DISCHARGE - RELEASE.) All orders of the state health officer or of a county justice or judge of a county court with increased jurisdiction authorizing the reception and retention in custody for care, treatment, quarantine and isolation of persons having active and infectious tuberculosis endangering public health shall be effective only during the continuation of such condition and any person who is cured or who no longer has tuberculosis in a communicable and contagious stage shall be discharged immediately from custody. Such discharge shall be made by the state health officer or his designee, under the guidelines of the state health council. The person in charge of a medical facility may also release any person admitted to the medical facility under the provisions of this chapter at such times and under such conditions as deemed advisable after consultation with the state health officer or his designee.

SECTION 11. LIABILITY OF OFFICERS.) The order of the state health officer authorizing the admission of any person to the custody of a medical facility and the reception and detention of such person at such medical facility as a patient, accompanied by the state health officer's findings as provided in this chapter shall protect the state health officer or his designee and the other personnel of the medical facility from all liability, civil or criminal, on account of the reception and detention of such person therein, if such detention is in accordance with the laws of the state of North Dakota.

SECTION 12. EXCEPTION - QUARANTINE.) Any person who shall observe quarantine regulations as established by the state health officer, under the guidelines of the state health council, shall not be subject to confinement under the provisions of this chapter.

SECTION 13. TUBERCULAR INDIAN JURISDICTION.) Nothing in this chapter shall require the admission of an enrolled Indian, resident on any reservation in this state, to any off-reservation institution except upon written request and authorization of the superintendent of the reservation on which said Indian is enrolled. However, in the public interest and with the objective of eradication of tuberculosis in the state of North Dakota, an Indian with active infectious tuberculosis off any reservation shall be subject to this chapter. It shall be the responsibility of the Indian Affairs Commission pursuant to the commission's powers and duties, stated in section 54-36-03, to work closely with the tribal councils and other reservation officials to adopt any agreements found necessary in assisting the state health officer in carrying out his responsibilities under this chapter so that all residents of this state will benefit, and eradication of tuberculosis in North Dakota can be achieved.

SECTION 14. CARE OF TUBERCULAR PATIENTS - ACCEPTANCE OF FEDERAL FUNDS - GENERAL HOSPITAL.) The state health officer, or his designee, under the guidelines of the state health council, is hereby authorized to contract with public or private agencies for the care of tubercular patients. The state health officer is hereby authorized to accept any federal funds or to enter into any federal programs on behalf of tubercular patients in North Dakota. The state health officer may, under the guidelines of the state health council, also utilize general hospitals in the placement of recalcitrant tuberculous patients.

SECTION 15.) A new section to chapter 25-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

BIENNIAL REPORT - ASSISTANT SUPERINTENDENT.) The assistant superintendent of San Haven shall submit to the superintendent a biennial report including the number and type of resident being served and the conditions and needs of the institution and any other information which the director of institutions may require. The superintendent upon his review of the report will submit it to the

director of institutions who shall include it in his required biennial report. The director may authorize the printing of copies of the separate report of such institution not exceeding one thousand in number. The charges for the printing of such separate copies shall be paid in the same manner as payment is made for printing reports of the various departments of the state.

SECTION 16. AMENDMENT.) Subsection 5 of section 25-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "State school" shall mean the Grafton state school and ~~such portion of the state institution at San Haven that is designated for the care of the mentally deficient~~ San Haven.

SECTION 17. AMENDMENT.) Section 25-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-01. STATE SCHOOL - MAINTAINED - NAME.) An institution for the mentally deficient shall be maintained at or near the city of Grafton in the county of Walsh. Such institution shall be known and designated as Grafton state school. There shall be maintained near Dunseith, in the county of Rolette, a division of the Grafton state school which shall be known as San Haven.

SECTION 18. AMENDMENT.) Section 25-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

25-04-03. QUALIFICATIONS OF SUPERINTENDENT.) The superintendent of Grafton state school shall be a skilled administrator with professional training and experience relating to the needs of the mentally retarded. The superintendent shall designate a qualified and duly licensed physician as chief of medical staff and such chief of staff shall have the power, with advice and consent of the superintendent, to employ and discharge additional physicians, nurses, and professional assistants and shall be responsible for defining their qualifications and duties. All other employees shall be appointed and removed by the superintendent or a personnel director to be named by him. The salaries of all employees shall be fixed by the director within the limits of the legislative appropriations made for such purpose. The superintendent of the Grafton state school shall also serve as the superintendent of San Haven. The superintendent shall appoint an assistant superintendent who shall be the chief administrative officer of San Haven. The superintendent shall designate a qualified and duly licensed physician as chief of medical staff who will with the advice and consent of the superintendent employ the necessary physicians. All other employees shall be appointed by the assistant superintendent with the advice and consent of the superintendent. The assistant superintendent shall make certain that records on each resident be maintained as required by the director of institutions and the superintendent. The assistant superintendent, with the advice and consent of the superintendent and the director of institutions, shall determine the salaries of all employees at San Haven within the limits of legislative appropriations.

SECTION 19. REPEAL.) Subsection 6 of section 25-01-01 and chapter 25-05 of the North Dakota Century Code are hereby repealed.

Approved April 7, 1979

CHAPTER 316

HOUSE BILL NO. 1566
(Representatives Melby, Boyum, Hoffner)
(Senator Farrington)

BLOOD DISORDER VICTIM ASSISTANCE

AN ACT to establish a program of financial assistance for victims of hemophilia and other similar blood disorders, and granting rulemaking authority.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEFINITIONS.) As used in this Act, unless the context or subject matter otherwise requires:

1. "State health officer" means the state health officer as defined in title 23.
2. "Hemophilia" means a bleeding tendency resulting from a genetically determined deficiency or abnormality of a blood plasma factor or component.

SECTION 2. ASSISTANCE PROGRAM.) The state health officer shall establish a program of financial assistance to persons suffering from hemophilia and other related congenital bleeding disorders. The program shall assist those persons to purchase the blood derivatives and supplies necessary for home care.

SECTION 3. RECOVERY FROM OTHER SOURCES.) The state health officer may enter into agreements with third parties, including any insurer or private sources, for recovery of payments for blood products and supplies used in home care by persons participating in the program.

SECTION 4. RULEMAKING AUTHORITY.) The state health officer shall:

1. Establish a reasonable cost for blood products and supplies used in home care as a basis of reimbursement under this Act.
2. Determine when reimbursement shall not be made under this Act for any blood products or supplies which are not

purchased in compliance with regulations promulgated pursuant to this Act. Reimbursement shall not be made under this Act for any portion of the costs of blood products or supplies which are payable under any other state or federal program or under any grant, contract, or any other contractual arrangement.

3. Define what constitutes "home care".
4. Define what constitutes "income", "net worth", and "patient eligibility" for assistance.
5. Provide guidelines to determine individual liability.
6. Adopt all rules necessary to implement subsections 1 through 5 of this Act pursuant to chapter 28-32.

Approved March 19, 1979

CHAPTER 317

SENATE BILL NO. 2364
(Lee)

SELF-SERVICE MOTOR FUEL DISPENSING UNITS

AN ACT to amend and reenact subsection 4 of section 23-13-02.1, subsection 2 of section 23-13-02.3, sections 23-13-02.4 and 23-13-02.5, and subsection 1 of section 23-13-02.6 of the North Dakota Century Code, relating to the use of coin-operated and card-operated dispensing devices in self-service motor fuel dispensing facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 23-13-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Self-service motor fuel dispensing unit" means any system, device, or pump for dispensing motor fuels into the fuel tanks of motor vehicles which is intended to be operated by the purchaser of such motor fuel, except that such term does not include any system, device, or pump which is coin-operated, or currency-operated, ~~or card-operated~~.

SECTION 2. AMENDMENT.) Subsection 2 of section 23-13-02.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. At all times during the operation of a self-service motor fuel dispensing facility the owner, operator, or his or its employee or authorized attendant shall be on the premises and shall supervise the operation thereof and such attendant shall refuse service to anyone who appears for any reason to be unable to dispense such motor fuel safely. This subsection shall not apply to any self-service motor fuel dispensing unit equipped with a card-operated or key-operated dispensing device, provided that all persons possessing the card or keys required to operate the device have been instructed in the proper and safe operation of the device.

SECTION 3. AMENDMENT.) Section 23-13-02.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-13-02.4. SELF-SERVICE UNITS TO BE EQUIPPED WITH EMERGENCY POWER CUTOFF.) All self-service motor fuel dispensing units shall be so constructed that their electrical pumping systems shall have an accessible switch or circuit breaker provided at a location remote from the dispensing device, including remote pumping systems, and accessible to the supervising attendant, unless an attendant is not required to be on the premises by subsection 2 of section 23-13-02.3, to shut off electrical power to the dispensing devices in the event of an emergency.

SECTION 4. AMENDMENT.) Section 23-13-02.5 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-13-02.5. SELF-SERVICE MOTOR FUEL DISPENSING UNITS TO BE IN VIEW OF ATTENDANT - EXCEPTION.) All Unless an attendant is not required to be on the premises by subsection 2 of section 23-13-02.3, all self-service motor fuel dispensing facilities shall, at all times, be in clear view of the attendant who shall be able to communicate, by voice, with persons in the dispensing area.

SECTION 5. AMENDMENT.) Subsection 1 of section 23-13-02.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Use, operate, or install any coin-operated, or currency-operated, ~~or card-operated~~ dispensing device in any self-service motor fuel dispensing facility.

Approved March 27, 1979

CHAPTER 318

HOUSE BILL NO. 1346
(Gunsch)

LIQUID WASTE LICENSE REQUIREMENTS

AN ACT to amend and reenact sections 23-19-01, 23-19-04, and 23-19-05 of the North Dakota Century Code, relating to license and permit requirements for the business of cleaning, pumping, and servicing cesspools, septic tanks, or privies; license and permit fees; and licenses and license tags.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-19-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-19-01. LICENSE AND PERMIT REQUIREMENTS.) From and after the passage and approval of this chapter no person, partnership, association, firm, or corporation shall engage for hire in the ~~business of--cleaning,--pumping,--and servicing cesspools,--septic tanks,--or--privies~~ activities listed below without first obtaining an annual license ~~therefor in the manner hereinafter~~ as provided by this chapter:

1. Cleaning, pumping, and servicing cesspools, septic tanks, privies, chemical toilets, or holding tanks.
2. Transfer or disposal of any liquid wastes or byproduct of commercial or industrial processes, provided that such disposal or transfer complies with other regulations or restrictions outlined by federal, state, or local ordinances pertaining to a specific waste or byproduct.
3. Licenses with current registration shall not be required to pay the initial license fee.

In addition to the annual state license, an additional permit may be required by the local governmental and health jurisdictions. The provisions of this chapter shall not apply to master plumbers duly licensed to engage in the business of plumbing in the state of North Dakota.

SECTION 2. AMENDMENT.) Section 23-19-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-19-04. LICENSE AND PERMIT FEES.)

1. A North Dakota resident licensee shall pay an ~~annual~~ initial fee of ~~fifteen~~ fifty dollars for ~~each~~ one complete servicing unit including pump and transport. A fee of fifteen dollars shall be paid for each additional complete servicing unit. A North Dakota resident licensee shall pay an annual renewal fee of fifteen dollars for each complete servicing unit.
2. A nonresident licensee shall pay an ~~annual~~ initial fee of ~~fifty~~ one hundred dollars for ~~each~~ one complete servicing unit including pump and transport. ~~Where local permits are required in addition to the state license, the permit fee shall not exceed one dollar for each complete servicing unit including pump and transport. This permit fee may be imposed within each local jurisdiction.~~ A fee of fifty dollars shall be paid for each additional complete servicing unit. A nonresident licensee shall pay an annual renewal fee of fifteen dollars for each complete servicing unit.

SECTION 3. AMENDMENT.) Section 23-19-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-19-05. LICENSES AND LICENSE TAGS.) Licenses issued hereunder shall expire one year after date of issuance or upon such uniform dates as the state health council may prescribe by regulation. Normally, unless altered by regulation, the license will run for the calendar year and will expire on December thirty-first each year. A grace period of sixty days shall be allowed for renewal fee continuation. The license shall be assigned and issued only for the servicing unit and person or firm named in the application and shall not be transferable or assignable without written approval by the state health department. A fee of fifteen dollars shall be paid with a written request for a transfer or assignment. The state health department may cause to be designed and issued a numbered metal license tag which shall be posted in a conspicuous place on each servicing unit of the licensee. If deemed desirable different colored tags may be used to distinguish resident and nonresident licenses.

Approved March 15, 1979

CHAPTER 319

SENATE BILL NO. 2214
(Committee on Natural Resources)
(At the request of the Industrial Commission)

NUCLEAR WASTE DISPOSAL

AN ACT placing jurisdiction over storage or disposal of nuclear and other wastes in the industrial commission, providing for permits for such storage or disposal, providing exemptions, providing for administrative regulations; and providing penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DECLARATION OF POLICY.) It is hereby declared to be in the public interest to encourage and promote the proper emplacement of material into subsurface strata for the purpose of storage and retrieval of material; and to promote the terminal disposal of municipal, industrial, and domestic waste in such a manner as to prevent the contamination or pollution of surface and groundwater sources or any other segment of the environment and to avoid creation of secondary hazards of a geologic nature.

SECTION 2. DEFINITIONS.) As used in this Act:

1. "Commission" means the industrial commission of North Dakota.
2. "Person" includes any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind, and includes any department, agency, or instrumentality of the state or of any governmental subdivision thereof.
3. "Underground disposal facility" means any drilled, bored, or excavated device or installation to provide for the subsurface disposal of waste, but shall not include a solid waste management facility, sanitary landfill, authorized under chapter 23-29.
4. "Underground storage and retrieval facility" means any drilled, bored, or excavated device or installation to

provide for the subsurface emplacement and recovery of materials.

5. "Waste" includes liquid wastes, gaseous wastes, and solid wastes as defined in subsection 5 of section 23-29-03, and all unusable industrial material including spent nuclear fuels and other unusable radioactive material not brought into this state for disposal.

SECTION 3. JURISDICTION OF THE INDUSTRIAL COMMISSION.) The industrial commission has jurisdiction and authority and is charged with the responsibility to enforce the provisions of this Act. This Act shall not apply to any activity regulated under chapters 23-29, 38-08, 38-12, 61-28, and 61-28.1. The industrial commission acting through the office of the state geologist has the authority:

1. To require:

- a. Identification of ownership of all facilities and equipment used for the underground storage and retrieval of material and waste disposal.
- b. The making and filing of all logs and reports on facility location, drilling, boring, excavating, and construction and the filing, free of charge, of samples, core chips, and complete cores, when requested, in the office of the state geologist.
- c. The drilling, boring, excavating, and construction of facilities in a manner to prevent contamination and pollution of surface and groundwater sources and the environment.
- d. The furnishing of a reasonable bond with good and sufficient surety, conditioned upon the full compliance with the provisions of this chapter, and the rules of the commission relating to the underground storage and retrieval of material and waste disposal.
- e. Metering or other measuring of all material injected, emplaced, stored, disposed into, or retrieved from any facility regulated by this Act.
- f. That every person who operates a facility for the underground storage and retrieval of material or for waste disposal in this state shall keep and maintain complete and accurate records of the quantities and nature of material stored, retrieved or disposed of, which records shall be available to the commission or its agents at all times, and that every such person file with the commission such reports as it may prescribe.

- g. That upon termination of the operation of any facility or activity regulated by this Act, the operator of such facility shall restore the surface as nearly as possible to its original condition and productivity.
2. To regulate:
 - a. The drilling, boring, excavating, and construction of all underground storage, retrieval, and waste disposal facilities.
 - b. Operations to assure the optimum performance of all facilities regulated by this Act.
3. To limit and prescribe the nature, quantity, and source of materials to be stored in, whether as waste or otherwise, or retrieved from any facility regulated by this Act.
4. To promulgate and to enforce rules, regulations, and orders to effectuate the purposes of this Act.

The jurisdiction granted the commission by this Act shall not be exclusive and shall not affect the jurisdiction of other governmental entities.

SECTION 4. PERMIT REQUIRED - DENIAL OF PERMIT - REVIEW.) It shall be unlawful to commence any operations for the excavating, drilling, boring, or construction of an underground storage and retrieval facility; an underground waste disposal facility; or the conversion of any existing facility for use in any activity regulated by this Act, without first securing a permit from the commission. A permit shall not be issued until after notice and hearing, and payment of a fee for each permit in an amount to be prescribed by the commission, but not in excess of one thousand dollars. Each permit application shall include:

1. A general discussion or description of the activity to be permitted.
2. A detailed description and discussion of the nature of the material to be stored, retrieved, or disposed of.
3. A detailed description and discussion of the mechanical construction and operating procedures of the facility.
4. A justification for the need for the facility to be permitted.
5. A detailed discussion and description of the subsurface geology and hydrology of the area to be affected by the construction and operation of the facility to be permitted.

6. A detailed description and discussion of a monitoring system to be used to ascertain the integrity of the facility, and to ensure compliance with the provisions of this Act.
7. A detailed description and discussion of a reclamation program for the restoration of the surface as nearly as possible to its original condition and productivity upon expiration of the permit or termination of any activities regulated by this Act.
8. Any other information required by the commission.

The commission may, following the hearing required herein, deny an application and refund the license fee. A person denied a permit may appeal such denial in accordance with the provisions of sections 28-32-15 through 28-32-21. All fees collected pursuant to this section, or penalties collected pursuant to section 6, shall be deposited in the general fund in the state treasury. The permit required by this Act shall be in addition to all other permits required by law.

SECTION 5. ACTION TO RESTRAIN VIOLATION OR THREATENED VIOLATION.) Whenever it appears that any person is violating or threatening to violate any provision of this Act, or any rule, regulation, or order of the commission, the commission may bring action against that person, in the district court of the county where the violation occurs or is threatened, to restrain that person from continuing the violation or from carrying out the threat of violation. In any such action, the court shall have jurisdiction to issue, without the filing of a bond or other undertaking by the commission, such prohibitory and mandatory injunctions as are necessary, including temporary restraining orders, preliminary injunctions, temporary, preliminary, or final orders restraining the person from continuing the violation or from carrying out the threat of violation.

SECTION 6. PENALTIES.)

1. Any person who violates any provision of this Act, or any rule, regulation, or order of the commission promulgated under this Act, shall be subject to a civil penalty of not more than one thousand dollars for each act of violation and for each day that the violation continues.
2. It is a class B misdemeanor for any person, for the purpose of evading this Act, or any rule, regulation, or order of the commission, to make or cause to be made any false entry or statement in a report required by this Act or by any rule, regulation, or order issued or promulgated by the commission, or to make or cause to be made any false entry in any record, account, or memorandum required by this Act, or by any rule, regulation, or order of the commission, or to omit, or cause to be omitted, from any

such record, account, or memorandum, full, true, and correct entries as required by this Act or by any rule, regulation, or order of the commission, or to remove from this state or destroy, mutilate, alter, or falsify any record, account, or memorandum.

3. The civil penalties provided in subsection 1 shall be recoverable by suit filed by the attorney general in the name and on behalf of the commission, in the district court of the county in which the defendant resides, or in which any defendant resides, if there is more than one defendant, or in the district court of any county in which the violation occurred. The payment of any such penalty shall not operate to relieve a person on whom the penalty is imposed from liability to any other person for damages arising out of such violation.

SECTION 7. EXEMPTION.) The provisions of this Act, and the rules, regulations, or orders authorized herein, shall not apply to any natural person residing on unplatted land in unincorporated areas of this state disposing of his normal household wastes on his property.

SECTION 8. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.) Any proceedings under this chapter for the issuance or modification of rules and regulations, including emergency orders relating to underground storage, retrieval and waste disposal and determining compliance with rules and regulations of the commission, shall be conducted in accordance with the provisions of chapter 28-32 of the North Dakota Century Code. When an emergency requiring immediate action is found to exist, the commission is authorized to issue an emergency order without notice or hearing, which shall be effective upon promulgation. No emergency order shall remain effective for more than fifteen days. Any person aggrieved by action of the commission, or by its rules, regulations, or orders, may appeal to the district court of the county in which the person resides, or in Burleigh County, in accordance with sections 28-32-15 through 28-32-21.

Approved March 22, 1979

CHAPTER 320

SENATE BILL NO. 2168
(Senators Orange, Vosper)
(Representative Dotzenrod)

RADIOACTIVE WASTE MATERIAL REPOSITORIES

AN ACT to limit the establishment of radioactive waste material repositories in North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. DEPOSIT OF RADIOACTIVE WASTE MATERIAL -
LEGISLATIVE APPROVAL REQUIRED.) No person, firm, corporation, or
other legal entity may deposit, or cause or permit to be deposited
in this state, any radioactive waste material which has been brought
into this state for that purpose unless prior approval has been
granted by the legislative assembly. Radioactive waste material
means waste either from the generation of electrical power through
the utilization of radioactive materials or from the manufacture of
nuclear grade weapons and includes fission products and actinides
and materials contaminated by fission products and actinides.

Approved March 8, 1979

CHAPTER 321

HOUSE BILL NO. 1292
(Knudson, Martin)

RESALE OF NEGLECTED CEMETERY LOTS

AN ACT to create and enact a new section to chapter 23-21.1 of the North Dakota Century Code, relating to the resale of abandoned or neglected cemetery lots.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 23-21.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

CEMETERY LOT - NEGLECT - RESALE.) Any cemetery lot, transferred to an individual owner by a cemetery organization governed by the provisions of this chapter, in which no interment has been made and which remains uncared for or neglected by the owner for a period of thirty or more years may, except where the owner is entitled to perpetual care of the lot, be resold by the cemetery organization after the publication of notice of its intent to resell the lot. The notice shall be published for three successive weeks in the official newspaper of the county in which the lot is located.

Approved March 7, 1979

CHAPTER 322

HOUSE BILL NO. 1214
(Hedstrom, Fleming)

LAETRILE USE AUTHORIZED

AN ACT to provide authorization for the use of laetrile, limit disciplinary actions, and to provide for public hearings on the use of laetrile.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. USE OF LAETRILE AUTHORIZED.) No hospital or health facility may interfere with the physician-patient relationship by restricting or forbidding the use of amygdalin (laetrile) when prescribed or administered by a licensed physician and requested by a patient unless the substance as prescribed or administered by the physician is found to be harmful by the state board of medical examiners in a hearing conducted pursuant to chapter 28-32.

SECTION 2. DISCIPLINARY ACTION SUBJECT TO FINDING OF HARMFULNESS.) No physician may be subject to disciplinary action by the state board of medical examiners for prescribing or administering amygdalin (laetrile) to a patient under his care who has requested the substance unless the board, in a hearing conducted pursuant to chapter 28-32, has made a formal finding that the substance is harmful.

SECTION 3. HEARING OF BOARD ON EFFECTS OF LAETRILE.) Any person may petition, or the board on its own motion may convene, a public hearing to determine the effects of the use of amygdalin (laetrile) and to promulgate rules and regulations pursuant to chapter 28-32 as to its use and administration.

Approved March 5, 1979

CHAPTER 323

SENATE BILL NO. 2218
(Committee on Natural Resources)
(At the request of the Health Department)

AIR CONTAMINANT SOURCE PERMITS OR REGISTRATION

AN ACT to create and enact a new section to chapter 23-25 of the North Dakota Century Code, relating to the collection of fees for the issuance of permits or registration certificates for air contaminant sources by the state department of health; to amend and reenact section 23-25-04.1 of the North Dakota Century Code, relating to the issuance of permits or registration certificates for air contaminant sources.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1.) A new section to chapter 23-25 of the North Dakota Century Code is hereby created and enacted to read as follows:

FEEES.) The department by rule or regulation may prescribe and provide for the payment and collection of reasonable fees for the issuance of permits or registration certificates. The permit or registration certificate fees shall be based on the anticipated cost of filing and processing the application, of taking action on the requested permit or registration certificate, and conducting an inspection program to determine compliance or noncompliance with the permit or registration certificate.

Any moneys collected for permit or registration fees shall be deposited in the health department operating fund in the state treasury and shall be spent subject to appropriation by the legislative assembly.

SECTION 2. AMENDMENT.) Section 23-25-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-25-04.1. PERMITS OR REGISTRATION.)

1. No person shall construct, install, modify, use, or operate an air contaminant source designated by regulation, capable of causing or contributing to air

- pollution, either directly or indirectly, without a permit from the department or in violation of any conditions imposed by such permit.
2. The department shall provide for the issuance, suspension, revocation, and renewal of any permits which it may require pursuant to this section.
 3. The department may require that applications for such permits shall be accompanied by plans, specifications, and such other information as it deems necessary.
 4. Possession of an approved permit or registration certificate shall not relieve any person of the responsibility to comply with applicable emission limitations or with any other provision of law or regulations adopted pursuant thereto.
 5. The department by rule or regulation may ~~prescribe and provide for the payment and collection of reasonable fees for the issuance of permits required pursuant to this section. Such fees shall be deposited in the general fund.~~ registration and registration renewal of certain air contaminant sources in lieu of the permit required pursuant to this section.
 6. The department may exempt by rule and regulation certain air contaminant sources from the permit or registration requirements set forth in this section when the department makes a finding that the exemption of such sources of air contaminants will not be contrary to section 23-25-01.1 of this chapter.

Approved March 21, 1979

CHAPTER 324

HOUSE BILL NO. 1200
(Committee on Social Services and Veterans Affairs)
(At the request of the Health Department)

AMBULANCE SERVICES

AN ACT to amend and reenact sections 23-27-01, 23-27-02, 23-27-03, 23-27-04, and 23-27-05 of the North Dakota Century Code, relating to licensing of ambulance services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 23-27-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-01. LICENSING OF AMBULANCE SERVICES.) No surface ambulance services, as hereinafter defined, shall be advertised or offered ~~for hire~~ to the public unless the operator of such service shall be licensed by the state health council, ~~or is licensed in another state~~. A license for operators of ambulance service shall be nontransferable and the operator shall be separately licensed for each ambulance service which he operates. Each ambulance service which is headquartered or dispatched from a separate location shall be considered a separate ambulance service operation.

The provisions of this chapter shall not apply to an operator from another state who is headquartered at a location outside of this state and transports patients across state lines, but no such operator will be permitted to pick up patients within this state for transportation to locations within this state, except as provided through regulations.

The state health council shall provide through regulations for special licenses and waiver provisions for an operator of a surface ambulance service intended for industrial site(s) not available to the general public.

SECTION 2. AMENDMENT.) Section 23-27-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-02. DEFINITION OF SURFACE AMBULANCE SERVICES.) For the purpose of this chapter, ~~surface ambulance services shall mean the transportation of a person for hire, who is incapacitated to an~~

~~extent-as-to-require-medical-attention-of-an-emergency-or-routine nature-during-such-transportation~~ "surface ambulance services" shall mean any use of a publicly or privately owned vehicle upon the streets or highways of this state for the transportation of persons who are sick, injured, wounded, or otherwise incapacitated or helpless by any person who either holds himself out to the public for such a service or who regularly provides such a service.

SECTION 3. AMENDMENT.) Section 23-27-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-03. LICENSE FEES.) The fee for a license to operate and perform ambulance services shall be set by the state health council at a sum of not more than ~~fifteen~~ twenty-five dollars annually, as may be required to defray the costs of administration of the licensing program. All license fees shall be paid to the state department of health and deposited with the state treasurer and credited to the state general fund.

SECTION 4. AMENDMENT.) Section 23-27-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-04. STANDARDS FOR OPERATORS.) No surface ambulance service operators within this state shall be ~~licensed~~ operated unless the applicant ~~shall meet the following standards~~ service is licensed in accordance with this chapter and regulations promulgated by the state health council. The regulations shall include but not be limited to the following:

- ~~1--The-ambulance-service-shall-be-available-twenty-four-hours per-day-and-seven-days-per-week-~~
- ~~2--All--drivers--of--ambulance--service-vehicles-have-a-valid North-Dakota-driver's-license-~~
- ~~3--The--operator--of--the-ambulance-service-shall-provide, in addition-to-the-driver-of-the-ambulance--service--vehicle, an--attendant--on--every--trip,--who--shall-have-a-current certificate-indicating-completion-of-the-advance-course-in first-aid-given-by-the-American-Red-Cross-or-by-the-United States-Bureau-of-Mines,--or-the-equivalent--thereof-~~
- ~~4--Surface--vehicles--used--in--performing-ambulance-services shall-be-equipped-as-specified-by-regulations--promulgated by---the---state---health---council,---Such---equipment specifications-shall-conform,--as-far-as-possible,--to--the published--recommendations--of--the-committee-on-trauma-of the-American-College-of-Surgeons-~~

1. Time when ambulance service shall be available.
2. Type of driver's license needed for drivers of ambulance.
3. Training standards for ambulance driver and attendant.

4. Equipment needs and equipment certification.
5. Annual license fees.
6. Number of personnel required for each ambulance run.
7. Such other requirements as may be found necessary to carry out the intent of this chapter.

SECTION 5. AMENDMENT.) Section 23-27-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-27-05. PENALTY.) Any person violating the provisions of this chapter shall be guilty of an infraction. ~~The--license--of--an ambulance--service--operator--shall--be--suspended--by--the--state--health council--after--a--hearing--upon--proof--that--the--operator--does--not provide--services--that--meet--the--standards--required--by--this--chapter--or does--not--meet--the--equipment--specifications--adopted--by--the--state health--council--pursuant--to--this--chapter--A--suspension--order--by--the state--health--council--may--be--reviewed--by--appeal--to--the--district--court pursuant--to--chapter--28-32--A--suspended--license--shall--be--restored upon--a--showing--that--the--basis--for--the--suspension--no--longer--exists.~~

Approved March 18, 1979

CHAPTER 325

HOUSE BILL NO. 1568
(Thompson)

HOSPITAL DISTRICTS

AN ACT to amend and reenact subsections 1 and 4 of section 23-30-02 of the North Dakota Century Code, relating to authorization of hospital districts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 1 and 4 of section 23-30-02 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The board of county commissioners of any county, or two or more boards of county commissioners acting jointly, shall, when requested to do so by petition of twenty percent of the eligible voters, as determined by those voting for governor in that geographical area at the last gubernatorial election, in any territory equivalent in area to one township or more, submit the question to the voters at a special election or the next regularly scheduled primary or general election as to whether or not the voters of the area desire to establish a hospital district and whether they approve of the mill levy authorized by section 23-30-07 for the purpose of supporting such hospital district. If sixty percent of the voters voting in the election within the proposed district approve, the county commission or county commissions, as the case may be, shall, by resolution, create the hospital district comprising the entire area as described in the petition. ~~However, if less than sixty percent of the voters voting in each organized or unorganized township or city do not vote in favor of establishing the hospital district, that township or city shall not be included within the hospital district. The nonparticipation of one or more cities or such townships included within the petition shall not preclude the other cities or townships included in the petition from forming a hospital district, regardless of geographical separation.~~
4. Any city located within the area, whether or not such city has a hospital, may shall be included in the district ~~if sixty percent or more of the electors residing therein approve of the district.~~

Approved March 10, 1979