

STATE GOVERNMENT

CHAPTER 533

HOUSE BILL NO. 1312
(Kretschmar)

LEGISLATIVE APPORTIONMENT REQUIREMENTS

AN ACT to amend and reenact section 54-03-01.5 of the North Dakota Century Code, relating to legislative apportionment requirements.

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

SECTION 1. AMENDMENT.) Section 54-03-01.5 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-01.5. LEGISLATIVE FINDINGS---AND---DECLARATIONS APPORTIONMENT REQUIREMENTS.) The legislative assembly finds and declares--that A legislative apportionment plan based on any census taken after 1979 shall meet the following requirements:

1. The senate should--be--maintained--from shall consist of forty-eight to fifty-two members and the house shall consist of ninety-six to one hundred four members in-order to-effectively-represent-the-citizens-of-the-state-and--to adequately--review--and--study--proposed--legislation--By providing-for-such-a-sine-senate,--a--certain--population variance--is--assured--due--to--a--combination--of-factors referred--to--in--this--section,---however,---although---a legislative---apportionment---plan---could---possibly---be formulated-with-a-smaller--population--variance--than--the plan-provided-by-this-section-and-section-54-03-01-6--such a-plan-would-necessitate-a-smaller--legislative--assembly with--geographically--large--legislative--districts--which would-substantially-reduce-the-personal-contact--citizens have--with-their-elected-legislators,--Such-geographically large-legislative-districts-would--result--from--the--fact that--the--state--has--a--population--density--of-only-8-9 residents-per-square-mile-and--in-some-instances,--portions of--the-state-comprise-relatively-uninhabited-territory-of up-to-72-square-miles.

2. Traditionally and historically, except for court-fashioned legislative apportionment plans, the state legislative assembly has been comprised of single member senate districts and multimember house districts. Except as provided in subsection 3, one senator and two representatives shall be apportioned to each senatorial district. Representatives may be elected at large or from subdistricts. Subdistricts are authorized only upon two-thirds vote by the elected members of the senate and house when adopting an apportionment plan.

3. Multimember senate districts should be avoided in legislative apportionment plans unless a unique combination of factors justifies very limited use of multimember senate districts. This very limited use of multimember senate districts is not intended by the legislative assembly to establish a policy favoring multimember senate districts. One district in the state, district 5, has a unique combination of factors which justifies a very limited use of a multimember senate subdistrict. For legislative apportionment purposes, the population of the Minot air force base has been attached to the city of Minot due to the community of interest between residents of the city of Minot and air base personnel, however, the size of the air base is such that singularly it could be entitled to one senator and two representatives. Due to the military policy of discouragement of political activities by military personnel, the prohibition of political campaigning on military establishments, the transitory nature of military personnel, the fact that a large number of military personnel maintain their voting residences in their home state, and the fact that military personnel participation in state elections is minimal, the air base should not be a separate legislative district but should be combined with an urban subdistrict only to the extent necessary to provide for two senators and four representatives to be elected from that urban subdistrict are authorized only when a proposed single member senatorial district includes a federal facility or federal installation, containing over three-fourths of the population of the proposed single member senatorial district. No subdistricts may be included in any multimember senate district.

4. The state has a policy dating from statehood in 1889 of preserving county boundaries in legislative apportionment plans. This policy was firmly established in section 29 of the state Constitution which provided that "no portion of any county shall be attached to any other county, or part thereof, so as to form a district" and although the section was amended in 1960, the substance of the amendment was to preserve the legislative districting plan then in effect which recognized county lines in every

district--Even-though-the-section,-as-amended,-was--found-to--violate--the--U-S--Constitution-by-a-federal-court,-in every-court-fashioned-apportionment-plan-efforts-have-been made--to--hold-violations-of-county-boundaries-to-a-minimum in-deference-to-this-strongly-established-state-policy.

5--Voter---identification---with---legislative--districts--is significant-with-regard-to-voter-participation,-and--this identification--with--legislative-districts-extends-to-and includes-identification-with-county-boundaries-

6--The--natural-boundary-caused-by-the-Missouri-River-is-very real-in-that-one-third-of--the--state--lies--west--of--the river,-and-of-the-three-hundred-fifty-five-mile-length-of the-river-only-six-crossings-exist,-four--of--which--are located-in-urban-areas--Any-legislative-district-crossing the-Missouri-River-would-cause--extreme-hardship--to--the residents-of-the-district-and-to-the-electoral-process-

7--The--sparse--population--of--rural--areas--of--the--state,- combined-with--the--policy--of--maintenance--of--political subdivision--boundaries--and--recognition--of--the-natural boundary--caused-by--the--Missouri--River,-justifies deviations--from--population--equality--in--legislative districts-with-this-unique-combination-of-factors-

8--An--overemphasis-on-raw-population-figures-provided-by-the 1970-census-submerges-state-policy-factors-which-are-taken into--account--in--legislative--apportionment--and--ignore factors--that-are-important-to-an-acceptable--apportionment plan-for-effective-representative-government-

9--It--is--extremely--difficult--to--formulate--a-legislative apportionment-plan-with-a-small-population-variance--among legislative--districts--and-subdistricts-without-including some-counties-in-portions--of--two--or--three--legislative districts-while-at-the-same-time-realizing-that-population shifts-and-fluctuations-in-military--and--college--student populations--already--make-the-1970-census-obsolete--This obsolescence-is-emphasized-and-reinforced-by-comparing-the results--of--the--1970--census-with-the-results-of-special census-enumerations-of-Pembina-County-and--the-cities--of Bismarck,-Fargo,-and-Grand-Forks-

10--In--the--northeast--portion--of--the--state,-where--the population-of-the-rural-districts-is-low-in-comparison--to the--population--of--other--rural-districts,-the-influx-of people-from-the-extensive-military-activity--in--the--area immediately--after--the--1970--census--has--increased--the population-of-these-districts,-While-not--represented--in the--1970-census-figures,-this-influx-is-recognized-in-the legislative-apportionment-plan-and,-if-current--population figures--were--used,-the--population--deviation--of-these districts-would-be-substantially-lessened-

- 11.--While--there--has--been--a--general--shift--in--population--from--rural--to--urban--areas--of--the--state,--many--of--these--newly--established--urban--residents--maintain--close--ties--with--their--rural--heritage--and--maintain--voting--residence--in--rural--districts.
- 12.--Substantial--changes--in--existing--legislative--districts--would--cause--disruption--of--district--party--organizations--and--would--result--in--a--disruption--of--voter--identification--with--and--awareness--to--legislative--district--boundaries--which--were--first--established--in--1972--and--have--been--in--effect--for--one--special--election,--two--primary--elections,--and--two--general--elections.
- 13.--Adoption---of---a---legislative---reapportionment---plan--substantially--different---from---current---North---Dakota--legislative--apportionment--would--require--that--all--state--senators--again--stand--for--election--in--1976,--and--additional--drastic--changes--in--legislative--district--boundaries--would--increase--voter--disenchantment--with--the--legislative--process--and--reduce--the--personal--relationships--many--persons--have--with--their--elected--representatives.
- 14.--The--legislative--reapportionment--plan--ordered--into--effect--on--May--22,--1972,--by--the--United--States--district--court--for--the--district--of--North--Dakota--was--intended--to--have--the--least--disruptive--effect--in--changing--legislative--districts. In--addition,--the--court--ordered--plan--recognized--the--established---state---policy---of---preserving---political--subdivision--boundaries--to--the--greatest--extent--practicable--by--violating--only--seven--county--boundaries--in--rural--legislative--districts.
- 15.--Because---of---the--state--policies--which--encourage--the--minimization--of--disruption--of--electoral--processes--and--the--preservation--of--as--many--county--lines--as--practicable,--the--present--legislative--apportionment--plan--is--the--best--and--most--reasonable--plan--for--the--state--until--a--new--census--is--conducted--which--includes--population--figures--collected--on--a--township--and--city--block--basis--which--would--enhance--the--ability---to---reapportion---on---the---basis---of---equal--representation.---Present--census--figures--available--for--the--1970--census--show--that--the--census--districts--do--not--coincide--with--established--township--boundaries--and,--except--for--the--city--of--Fargo,--provide--no--accurate--block--census--figures--for--the--five--largest--cities--of--the--state.
- 16.--The--methods--and--procedures--employed--by--the--census--bureau--in--taking--the--census--and--the--creation--of--census--districts--do---not---coincide---with---the---boundaries--of--political--subdivisions--of--the--state.---In--an--attempt--to--obtain--accurate--population--data--for--political--subdivisions--and--for--block--areas--within--certain--cities,--population--figures--have---been---interpolated--and--calculated--under--methods

~~designed--to--reflect--the--population--of--these---areas-~~
~~Reecognition--is--made--of--the--fact--that--in--fashioning--the~~
~~original-legislative-reapportionment-plan,-similar-methods~~
~~and---procedures---were---used--by--the--courts--involved-~~
Legislative districts and subdistricts shall be compact
and of contiguous territory except where impracticable in
multimember senatorial districts.

5. Legislative districts shall be as nearly equal in
population as is practicable. Population deviation from
district to district shall be kept at a minimum. The
total population variance of all districts, and
subdistricts if created, from the average district
population may not exceed recognized constitutional
limitations.

Approved March 18, 1979

CHAPTER 534

SENATE BILL NO. 2074
(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

DATE LEGISLATIVE ASSEMBLY CONVENES

AN ACT to amend and reenact sections 54-03-02 and 54-03-02.1 of the North Dakota Century Code, relating to the date of convening of the legislative assembly.

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

SECTION 1. AMENDMENT.) Section 54-03-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-02. WHEN LEGISLATIVE ASSEMBLY MEETS.) The legislative assembly shall meet at the seat of government in the month of December following the election of the members thereof for organizational and orientation purposes and shall thereafter recess until twelve o'clock noon on the first Tuesday after the first Monday in January of the next year; provided, however, that if the first Tuesday after the first Monday falls on January second, the legislative assembly shall reconvene at twelve o'clock noon on the first--Wednesday--after--the--first--Monday--in--January a date to be selected by the legislative council but not earlier than January second nor later than January eleventh.

SECTION 2. AMENDMENT.) Section 54-03-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-02.1. DEFINITIONS.) For the purposes of this chapter and chapter 54-03.1 the following terms shall have the following meanings:

1. "Organizational session" ~~shall-mean~~ means the meeting of the legislative assembly for organizational and orientation purposes held during the month of December in the even-numbered years.
2. "Regular session" ~~shall-mean~~ means the legislative session commencing ~~on-the-first-Tuesday-after-the-first-Monday~~ in January of the odd-numbered years as provided in section 54-03-02.

Approved March 8, 1979

CHAPTER 535

HOUSE BILL NO. 1072
(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

CALLING ORGANIZATIONAL SESSION TO ORDER

AN ACT to amend and reenact section 54-03-04 of the North Dakota Century Code, relating to calling the house and senate to order on the first day of the organizational session of the legislative assembly.

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

SECTION 1. AMENDMENT.) Section 54-03-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-04. ORGANIZATIONAL SESSIONS CALLED - CALLING TO ORDER ~~BY-SECRETARY-AND-CHIEF-CLERK---PRESIDENT-AND-SPEAKER - OFFICERS -~~ TERM OF OFFICE - OFFICERS AND CHAIRMEN TO REMAIN IN OFFICE DURING SPECIAL SESSION.) The secretary and officers of the senate and chief clerk and officers of the house serving at the close of a regular session, unless otherwise removed, shall remain in office until the first day of the organizational session of the legislative assembly. On the first day of the organizational session of the legislative assembly, at a time scheduled by the legislative council pursuant to section 54-03.1-02, the president of the senate and the speaker of the house from the previous session, if reelected, or in his absence a member of the majority party of the house, ~~or--in--the absence-of-either--then-some-member-or-other-person-appointed-by-the members-present~~ with seniority based upon terms of service in the house, shall call the members of their respective houses so enrolled to order. In the absence of the president of the senate, the president pro tempore shall call the members of the senate to order. In the absence of both the president of the senate and the president pro tempore, then some member or other person selected by the members present shall call the members of the senate to order. If the speaker of the house from the previous session is not reelected and if no party has a majority in the house, the member of the house with seniority based upon terms of service in the house shall call the house to order. If two or more members of the house are tied for seniority and seniority is a factor in determining who shall call the house to order, the persons so tied for seniority shall draw lots to determine who shall call the house to order. The

members of the respective houses then may proceed to the election of the necessary officers. The secretary and officers of the senate and chief clerk and officers of the house of representatives, and the chairmen of all procedural and substantive standing legislative committees shall continue to serve in those positions during any special legislative session which may be called, except in case of the death, resignation, or removal of one of those persons, whereupon the position shall be filled, upon the convening of the special session, in the manner provided by law or legislative rule. Members serving on procedural or substantive standing committees of the senate or house during a regular session shall continue to serve on those committees during any special legislative session which may be called following that regular session.

Approved March 8, 1979

CHAPTER 536

HOUSE BILL NO. 1468
(Strinden, Backes)

LEGISLATOR EXPENSE AND COMPENSATION

AN ACT to amend and reenact section 54-03-20 and subsection 1 of section 54-35-10 of the North Dakota Century Code, relating to the living allowance received by legislators during the legislative session and the compensation of members of the legislative council and its committees for attending sessions of the legislative council or its committees.

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

SECTION 1. AMENDMENT.) Section 54-03-20 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20. ALLOWANCE FOR LIVING AND OTHER EXPENSES OF MEMBERS OF THE LEGISLATIVE ASSEMBLY.) Each member of the legislative assembly of the state of North Dakota shall be entitled to and shall receive the sum of ~~sixty~~ seventy dollars a day, as reimbursement for his living expenses, including meals, lodging, uncompensated travel, and other necessary expenses, for each calendar or natural day during the period of any organizational, special, or regular session. The expense allowance shall be paid immediately following the organizational session in December and at the end of each month during a regular or special session.

A day, or portion of a day, spent in traveling to or returning from an organizational, special, or regular session shall be included as a calendar or natural day during a legislative session for the purpose of calculation of the expense allowance provided by this section.

In addition, each such member shall receive during the term for which he was elected, for uncompensated expenses incurred in the execution of his public duties during the biennium, the sum of one hundred and fifty dollars a month, which sum shall be payable every six months. Provided, however, should a member die or resign from office during his term, he shall be paid only the allowances

provided for in this section for the period for which he was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member thereof shall be a conclusive presumption of the expenditure of ~~such~~ the expense allowances ~~for-the-purposes~~ set ~~forth~~ out in this section and those expense allowances shall be excluded from gross income for income tax purposes. The provisions of this section shall be retroactive to January 1, ~~1977~~ 1979.

SECTION 2. AMENDMENT.) Subsection 1 of section 54-35-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The members of the council and the members of any committee of the council shall be compensated for the time spent in attendance at sessions of the council and of its committees at the rate of ~~forty-five~~ fifty-two dollars per day and shall also be paid for expenses incurred in attending said meetings and in the performance of their official duties in the amounts provided by law for other state officers.

Approved March 10, 1979

CHAPTER 537

HOUSE BILL NO. 1432
(Strinden)

LEGISLATIVE COMPENSATION COMMISSION REPEALED

AN ACT to repeal sections 54-03-20.2 and 54-03-20.3 of the North Dakota Century Code, relating to the creation, membership, and powers and duties of the legislative compensation commission.

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

SECTION 1. REPEAL.) Section 54-03-20.2 of the North Dakota Century Code and section 54-03-20.3 of the 1977 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

CHAPTER 538

SENATE BILL NO. 2090
(Melland)

CENTURY CODE DISTRIBUTION TO LEGISLATORS

AN ACT to create and enact a new section to chapter 54-03 of the North Dakota Century Code, relating to distribution of codes to legislators; and to amend and reenact section 46-04-01 of the North Dakota Century Code, relating to official distribution of state laws.

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

SECTION 1. AMENDMENT.) Section 46-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

46-04-01. OFFICIAL DISTRIBUTION OF STATE LAWS - SECRETARY OF STATE TO CONTROL.) Each member of the legislative assembly for himself and each constitutional officer of the state and each judge of the supreme and district courts for the use of their respective offices and departments shall be entitled to receive from the state a copy of any publication of the laws of the state and of any compilation or codification thereof published under authority of the state. The codification of laws of the state received by each member of the legislative assembly is subject to section 2 of this Act. The secretary of state shall designate other offices and agencies of the state that shall be entitled to receive copies of any such publication of the laws for the use of such state offices and agencies and also shall determine the number of copies of any publication to be received by any recipient in a distribution under the provisions of this section, if more than one copy shall be needed by such recipient for official use.

SECTION 2.) A new section to chapter 54-03 of the North Dakota Century Code is hereby created and enacted to read as follows:

CODE DISTRIBUTED TO EACH LEGISLATOR - RETENTION.) Each member of the legislative assembly is entitled to receive a current set of the North Dakota Century Code as provided in section 46-04-01. The legislator is entitled to current supplements and volumes as provided in section 46-04-03 to maintain the code during the legislator's service. The code received by a legislator under this section is not subject to section 46-04-04. After a legislator's service in the legislative assembly is terminated, the secretary of state shall inform the legislator how to obtain a subscription to maintain the legislator's code.

Approved March 12, 1979

CHAPTER 539

SENATE BILL NO. 2413
(Committee on Appropriations)

SALARIES OF STATE OFFICIALS

AN ACT to amend and reenact sections 4-01-21, 15-21-02, 26-01-03, 34-05-01.2, 49-01-05, 54-07-04, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, and 57-01-04 of the North Dakota Century Code as amended by chapter 480 of the 1977 Session Laws of North Dakota, relating to salaries of elected state officials; and providing a contingent effective date.

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

SECTION 1. AMENDMENT.) Section 4-01-21 of the North Dakota Century Code as amended by section 1 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

4-01-21. SALARY OF COMMISSIONER OF AGRICULTURE.) The commissioner of agriculture shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 2. AMENDMENT.) Section 15-21-02 of the North Dakota Century Code as amended by section 2 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

15-21-02. SALARY AND TRAVELING EXPENSES.) The superintendent of public instruction shall receive an annual salary of thirty-four thousand dollars effective January 1, 1981; thirty-five thousand seven hundred dollars effective January 1, 1982; thirty-seven thousand four hundred eighty-five dollars effective January 1, 1983; thirty-nine thousand three hundred sixty dollars effective January 1, 1984; and forty-one thousand three hundred thirty dollars effective January 1, 1985. He shall be allowed in addition thereto his expenses incurred in the discharge of his official duties, such

expenses to be paid monthly on a warrant prepared by the department of accounts and purchases and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

SECTION 3. AMENDMENT.) Section 26-01-03 of the North Dakota Century Code as amended by section 3 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

26-01-03. SALARY OF COMMISSIONER OF INSURANCE.) The annual salary of the commissioner of insurance shall be thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 4. AMENDMENT.) Section 34-05-01.2 of the North Dakota Century Code as amended by section 4 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

34-05-01.2. DEPARTMENT OF LABOR TO BE ADMINISTERED BY COMMISSIONER OF LABOR.) The department of labor shall be administered by a commissioner of labor who shall be elected for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to chapter 16-08. Following his election, the term of the commissioner of labor shall commence on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture and labor and he shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 5. AMENDMENT.) Section 49-01-05 of the North Dakota Century Code as amended by section 5 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

49-01-05. SALARY OF COMMISSIONERS.)

1. The salary of each commissioner shall be thirty-three thousand five hundred dollars-per-annum as provided in the following schedule, which shall be full compensation for all official services-:

a. For the public service commissioner elected to the term of office commencing on January 1, 1981, thirty-three thousand five hundred dollars per annum

effective on that date; thirty-five thousand one hundred seventy-five dollars per annum effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars per annum effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars per annum effective January 1, 1984; and forty thousand seven hundred twenty dollars per annum effective January 1, 1985.

b. For the public service commissioner elected to the term of office commencing on January 1, 1983, thirty-six thousand nine hundred thirty-three dollars per annum effective on that date; thirty-eight thousand seven hundred eighty dollars per annum effective January 1, 1984; and forty thousand seven hundred twenty dollars per annum effective January 1, 1985.

c. For the public service commissioner elected to the term of office commencing on January 1, 1985, forty thousand seven hundred twenty dollars per annum effective on that date.

2. All fees received or charged by any such commissioner for any act or service rendered in any official capacity, shall be accounted for and paid over by him monthly to the state treasurer and shall be credited to the general fund of the state.

SECTION 6. AMENDMENT.) Section 54-07-04 of the North Dakota Century Code as amended by section 6 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-07-04. SALARY OF GOVERNOR.) The governor shall receive an annual salary ~~of--forty-seven--thousand--dollars~~ for all services performed by him of forty-seven thousand dollars effective January 1, 1981; forty-nine thousand three hundred fifty dollars effective January 1, 1982; fifty-one thousand eight hundred twenty dollars effective January 1, 1983; fifty-four thousand four hundred ten dollars effective January 1, 1984; and fifty-seven thousand one hundred thirty dollars effective January 1, 1985.

SECTION 7. AMENDMENT.) Section 54-08-03 of the North Dakota Century Code as amended by section 7 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-08-03. SALARY OF LIEUTENANT GOVERNOR.) The lieutenant governor shall receive an annual salary ~~of--eight--thousand--dollars~~ for all services performed by him of eight thousand dollars effective January 1, 1981; eight thousand four hundred dollars effective January 1, 1982; eight thousand eight hundred twenty dollars effective January 1, 1983; nine thousand two hundred sixty dollars effective January 1, 1984; and nine thousand seven hundred

thirty dollars effective January 1, 1985. If the duties of the lieutenant governor are expanded prior to January 1, 1981, pursuant to the Constitution, statute, or appropriate executive order, so as to require substantially full-time service from the lieutenant governor to carry out those duties, then the annual salary of the lieutenant governor shall be as follows: effective January 1, 1981, thirty-three thousand five hundred dollars; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 8. AMENDMENT.) Section 54-09-05 of the North Dakota Century Code as amended by section 8 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-09-05. SALARY OF SECRETARY OF STATE.) The secretary of state shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 9. AMENDMENT.) Section 54-10-10 of the North Dakota Century Code as amended by section 9 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-10-10. SALARY OF STATE AUDITOR.) The state auditor shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 10. AMENDMENT.) Section 54-11-13 of the North Dakota Century Code as amended by section 10 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-11-13. SALARY OF STATE TREASURER.) The state treasurer shall receive an annual salary of thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 11. AMENDMENT.) Section 54-12-11 of the North Dakota Century Code as amended by section 11 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows: -

54-12-11. SALARY OF ATTORNEY GENERAL.) The attorney general shall receive an annual salary of thirty-eight thousand dollars effective January 1, 1981; thirty-nine thousand nine hundred dollars effective January 1, 1982; forty-one thousand nine hundred dollars effective January 1, 1983; forty-four thousand dollars effective January 1, 1984; and forty-six thousand two hundred dollars effective January 1, 1985.

SECTION 12. AMENDMENT.) Section 57-01-04 of the North Dakota Century Code as amended by section 12 of chapter 480 of the 1977 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

57-01-04. SALARY.) The annual salary of the state tax commissioner shall be thirty-three thousand five hundred dollars effective January 1, 1981; thirty-five thousand one hundred seventy-five dollars effective January 1, 1982; thirty-six thousand nine hundred thirty-three dollars effective January 1, 1983; thirty-eight thousand seven hundred eighty dollars effective January 1, 1984; and forty thousand seven hundred twenty dollars effective January 1, 1985.

SECTION 13. CONTINGENT EFFECTIVE DATE.) The provisions of this Act shall become effective ten days after the effective date of the proposed repeal of section 39 of the Constitution of North Dakota as contained in Senate Concurrent Resolution No. 4061 as adopted by the forty-sixth legislative assembly. If the proposed repeal of section 39 of the Constitution is rejected by the electorate at the primary election in 1980, then this Act shall be of no force and effect.

Approved March 27, 1979

CHAPTER 540

HOUSE BILL NO. 1048
(Legislative Council)
(Interim Committee on Criminal Justice System)

STATE DRUG ENFORCEMENT UNIT

AN ACT to create a drug enforcement unit within the office of attorney general and to establish its jurisdiction and duties, and the powers of enforcement personnel; to amend and reenact subsection 1 of section 19-03.1-32 and section 54-12-14 of the North Dakota Century Code, relating to the powers of controlled substances enforcement personnel and the drug control cash fund; and to provide an appropriation.

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

SECTION 1. DRUG ENFORCEMENT UNIT - PERSONNEL - DUTIES.) A law enforcement unit to be designated as the drug enforcement unit is created under the attorney general. The drug enforcement unit shall consist of a director and such other personnel as may be designated by the attorney general. It shall be the duty of the drug enforcement unit to enforce all of the provisions of chapter 19-03.1 and any other provision of law dealing with controlled substances. The state laboratories department and other state and local agencies shall cooperate with the drug enforcement unit in the discharge of its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end the unit is authorized to:

1. Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances.
2. Coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels.
3. Establish a centralized information system which will accept, catalog, file, and collect statistics, including records of drug-dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes on request.

4. Cooperate in locating, eradicating, and destroying wild or illicit growth of plant species from which controlled substances may be extracted.

SECTION 2. POWERS OF ENFORCEMENT PERSONNEL.) For purposes of carrying out the provisions of this Act, any officer of the drug enforcement unit designated by the attorney general shall have all the powers conferred by law upon any peace officer of this state.

SECTION 3. AMENDMENT.) Subsection 1 of section 19-03.1-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any officer ~~ex--employee~~ of the state bureau of criminal ~~identification-and-apprehension~~ investigation or the state drug enforcement unit designated by the attorney general of this state may:
 - a. ~~carry~~ Carry firearms in the performance of his official duties~~;~~.
 - b. ~~execute~~ Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state~~;~~.
 - c. ~~make~~ Make arrests without warrant for any offense under this chapter committed in his presence, or if he has probable cause to believe that the person to be arrested has committed or is committing a violation of this chapter which may constitute a felony~~;~~.
 - d. ~~make~~ Make seizures of property pursuant to this chapter~~;-ex~~.
 - e. ~~perform~~ Perform other law enforcement duties as the attorney general designates.

SECTION 4. AMENDMENT.) Section 54-12-14 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-14. DRUG CONTROL CASH FUND - CREATED - PURPOSE.) There is hereby created from the attorney general's appropriation a cash fund to be known as the attorney general drug control cash fund in a sum not to exceed ~~twenty-five~~ one hundred thousand dollars, which shall be used for the purpose of obtaining evidence for enforcement of any state law relating to the control of drug abuse.

The attorney general shall, with the concurrence of the director of the department of accounts and purchases, establish the necessary accounting procedures for the use of such fund, and shall personally approve, in writing, all requests from the chief of the bureau of criminal investigation or the director of the drug

enforcement unit for the use of said fund and shall be accountable to the legislative council, upon request, for the expenditure thereof.

SECTION 5. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$600,000.00, or so much thereof as may be necessary, to the drug enforcement unit of the office of the attorney general for the purpose of enforcing the controlled substances laws of this state as specified in this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved April 7, 1979

CHAPTER 541

SENATE BILL NO. 2165

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

PAYMENT AND AUDIT OF CLAIMS

AN ACT to amend and reenact subsections 8, 9, and 11 of section 54-44-04; and to repeal section 54-14-03 and subsection 10 of section 54-44-04 of the North Dakota Century Code, relating to the powers and duties of the director of accounts and purchases and the office of the budget.

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

SECTION 1. AMENDMENT.) Subsections 8, 9, and 11 of section 54-44-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

8. Shall keep the general accounts, reflecting for each fund the resources, ~~obligations, reserves and balance, and surpluses,~~ together with current revenues and expenditures, and may provide for an accrual accounting system;

9. Shall, acting as director of the office of the budget, process all claims for submittal to ~~such office the department of accounts and purchases, which office shall~~ may conduct the preaudit of all claims from the executive branch of the government before payment and the director shall conduct the current audit of all revenues, which shall include the supervision of the collection of all moneys due the state;

11. Except as otherwise provided by law, shall prepare warrants ~~on the state treasurer for signature by the state auditor~~ for payment of all claims from the executive branch of government, when approved by the office of the budget, and for payment of all ~~other~~ claims from the judicial and legislative branches ~~of the government~~;

SECTION 2. REPEAL.) Section 54-14-03 of the North Dakota Century Code, and subsection 10 of section 54-44-04 of the 1977 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 12, 1979

CHAPTER 542

HOUSE BILL NO. 1278

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

EFT SYSTEMS FOR DEPARTMENTAL PAYROLLS

AN ACT to create and enact section 54-14-04.2 of the North Dakota Century Code, relating to the use of automatic fund transfer systems by the office of the budget for departmental payrolls.

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

SECTION 1.) Section 54-14-04.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-14-04.2. USE OF AUTOMATIC FUNDS TRANSFER PROGRAMS.) The office of the budget, notwithstanding any statute to the contrary, is hereby authorized to use automatic fund transfer systems for the payment of departmental payrolls. In all such cases where automatic fund transfers are used, the office of the budget shall develop a system to insure compliance with section 54-14-04. Section 54-44-04(11) shall not apply to departmental payrolls.

Approved March 24, 1979

CHAPTER 543

HOUSE BILL NO. 1541
(Fleming)

STATE SEVERANCE PAY RESTRICTED

AN ACT to create and enact a new section to chapter 54-14 of the North Dakota Century Code, defining severance pay and forbidding severance pay to state employees or officers, except under certain circumstances.

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

SECTION 1.) A new section to chapter 54-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

SEVERANCE PAY - DEFINITION - SETTLEMENTS.)

1. For the purposes of this section, "severance pay" means compensation received, upon termination of employment, for reasons primarily beyond the control of the state employee or officer, for the purpose of assuring an employee or officer funds to depend upon while another job is sought. Severance pay does not include payments made to a terminated employee or officer for accrued annual or sick leave, or compensatory leave, where such payments are authorized.
2. No state employee or officer shall be entitled to severance pay upon termination of employment if the employee or officer quit employment voluntarily or resigned of his or her own accord, or was dismissed for gross neglect of duty, gross misconduct while on duty, or for other good cause. A state employee or officer may be entitled to severance pay if the employee or officer was dismissed from employment because of reductions in staff or temporary or permanent layoffs, or for other reasons primarily beyond the control of the employee or officer. This section shall not be construed to affect the rights of employees or officers in salary or wage disputes which are the subject of out-of-court settlements.

Approved March 8, 1979

CHAPTER 544

SENATE BILL NO. 2147

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

EMERGENCY COMMISSION INTERGOVERNMENTAL FUND AUTHORITY

AN ACT to create and enact section 54-16-13 of the North Dakota Century Code, relating to emergency commission action on requests to increase appropriation authority for intergovernmental service fund agencies.

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

* SECTION 1.) Section 54-16-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-16-13. EMERGENCY COMMISSION MAY INCREASE REVENUES AND APPROPRIATION AUTHORITY FOR INTERGOVERNMENTAL SERVICE FUND AGENCIES.) Upon presentation of the verified petition provided for in section 54-16-10, the emergency commission shall meet to determine if additional demand from state agencies requires an increase in appropriation authority and revenue receipts for intergovernmental service agencies. Such agencies are limited to central duplicating, central data processing, state communications, and central microfilm.

Approved March 12, 1979

* NOTE: This section is codified as North Dakota Century Code Section 54-16-11.1.

CHAPTER 545

HOUSE BILL NO. 1110
(Committee on Industry, Business and Labor)
(At the request of the Bank of North Dakota)

STUDENT LOAN BOND INTEREST RATES

AN ACT to amend and reenact section 54-17-25 of the North Dakota Century Code, relating to maximum interest rates on student loan bonds.

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

SECTION 1. AMENDMENT.) Section 54-17-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-25. BONDS AUTHORIZED.) Whenever the North Dakota industrial commission shall decide that it is in the public interest to diminish the investment of state funds in United States government guaranteed student loans, that it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public, that business conditions are favorable to a state-sponsored program to consolidate state-held student loans, and to enlarge private participation in such loans, then the North Dakota industrial commission may by plenary resolution duly adopted in accordance with the provisions hereof authorize preparation, sale, and issuance of special coupon revenue bonds of North Dakota in such amounts and at such times and in such form as the commission shall determine to be for the public good. Such bonds shall be a paramount charge upon a sufficient designated portion of the resources of the student loan trust, subject only to necessary administrative expenses of the trust duly appropriated out of the interest earning resources thereof. The bonds may bear such rate or rates of interest as the commission may provide, not exceeding seven a net interest cost of eight percent per annum, may be sold on the basis of par plus accrued interest to date of delivery, average interest cost to maturity not exceeding seven percent per annum. There shall be no interest rates ceiling on those issues sold at public sale. Such bonds shall have all of the qualities and incidents of negotiable paper and shall not be subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. The bonds shall be payable solely out of resources generated from collection of payments on and earnings and proceeds of United States government guaranteed student loans, and shall so recite. They shall not be indebtedness of the state of North Dakota or of any agency, board, department, or officer or agent thereof.

Approved March 3, 1979

CHAPTER 546

SENATE BILL NO. 2135

(Committee on State and Federal Government)

(At the request of the Director of Institutions)

ADULT INMATE SERVICE CONTRACTS

AN ACT to amend and reenact section 54-21-25 of the North Dakota Century Code, relating to contracting of services if suitable facilities or services are not available for adult inmates.

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

SECTION 1. AMENDMENT.) Section 54-21-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-25. AUTHORITY TO CONTRACT WITH OTHER GOVERNMENTAL AGENCIES FOR PRISONERS.) If the director of institutions determines that suitable state facilities or services are not available for adult inmates under his control he may contract for same with the proper authorities of the United States, Canada, and any of its governmental subdivisions, another state, another agency in this state or a political subdivision of this state, and the Swiftbird Project of South Dakota or its equivalent. The director may also contract, without cost to the state, to provide services or facilities for persons held by any of the jurisdictions mentioned in this section. An inmate who is considered for transfer to another jurisdiction as herein provided, and who does not consent to the transfer, will be given notice of the pending transfer and an administrative hearing to determine the need and justification for a transfer.

Approved March 21, 1979

CHAPTER 547

HOUSE BILL NO. 1151
(Committee on Transportation)
(At the request of the Construction Superintendent)

STANDARDS CODE FOR MOBILE HOMES REPEALED

AN ACT to repeal chapter 54-21.1 of the North Dakota Century Code,
relating to the Uniform Standards Code for Mobile Homes.

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

SECTION 1. REPEAL.) Chapter 54-21.1 of the North Dakota
Century Code is hereby repealed.

Approved March 7, 1979

CHAPTER 548

SENATE BILL NO. 2076
(Legislative Council)
(Interim Committee on Natural Resources)

STATE BUILDING CODE

AN ACT to provide for a state building code, with enforcement by cities, townships, and counties, and exemptions; and to amend and reenact sections 11-33-01, 40-47-01, and 58-03-11 of the North Dakota Century Code, relating to the zoning authority of counties, cities, and townships.

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

SECTION 1. PURPOSES OF SECTIONS 1 THROUGH 6 OF THIS ACT.)
The purposes of sections 1 through 6 of this Act are to:

1. Provide the citizens of this state with nationally recognized standards and requirements for construction and construction materials.
2. Eliminate restrictive, obsolete, conflicting, and unnecessary construction regulations that tend to increase construction costs unnecessarily or restrict the use of new materials, products, or methods of construction, or provide preferential treatment to types or classes of materials or products or methods of construction.
3. Ensure adequate construction of buildings throughout the state and to adequately protect the health, safety, and welfare of the people of this state.

SECTION 2. DEFINITIONS.) As used in sections 1 through 6 of this Act, unless the context requires otherwise:

1. "Agricultural purposes" includes purposes related to agriculture, farming, ranching, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry.
2. "Building" means a combination of any materials fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building"

shall be construed as though followed by the words "or part or parts thereof".

3. "City" means any city organized under the laws of this state.
4. "Construction" means the construction, erection, reconstruction, alteration, conversion, or repair of buildings.
5. "Jurisdictional area" means the area within which a city or township has zoning jurisdiction.
6. "State building code" means the state building code provided for in sections 1 through 6 of this Act.
7. "Superintendent" means state construction superintendent.

SECTION 3. STATE CODE - AMENDMENTS.)

1. The state building code shall consist of the 1976 uniform building code with the 1978 accumulative supplement to the uniform building code. This code shall be implemented by and may be amended by rules promulgated by the superintendent pursuant to chapter 28-32.
2. The state building code may be amended by cities, townships, and counties to conform with local needs; provided, however, that the standards established by amendment under this subsection must meet or exceed those of the state building code.

SECTION 4. EXEMPTIONS.)

1. The following statewide codes are exempt from sections 1 through 6 of this Act:
 - a. The standards for electrical wiring and equipment, as contained in North Dakota Administrative Code article 24-02.
 - b. The state plumbing code, as contained in North Dakota Administrative Code article 62-03.
 - c. The state fire code, as contained in the rules of the state fire marshal as provided in section 18-01-04.
2. The following buildings are exempt from sections 1 through 6 of this Act:
 - a. Buildings which are neither heated nor cooled.
 - b. Buildings used whose peak design rate of energy usage is less than one watt per square foot (929.0304 square

centimeters] or three and four-tenths British thermal units an hour per square foot [929.0304 square centimeters] of floor area.

c. Restored or reconstructed buildings deliberately preserved beyond their normal term of use because of historical associations, architectural interests, or public policy, or buildings otherwise qualified as a pioneer building, historical site, state monument, or other similar designation pursuant to state or local law.

3. Any building used for agricultural purposes, unless a place of human habitation or for use by the public, is exempt from sections 1 through 6 of this Act.

SECTION 5. ENFORCEMENT OF CODE BY CITY, TOWNSHIP, COUNTY - RELINQUISHMENT.) A city or township may administer and enforce the state building code only within its jurisdictional area. A county may administer and enforce the state building code within those areas of the county in which the state building code is not administered by a city or township. Cities and townships may relinquish their authority to administer and enforce the state building code to the county in which they are located in the manner provided by section 11-33-20. The governing body of a city, township, or county electing to administer and enforce the state building code may designate an enforcement agency. Cities, townships, and counties may provide by agreement for joint administration and enforcement and may contract for private enforcement of the state building code.

SECTION 6. CONTINUING EDUCATION - RESPONSIBILITY.) The superintendent shall provide city, township, and county enforcement agencies with information necessary to effectuate the purposes of sections 1 through 6 of this Act. The superintendent shall seek the aid of state colleges and universities, state officials, trade schools, professional associations, and trade and labor associations in developing continuing education programs and seminars in the field of building codes and practices.

SECTION 7. AMENDMENT.) Section 11-33-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-33-01. COUNTY POWER TO REGULATE PROPERTY.) For the purpose of promoting health, safety, morals, public convenience, general prosperity, and public welfare, the board of county commissioners of any county is hereby empowered to regulate and restrict within the county, subject to the provisions of section 11-33-20 and sections 1 through 6 of this Act, the location and the use of buildings and structures and the use, condition of use, or occupancy of lands for residence, recreation, and other purposes.

SECTION 8. AMENDMENT.) Section 40-47-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-47-01. CITIES MAY ZONE - APPLICATION OF REGULATIONS.) For the purpose of promoting health, safety, morals, or the general welfare of the community, the governing body of any city may, subject to the provisions of sections 1 through 6 of this Act, regulate and restrict the height, number of stories, and the size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. Such regulations may provide that a board of adjustment may determine and vary the application of the regulations in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.

* SECTION 9. AMENDMENT.) Section 58-03-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

58-03-11. ESTABLISHMENT OF ZONING DISTRICTS - LIMITATION - SCOPE OF ZONING REGULATIONS AND RESTRICTIONS.) For the purpose of promoting the health, safety, morals, or the general welfare, or to secure the orderly development of approaches to municipalities, the board of township supervisors may establish one or more zoning districts and within such districts may, subject to the provisions of sections 1 through 6 of this Act, regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures, the height, number of stories, and size of buildings and structures, the percentage of lot that may be occupied, the size of courts, yards, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. All such regulations and restrictions shall be uniform throughout each district, but the regulations and restrictions in one district may differ from those in other districts. No regulation or restriction, however, shall ~~apply--to prohibit~~ or prevent the use of land or buildings for farming or any of the normal incidents of farming. The provisions of sections 58-03-11 through 58-03-15, shall not be construed to include any power relating to the establishment, repair, and maintenance of highways or roads.

Approved March 25, 1979

* NOTE: Section 58-03-11 was also amended by section 1 of Senate Bill No. 2255, chapter 629.

CHAPTER 549

SENATE BILL NO. 2136

(Committee on State and Federal Government)

(At the request of the Director of Institutions)

REVIEW OF INSTITUTIONS

AN ACT to amend and reenact sections 54-23-12 and 54-23-18 of the North Dakota Century Code, relating to required inspections of the director of institutions within his institutions, and meetings with heads of institutions and the director of institutions.

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

SECTION 1. AMENDMENT.) Section 54-23-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-12. INSPECTION OF INSTITUTIONS - HOW CONDUCTED.) The director of institutions, at the stated visits to any of the institutions under his control, shall review and inspect every part of each institution, and all the places, buildings, and grounds belonging thereto, or used in connection therewith. The director shall make an examination of the general and special dietary, the stores, and methods of supply. As far as circumstances may permit, the director shall see every inmate of the charitable institutions, especially those admitted since the preceding visit, and shall give such inmates as may require it suitable opportunity to converse with him apart from the officers and attendants, if deemed necessary, the director shall examine under oath the officers and attendants, guards, and other employees, and make such inquiries as will determine their fitness for their respective duties its operation and determine to his satisfaction that the residents are adequately housed, cared for, and provided proper meals and also that the buildings and grounds are properly maintained.

SECTION 2. AMENDMENT.) Section 54-23-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23-18. MEETINGS WITH HEADS OF INSTITUTIONS - WHEN HELD - MINUTES.) Consultation and conference of the superintendents, wardens, and general executive officers of each of the institutions under the control and management of the director of institutions shall be held with the director ~~at his office in Bismarck~~ at such

time or times as the director shall deem necessary. ~~Such--meetings shall--not--be--held--more--than--once--in--each--three--months.~~ At the meetings all matters concerning the government and management of the institutions shall be considered and discussed. The director of institutions shall preside at the meetings. ~~Full--minutes--thereof shall--be--preserved--by--the--director--who--shall--be--secretary--of--said meetings.~~ An agenda, minutes, and other records shall be preserved by the director of said meetings.

Approved March 13, 1979

CHAPTER 550

HOUSE BILL NO. 1085
(Legislative Council)
(Interim Committee on State and Federal Government)

STATE LIBRARY

AN ACT to amend and reenact sections 40-38-01, 40-38-04, 40-38-05, 40-38-09, 40-38-10, 40-38-11, 54-24-01, 54-24-02, 54-24-03, 54-24-03.1, 54-24-07, 54-24-08, 54-24-09, and 54-24.1-03 of the North Dakota Century Code, relating to public libraries and the nature and duties of the state library commission; and to repeal section 55-01-09 of the North Dakota Century Code, relating to the heritage study committee.

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

SECTION 1. AMENDMENT.) Section 40-38-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-01. PUBLIC LIBRARY AND READING ROOM - ESTABLISHMENT - ELECTION.) The governing body of any municipality city or county upon petition of not less than fifty-one percent of the voters of ~~such municipality~~ the city or county as determined by the total number of votes cast at the last general election or upon a majority vote of the electors thereof shall establish and maintain public library service within its geographic limits by means of a public library and reading room or other public library service, either singly or in cooperation with the state library ~~commission~~, or with one or more ~~municipalities~~ cities or counties, or by participation in an approved state plan for rendering public library service under the Library Services and Construction Act, 20 U.S.C., sections 351-358, and ~~act(s)~~ acts amendatory thereof. Such question shall be submitted to the electors upon resolution of the governing body or upon the petition of not less than twenty-five percent of that number of electors of the municipality city or county that voted at the last general election, filed with the governing body not less than sixty days before the next regular election. Library service may be discontinued within any municipality city or county by any of the methods by which library services may be established, except that once established, such service shall not be discontinued until after it has been in operation for at least five years from the date of establishment.

SECTION 2. AMENDMENT.) Section 40-38-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-04. GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS.) The board of directors shall have the following powers and duties:

1. To make and adopt such bylaws, rules, and regulations relating to the duties of the officers of the board as may be expedient and not inconsistent with the provisions of this chapter.
2. To make and adopt such bylaws, rules, and regulations for the management of the library and reading room as are expedient and not inconsistent with the provisions of this chapter.
3. To control, exclusively, the expenditures of all moneys collected for or contributed to the library fund.
4. To have the supervision, care, and custody of the library property, and of the rooms or buildings constructed, leased, or set apart for use of library purposes.
5. To contract to furnish library service and to receive library service from other counties, school districts, and ~~municipalities~~ cities of the state of North Dakota and adjoining states, and the state library ~~commission~~.
6. To employ qualified personnel to administer the public library and dispense library services.

SECTION 3. AMENDMENT.) Section 40-38-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-05. BOARD OF DIRECTORS MAY PURCHASE, BUILD, OR LEASE BUILDING FOR LIBRARY - LIBRARY BUILDING FUND - PUBLIC HEARING REQUIRED.) The board of directors, with the approval of the ~~municipal~~ city or county governing body, may build, lease, lease-purchase, or purchase an appropriate building for a library and purchase a site therefor. Such lease, purchase, or contract shall not be valid without the approval of the governing body of the ~~municipality~~ city or county. Prior to any actions on such proposals, the governing body shall hold a public hearing on the proposals. Notice of the hearing shall be published at least once, not less than six days prior to the hearing, in a newspaper of general circulation within the city or county. The governing body shall seek the advice and comment of the state library ~~commission~~ and the general public at the hearing. After such hearing, the governing body of a ~~municipality~~ city or county may establish by resolution a library building fund for the purpose of construction, enlargement, or alteration of a building or for the purchase of an existing building to be used as a public library. The ~~municipal~~

city auditor or county treasurer shall place in the library building fund all moneys for such purposes as may be appropriated by the governing body or received for such purposes from federal, state, county, ~~municipal~~ city, or private sources. The library building fund shall not revert to the library general fund or the general fund of the ~~municipality~~ city or county without authorization by formal resolution from both the library's board of directors and the governing body of the ~~municipality~~ city or county.

SECTION 4. AMENDMENT.) Section 40-38-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-09. ANNUAL REPORT OF BOARD OF DIRECTORS - CONTENTS - TO WHOM MADE.) The board of directors shall make a report on July first of each year to the ~~board--of--education--or--school--board~~ governing body of the city or board of county commissioners, as the case may be, stating:

1. The condition of the library and property~~†~~.
2. The various sums of money received from all sources~~†~~.
3. How much money has been expended and for what purpose~~†~~.
4. The number of books and periodicals on hand~~†~~.
5. The number of books and periodicals added by purchase or gift during the year and the number thereof lost or loaned out~~†~~.
6. The character and kind of books contained in the library~~†~~ and~~†~~.
7. Such other statistics, information, and suggestions as the board may deem of general interest or as may be required by the state library ~~commission~~.

Copies of the report shall be filed with the governing body of the political subdivision and with the state library ~~commission~~.

SECTION 5. AMENDMENT.) Section 40-38-10 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-10. CONTRIBUTIONS BY POLITICAL SUBDIVISION TO ESTABLISHMENT OF LIBRARY WITHOUT ELECTION AUTHORIZED.) To aid and facilitate the organization of library service, the governing body of any city where the population is less than ~~twenty-five~~ two thousand five hundred may appropriate annually from its general fund, or from any other moneys received for library purposes from federal, state, and private sources, a sum not to exceed five dollars per capita for the purchase of books and periodicals to remain the property of the city and to be loaned to any local

library for free public use. The governing body shall appoint a book committee of three which shall select the books and periodicals from standard and recommended lists furnished by the state library ~~commission~~. The selection so made by such committee shall be submitted to the governing body for approval and purchase by such governing body, provided that the amount so expended for such books and periodicals shall be within the amount appropriated therefor. Books and periodicals purchased with this fund shall be properly stamped as belonging to the city. Such appropriation shall be made and books and periodicals purchased without submitting the same to vote as provided in section 40-38-02. As an alternative, the governing body may contract with a library operated by a city, county, school district, or the state library ~~commission~~ for the provision of public library service for the city.

SECTION 6. AMENDMENT.) Section 40-38-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-38-11. CONSOLIDATION OR MERGER OF LIBRARY SERVICES.) Upon the approval of the electors of the ~~municipality~~ city or county thereof, and with the approval of the state library ~~commission~~, public library service maintained by any ~~municipality~~ city or county may be merged or consolidated with any other existing library service maintained by any other ~~municipalities~~ cities or counties. The merger or consolidation shall become effective only if approved by each individual ~~municipality~~ city or county considering the question. Such mergers and consolidations shall include provision for a single library board representing the various ~~municipalities~~ cities or counties levying funds for support of library services. The method of representation on the consolidated or merged board shall be determined in the merger or consolidation agreements. Such consolidated or merged library board shall have all power and responsibilities provided in sections 40-38-04 through 40-38-09. The treasurer of the consolidated or merged library board shall receive and retain all tax funds levied for public library service by the governing boards of all ~~municipalities~~ cities and counties represented on the consolidated or merged library board. The treasurer shall pay out moneys belonging to the consolidated or merged library board only upon properly drawn vouchers, pursuant to order of the library board, by library board treasurer's checks. The funds received by the consolidated or merged library board treasurer shall not revert to or be considered funds on hand by any governmental unit furnishing the same, at the end of any biennium or fiscal year. The consolidated or merged library board treasurer shall be bonded in such amount as may be specified by resolution adopted by the consolidated or merged library board. This section shall not be construed as prohibiting an agreement between political subdivisions for the joint provision of libraries and library services pursuant to chapter 54-40, which agreement does not encompass the merger or consolidation of existing library services.

SECTION 7. AMENDMENT.) Section 54-24-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-01. STATE LIBRARY COMMISSION - STATE LIBRARIAN APPOINTED BY DIRECTOR OF INSTITUTIONS CONSTITUTES---SECRETARY.) The director of institutions shall constitute--the--state--library commission--The-director-shall appoint an executive officer to be known as the secretary-and-director-of-the-library-commission state librarian, who shall receive such annual salary as shall be provided by the legislative assembly. The secretary state librarian shall have control of the work and shall be director of the state library extension.

SECTION 8. AMENDMENT.) Section 54-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-02. LIBRARY COMMISSION OFFICES.) The state library commission shall be furnished with adequate office room, with such suitable quarters as may be necessary for the proper shelving of the educational reference library, the books of the traveling libraries, and the legislative reference collection.

SECTION 9. AMENDMENT.) Section 54-24-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-03. POWERS AND DUTIES OF LIBRARY--COMMISSION STATE LIBRARIAN.) The state library-commission librarian shall:

1. Make rules and regulations according to which the business of the state library commission shall be done;.
2. Provide and care for all books and library materials in all collections of the state library commission, general, reference, and special, and make all rules regarding the loaning and returning of library materials;.
3. Employ qualified library personnel to care for all library procedures;.
4. Make library materials available to libraries throughout the state, to individuals connected with departments of state, and to citizens of North Dakota who do not have adequate library facilities, under the rules and regulations of the state library commission;.
5. Promote and assist by counsel and encouragement the formation of libraries and the improvement of those already established, in keeping with state and national standards, and be available to librarians and trustees of libraries in the state for assistance in organization, maintenance, or administration of the libraries;.
6. Coordinate the efforts of librarianship throughout the state, advising and assisting the extension of qualified public libraries into centers of county or regional (multicounty) libraries;.

7. Compile statistics of the free public libraries of North Dakota and their larger counterparts of county and regional libraries, and of the work done at the state library ~~commission~~, and make a full biennial report to the state director of institutions and the governor~~;~~.
8. Collect, maintain, and make available a reference and reading collection of books, slides, films and other graphic materials such as will supplement and support the needs of all libraries in the state, either by direct loan or by consultation, and such as will form a reference source for the officers of the state in the performance of their duties~~;~~.
9. Collect and maintain a collection of the publications of the departments and agencies of state government, including the enacted laws of this state, current session laws and journals ~~appertaining---distributing--copies--of such--publications--to-depository-libraries-throughout-the state-as-the-director-of-institutions-shall-determine~~.
10. Conduct, or arrange to have conducted, research into the conditions of library service in the state, and produce written plans for the development and betterment of such service~~;~~.
11. Compile, or arrange to have compiled, union lists of resources of libraries throughout the state, and make such lists available for consultation~~;~~-and.
12. Establish levels of certification for librarians of the state such as will meet the standards recommended by the American library association.

SECTION 10. AMENDMENT.) Section 54-24-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-03.1. ACCEPTANCE OF FEDERAL AID.) The state library ~~commission~~ is hereby authorized to accept and to expend in accordance with the terms thereof any grant of federal funds which may become available to the state for library purposes. For the purpose of qualifying to receive such grants, the state library ~~commission~~ is authorized to make such applications and reports as may be required by the federal government as a condition thereto.

SECTION 11. AMENDMENT.) Section 54-24-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-07. PRINTING OF STATE LIBRARY ~~COMMISSION~~ - HOW PAID.) The printing of the report made by the state library ~~commission~~ to the legislative assembly, and all other printing coming within the purview of the library ~~commission~~, shall be paid out of funds appropriated for that purpose by the legislative assembly.

SECTION 12. AMENDMENT.) Section 54-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-08. LIBRARY ~~COMMISSION~~ CONTRACTS FOR LIBRARY SERVICES.) The state library ~~commission~~ is hereby authorized and empowered to cooperate with, and to contract with, ~~municipalities~~ cities, governmental subdivisions, and agencies of the state of North Dakota and other states of the United States, in the extension of library services.

SECTION 13. AMENDMENT.) Section 54-24-09 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24-09. DISTRIBUTION OF CERTAIN STATE PUBLICATIONS FOR CERTAIN LIBRARIES REQUIRED.) The state purchasing and printing agent shall arrange to deposit with the state library ~~commission~~ eight copies of all publications issued by all executive, legislative, and judicial agencies of state government intended for general public distribution. These publications shall be provided to the state library ~~commission~~ without charge. Should expense and limited supply of state publications, particularly audiovisual items, make strict compliance with the depository requirement impossible, the state library ~~commission~~ shall accept as many copies as an agency can afford to provide. However, no less than two copies shall be provided to the state library ~~commission~~ by each agency. State publications refer to any informational materials regardless of format, method of reproduction, or source, originating in or produced with the imprint of, by the authority of, or at the total or partial expense of, any state agency. The definition incorporates those publications that may or may not be financed by state funds but are released by private bodies such as research and consultant firms under contract with or supervision of any state agency. In circumstances not directly involving the state purchasing and printing agent, a state agency shall comply with the depository requirement by arranging with the necessary parties for the printing and deposit of eight copies of any state publication issued. State publications are specifically defined as public documents appearing as reports, directories, statistical compendiums, bibliographies, laws or bills, rules, regulations, newsletters, bulletins, state plans, brochures, periodicals, committee minutes, transcripts of public hearings, other printed matter, audio tapes, video tapes, films, filmstrips, or slides, but not those administrative or training materials used only within the issuing agency. As the document acquisition and distribution agency, the state library ~~commission~~ shall retain for its own use two copies of every state document received and transmit the remaining copies to the depository libraries. These shall be the libraries of the state historical board, the university of North Dakota, North Dakota state university, the Library of Congress, and two others to be designated by the state library ~~commission~~. All nondepository North Dakota academic, public, and special libraries shall have the opportunity to receive state documents under an optional selection program developed by the state library

~~commissien~~. The state library ~~commissien~~ shall catalog state publications and arrange for their conversion to microfilm and shall make available for distribution the same to the designated depository libraries.

SECTION 14. AMENDMENT.) Section 54-24.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-24.1-03. DEFINITION.) As used in the compact, "state library agency", with reference to this state, means the state library ~~commissien~~.

* SECTION 15. REPEAL.) Section 55-01-09 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1979

* NOTE: Section 55-01-09 was also repealed by section 1 of House Bill No. 1079, chapter 93.

CHAPTER 551

HOUSE BILL NO. 1588
(Unhjem, Berg, Gackle, Wentz, Winkjer)

STATE AID TO PUBLIC LIBRARIES

AN ACT to provide for grants from the state library commission to eligible public libraries to supplement local tax efforts; and to amend and reenact section 57-36-32 of the North Dakota Century Code, providing an increase in the cigarette tax to fund the state library commission's activities under this Act; and to provide an appropriation.

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

SECTION 1. ELIGIBILITY.) Public libraries eligible to receive financial aid under this Act shall be limited to those public libraries that:

1. Apply to the state library commission for such financial aid.
2. Are established and operated in accordance with chapter 40-38.
3. Participate in the North Dakota network for knowledge interlibrary loan and information network.

SECTION 2. GRANT FORMULA.) Grants to eligible public libraries shall be in accordance with the following formula:

1. One dollar, or a percentage thereof, for each person residing in the city or county operating or providing financial support for the public library, as determined by the latest official federal census; and
2. Five dollars per square mile, or a percentage thereof, of land within the geographical boundaries of each county operating or providing financial support for a public library.

SECTION 3. INCENTIVE FOR LOCAL FUNDING.) To provide for increased local funding, public libraries eligible to receive funds

under section 2 of this Act shall have the funds allocated to them modified in accordance with the following formula:

Cities levying

8.00 or more mills	150 percent of allocation
6.00 - 7.99 mills	125 percent of allocation
4.00 - 5.99 mills	100 percent of allocation
3.00 - 3.99 mills	75 percent of allocation
2.00 - 2.99 mills	50 percent of allocation
1.00 - 1.99 mills	33 percent of allocation
0.01 - 0.99 mills	25 percent of allocation
0.00 - mills	0 percent of allocation

Counties levying

4.00 or more mills	150 percent of allocation
3.00 - 3.99 mills	125 percent of allocation
2.00 - 2.99 mills	100 percent of allocation
1.50 - 1.99 mills	75 percent of allocation
1.00 - 1.49 mills	50 percent of allocation
0.50 - 0.99 mills	33 percent of allocation
0.01 - 0.49 mills	25 percent of allocation
0.00 - mills	0 percent of allocation

The computation of mills shall be based upon the levy on the net assessed valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library by the governing body during the preceding fiscal year as certified by the auditor of the city or county operating the library.

SECTION 4. MAINTENANCE OF LOCAL EFFORT.) No public library shall be eligible to receive any funds appropriated under this Act during a fiscal year if the total of the mill levy on the taxable valuation and the mill levy equivalent of other public funds received and deposited in the library fund for the operation of the library has been diminished from the average of the three preceding fiscal years. Excluded are Comprehensive Employment Training Act funds, Library Services and Construction Act funds, and other grants of a nonrecurring nature.

SECTION 5. LIMITATIONS.) For public libraries operated by cities, funds granted under this Act shall not exceed thirty-three percent of the total budget from local funds as determined by the operating expenditures of the preceding year. For public libraries operated by counties, funds granted under this Act shall not exceed the following percent of the total budget from local funds as determined by the operating expenditures of the preceding year:

less than \$10,000	100 percent
\$10,000 - \$19,000	75 percent
\$20,000 - \$29,000	67 percent
\$30,000 - \$49,000	50 percent
over \$50,000	33 percent

SECTION 6. USE OF FUNDS - REPORTING.) Funds appropriated under this Act may be expended by public libraries for the purchase of library materials, supplies and equipment, salaries of library staff, and services. No funds may be used for land acquisition, construction, or investment.

Each public library receiving funds under the Act shall submit to the state library commission an annual report detailing the expenditures of these funds and all other funds expended by the library within the fiscal year. Such report shall be due within ninety days after the close of the fiscal year.

* SECTION 7. AMENDMENT.) Section 57-36-32 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-32. SEPARATE AND ADDITIONAL TAX ON THE SALE OF CIGARETTES - COLLECTION - ALLOCATION OF REVENUE - TAX AVOIDANCE PROHIBITED.) There is hereby levied and assessed and there shall be collected by the proper officer and paid to the state treasurer ~~for crediting to the general fund~~, upon all cigarettes sold in this state, an additional tax, separate and apart from all other taxes, of ~~one-half~~ one mill on each such cigarette, to be collected as existing taxes on cigarettes sold are, or hereafter may be, collected, by use of appropriate stamps and under similar accounting procedures. No person, firm, or corporation shall transport or bring or cause to be shipped into the state of North Dakota any cigarettes as provided herein, other than for delivery to wholesalers in this state, without first paying such tax thereon to the state treasurer. All of the moneys collected by the state treasurer under this section shall be credited to the state general fund.

SECTION 8. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury not otherwise appropriated, the sum of \$1,000,000.00, or so much thereof as may be necessary, to the state library commission for the purpose of providing grants to public libraries for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved March 29, 1979

* NOTE: Section 57-36-32 was also amended by section 5 of House Bill No. 1273, chapter 598.

CHAPTER 552

HOUSE BILL NO. 1043
(Legislative Council)
(Interim Committee on Budget "A")

AVAILABILITY OF APPROPRIATIONS

AN ACT to amend and reenact sections 54-27-10 and 54-27-11 of the North Dakota Century Code, relating to the time during which appropriations become available.

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

SECTION 1. AMENDMENT.) Section 54-27-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-10. APPROPRIATIONS - WHEN AVAILABLE.) Unless otherwise authorized as provided in this section seventy-five percent of the ~~total--of--all~~ appropriations ~~and--of--each--separate--item--thereof~~ made by the legislative assembly for the ~~maintenance--of~~ line items of salaries and wages, fees and services, and supplies and materials for any state institution, department, board, commission, or bureau in the executive branch of state government for the biennium, except institutions under the jurisdiction and supervision of the state board of higher education, shall become available on the first day of July next succeeding the enactment by the legislative assembly. The remaining twenty-five percent of any such ~~appropriation~~ appropriations shall be available only at the beginning of the fourth quarter of the biennium. No state institution, department, board, commission, or bureau in the executive branch of government for which an appropriation for salaries and wages, fees and services, and supplies and materials is made shall disburse more than seventy-five percent of the such appropriation during the first eighteen months of the biennium nor incur any expense or liability which shall be discharged from such appropriation or for which such appropriation shall become available. ~~The--term--"maintenance"--shall--not--apply--to--nor--include--moneys--appropriated--for--the--payment--of--the--cost--of--any--building--or--equipment--or--for--making--improvements--and--repairs--to--buildings--and--grounds,--or--any--other--special~~ appropriations--exempted--from--the--operation--of--this--section--by--the--act--making--such--appropriation. Whenever it is made to appear to the emergency commission by a verified petition submitted by a state institution, department, board, commission, or bureau in the executive branch of state government that the percentage of the

appropriation for fees and services and supplies and materials allocated for the first three-quarters of the biennium will not be adequate to properly perform its duties and functions, because of seasonal or other unusual circumstances, it may authorize a revision of the allocated percentage in any ~~item~~ such items, except salaries and wages, provided it will not deprive such state institution, department, board, commission, or bureau from maintaining its office for the fourth quarter of the biennium.

SECTION 2. AMENDMENT.) Section 54-27-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-11. APPROPRIATION - RECORD KEPT BY DEPARTMENT OF ACCOUNTS AND PURCHASES AND TREASURER - DUTIES AND LIMITATIONS.) The department of accounts and purchases and state treasurer each shall keep a record in their office showing:

1. The total amount appropriated for maintenance for each state officer or agency, and of each separate item thereof_†.
2. The amount equal to seventy-five and twenty-five percent of the total appropriated and each separate item thereof_† and_†.
3. The amount disbursed and the balance on hand.

The department of accounts and purchases shall not issue any warrant during the first eighteen months of each biennium in excess of the seventy-five percent of any item appropriated for ~~maintenance-of~~ salaries and wages, fees and services, and supplies and materials for any state official or state agency in the executive branch of government nor shall the state treasurer pay such warrant. The duties and limitations imposed upon the department of accounts and purchases and state treasurer shall apply only to the total amount appropriated for salaries and wages, fees and services, and supplies and materials for the biennium but not to separate ~~items~~ amounts appropriated for ~~maintenance~~ those line items, for all penal and charitable institutions of this state and all institutions under the jurisdiction and supervision of the state board of higher education. The administrative department, office, or board shall keep a record showing the amount, equal to seventy-five and twenty-five percent, respectively, of the total amount and of each separate item appropriated for ~~maintenance~~ salaries and wages, fees and services, and supplies and materials for all such institutions under its control and shall be responsible for the enforcement of the restrictions upon the disbursement of all moneys appropriated to such institutions for ~~maintenance~~ such purposes.

Approved March 3, 1979

CHAPTER 553

SENATE BILL NO. 2460
(Melland, Goodman)

FEDERAL AID COORDINATOR

AN ACT to establish the office of federal aid coordinator and to provide for the powers and duties of that office and the assumption of the responsibilities of the division of economic opportunity, the state planning division, the office of energy management, and the special projects coordinator; to amend and reenact subsection 3 of section 20.1-02-17.1, and sections 20.1-02-18.1, 23-11-30, 23-18.2-27, 54-01-05.4, 54-01.1-08, 54-40.1-01, subsection 2 of section 54-40.1-02, and subsection 6 of section 54-40.1-04 of the North Dakota Century Code, relating to various responsibilities of the federal aid coordinator office; and to repeal sections 54-07-06, 54-34.1-01, 54-34.1-02, 54-34.1-03, 54-34.1-04, 54-34.1-05, 54-34.1-08, 54-34.1-09, and 54-34.1-15 of the North Dakota Century Code, relating to the division of economic opportunity and the state planning division; to require the legislative council to review the effect of consolidation of offices into the office of federal aid coordinator; and to provide an appropriation for the federal aid coordinator office and the natural resources council.

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

* SECTION 1. FEDERAL AID COORDINATOR OFFICE - APPOINTMENT - LOCATION OF OFFICE.) There is created in the office of the lieutenant governor a federal aid coordinator office. The lieutenant governor shall be the coordinator. If the lieutenant governor cannot serve as coordinator prior to June 30, 1981, the coordinator shall be appointed by and shall serve at the pleasure of the governor until June 30, 1981. The lieutenant governor, while serving as coordinator, shall receive the total salary and unvouchered expense allowance in the amount provided for the state tax commissioner during the period beginning July 1, 1979, and ending June 30, 1981. If the coordinator is appointed by the governor, the salary of the coordinator shall be set by the governor within the limits of legislative appropriation. The coordinator may employ such other persons as may be necessary and may fix their compensation within the appropriation made for that

* NOTE: Section 1 was vetoed by the Governor. See chapter 685.

purpose. If possible, the entire federal aid coordinator office shall be housed at one location on the state capitol grounds, subject to sufficient space being made available by the director of institutions. If sufficient space is not available to house the entire office in one location on the state capitol grounds, the entire office may be housed at one location in the city of Bismarck.

SECTION 2. RESPONSIBILITY FOR PARTICIPATION IN THE ECONOMIC OPPORTUNITY ACT OF 1964.) The governor, through the federal aid coordinator office, is authorized to accept federal funds available for the operation of the program under the Economic Opportunity Act of 1964 [Pub. L. 88-452; 78 Stat. 508; 42 U.S.C. 2701 et seq.] as may be available to departments, institutions, and agencies of the state. The governor, through the federal aid coordinator office, shall aid and assist political subdivisions of this state in matters pertaining to their participation in projects and programs under that law. All departments, institutions, and agencies, within the limits of personnel and legislative appropriations available, shall provide such assistance to the governor through the federal aid coordinator office as may be requested by the coordinator to ensure the maximum use of all resources available in carrying out projects and programs under the provisions of that federal law, as amended.

SECTION 3. COORDINATION OF PLANNING ACTIVITIES OF THE STATE - DEFINITION OF PLANNING AGENCIES.) The federal aid coordinator office shall advise, consult, coordinate, assist, and contract with or on behalf of the various planning agencies in developing and harmonizing the planning activities of this state. Nothing in sections 3 through 7 of this Act operates in derogation of planning powers conferred upon departments, agencies, or the instrumentalities of, the state, counties, townships, or cities, by any existing state or local law.

SECTION 4. STATE PLANNING FUND - MAINTENANCE AND ADMINISTRATION.) A special fund, separate and apart from all public moneys or funds of this state, and known as the state planning fund, shall be maintained in the state treasury and shall be administered by the federal aid coordinator exclusively for the purposes of sections 3 through 7 of this Act. All moneys which are deposited or paid into this fund shall be made available to the federal aid coordinator. The fund shall consist of all moneys appropriated by this state, and all moneys received from the federal government, or any agency thereof, or from any county, city, township, or other political subdivision of this state, or from any other source, for such purpose. All moneys in this fund shall be administered and disbursed in the manner and under the conditions and requirements provided by law. Any balances in this fund, except general fund moneys appropriated by the legislative assembly, shall not lapse at any time, but shall be available continuously to the federal aid coordinator for expenditure consistent with sections 3 through 7 of this Act.

SECTION 5. PLANNING RESPONSIBILITIES.) The federal aid coordinator shall:

1. Prepare plans for the physical development of this state.
2. Inform, advise, assist, cooperate with, and contract with or on behalf of the various planning agencies.
3. Accept and receive funds, grants, and services from the various planning agencies.
4. Act as fiscal agent for or on behalf of any of the planning agencies.
5. Advise, study, recommend, and report to the governor and legislative assembly on all phases of state and local planning.
6. Coordinate the planning activities of the various agencies.
7. Exercise all powers necessary and proper for the administration of sections 3 through 7 of this Act.

SECTION 6. ASSISTANCE TO PLANNING AGENCIES - APPLICATION OF FEDERAL FUNDS IN AID OF LOCAL PLANNING ACTIVITIES.) The federal aid coordinator may render financial or other planning assistance to any government planning agency. This assistance may be conditioned on contributions by the planning agency which requests the assistance, but in any case in which funds or services are requested and received by the federal aid coordinator from any federal agency for planning assistance to such agencies, the condition imposed by federal law or regulation shall be fulfilled.

SECTION 7. AID TO PLANNING AGENCIES.) Any planning agency may request and accept grants of funds or services from the federal government or any other planning agency.

SECTION 8. COORDINATION OF ENERGY POLICY AND FEDERAL FUNDING FOR THE STATE.) The federal aid coordinator shall assist, advise, cooperate, and coordinate energy, and energy policy, federal funding, related activities between all levels of the public and private sectors regarding the prudent and efficient use of energy resources. The coordinator shall respond to, plan for, develop, and implement appropriate energy conservation programs and encourage the adoption of alternative energy technologies by the citizens of the state.

SECTION 9. SPECIAL PROJECTS COORDINATION.) The federal aid coordinator shall coordinate all federal, state, and community efforts to find suitable reuse for abandoned military installations. The coordinator shall coordinate the activities of state agencies, regional planning councils, and the president's office of economic adjustment with any local committees to reduce the negative economic impact on communities impacted by the closure of military installations. The coordinator shall work closely with other state agencies to identify potential users of abandoned military

installations and in the process promote industrial or other economic development of the state.

SECTION 10. AMENDMENT.) Subsection 3 of section 20.1-02-17.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A detailed impact analysis from the state game and fish department shall be included with the acquisition proposal for board of county commissioner consideration in making recommendations. The analysis by the game and fish department shall include, but shall not be limited to, the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which shall include the fiscal, social, and agricultural impacts of the proposed acquisition. The state game and fish department shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses shall also be forwarded to the state ~~planning division~~ federal aid coordinator office which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analyses and return their comments to the state ~~planning division~~ federal aid coordinator office. Upon expiration of the thirty-day period, all comments received by the state ~~planning division~~ federal aid coordinator office shall be forwarded to the state game and fish department. The state game and fish department may, after consideration of such comments, file a final impact analysis with the state ~~planning division~~ federal aid coordinator office and the board of county commissioners.

SECTION 11. AMENDMENT.) Section 20.1-02-18.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

20.1-02-18.1. FEDERAL WILDLIFE AREA ACQUISITIONS - SUBMISSION TO COUNTY COMMISSIONERS, OPPORTUNITY FOR PUBLIC COMMENT, AND IMPACT ANALYSIS REQUIRED.) The governor, the game and fish commissioner, or their designees, responsible under federal law for final approval of land, wetland, and water acquisitions by the United States department of the interior, its bureaus or agencies, for waterfowl production areas, wildlife refuges or other wildlife or waterfowl purposes, shall submit the proposed acquisitions to the board of county commissioners of the county or counties in which the land, wetland, and water areas are located for the board's recommendations. An affirmative recommendation by the board must be obtained prior to final approval of all such proposed acquisitions, whether by transfer of title, lease, easement, or servitude.

The board of county commissioners of the county affected, or a designee or designees of the board, shall, within twenty-one days of receipt of an acquisition proposal, physically inspect the proposed acquisition areas. The board shall give public notice of the date, hour, and place where the public may comment on the proposed acquisitions. The notice shall be published once each week for two successive weeks in the official newspaper of the county or counties in which the land and water areas are located. The notice shall set forth the substance of the proposed action, and shall include a legal description of the proposed acquisitions. The board of county commissioners shall make its recommendations within sixty days after receipt of an acquisition proposal.

A detailed impact analysis from the federal agency involved shall be included with the acquisition proposal for board of county commissioner consideration in making recommendations. Such analysis shall include, but shall not be limited to, the recreational and wildlife impacts. In addition, the county agent of the affected county or counties shall prepare an impact analysis for board of county commissioner consideration which shall include the fiscal, social, and agricultural impacts of the proposed acquisitions. The department of the interior shall reimburse the county or counties for any expenses incurred by the county agent in preparing the analysis. The analyses shall also be forwarded to the state ~~planning-divisioen~~ federal aid coordinator office which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analyses and return their comments to the state ~~planning divisioen~~ federal aid coordinator office. Upon expiration of the thirty-day period, all comments received by the state ~~planning divisioen~~ federal aid coordination office shall be forwarded to the federal agency involved and to the state official or agency responsible for final acquisition approval. The federal agency may, after consideration of such comments, file a final impact analysis with the governor, the board of county commissioners, and any other state official or agency responsible for final acquisition approval.

SECTION 12. AMENDMENT.) Section 23-11-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-30. REPORTS.) At least once every year, an authority shall file with the city auditor or county auditor, as the case may be, and with the state ~~planning-divisioen~~ federal aid coordinator office, a report of its activities for the preceding year and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this chapter.

SECTION 13. AMENDMENT.) Section 23-18.2-27 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-18.2-27. REPORTS.) At least once every year, an authority shall file with the city auditor or county auditor, as the case may

be, and with the state ~~planning-division~~ federal aid coordinator office, a report of its activities for the preceding year and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this chapter.

SECTION 14. AMENDMENT.) Section 54-01-05.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01-05.4. IMPACT ANALYSIS - GOVERNOR TO REQUIRE.) Prior to action by the governor as may be required by federal law, in approving or disapproving the acquisition of any land in North Dakota by a federal agency, whether such acquisition shall be by transfer of title, lease, or easement, the governor shall, if he deems that the scope of the project warrants such, require the filing of a detailed impact analysis from the federal agency involved. Such analysis shall include, but shall not be limited to, the fiscal, social, agricultural, recreational, and wildlife impact. The analysis shall be forwarded to the state ~~planning-agency~~ federal aid coordinator office which shall furnish copies to all interested state agencies and political subdivisions, which agencies and political subdivisions shall have thirty days to review the analysis and return their comments to the state ~~planning-agency~~ federal aid coordinator office. Upon expiration of the thirty-day period, all comments received by the state ~~planning--agency~~ federal aid coordinator office shall be forwarded to the federal agency involved and to the governor. The federal agency may after consideration of such comments, file a final impact analysis with the governor, and the governor shall thereafter approve or disapprove the acquisition of land by the federal agency.

SECTION 15. AMENDMENT.) Section 54-01.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-01.1-08. PROMULGATION OF RULES AND REGULATIONS.) The head of each state agency shall consult, and other agencies may consult, with the state ~~planning-division~~ federal aid coordinator office on the establishment of regulations and procedures for implementation of the provisions of this chapter. The head of each state agency, after consultation with the state ~~planning--division~~ federal aid coordinator office, and the head or governing body of any other agency is authorized to establish such regulations and procedures as he may determine to be necessary to assure:

1. That the payments and assistance authorized by this chapter shall be administered in a manner which is fair and reasonable, and as uniform as practicable;
2. That a displaced person who makes proper application for a payment authorized by this chapter shall be paid promptly after a move or, in hardship cases, be paid in advance; and

3. That any person aggrieved by a determination as to eligibility for a payment, or as to the amount of a payment, may have his application reviewed by the head or governing body of the agency.

The head of an agency may prescribe other regulations and procedures, consistent with the provisions of this chapter, as he deems necessary or appropriate to carry out this chapter. All regulations and procedures established by state agencies shall be set forth in rules promulgated in the manner provided in chapter 28-32.

SECTION 16. AMENDMENT.) Section 54-40.1-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40.1-01. LEGISLATIVE FINDINGS AND PURPOSE.) The legislative assembly finds that the citizens of the state have a fundamental interest in the orderly development of the state and its resources. This finding recognizes the fact that the mobility of the population within and without the state presents problems which cannot always be met by individual counties or cities and that local government planning can be strengthened when aided by studies and planning of both a statewide and regional character.

The legislative assembly further finds that the state has a positive interest in the establishment, preparation, and maintenance of a long-term, continuing, comprehensive planning process for the physical, social, and economic development of the state and each of its regions to serve as a guide for activities of state and local governmental units.

It is the purpose of this chapter to establish a consistent, comprehensive statewide policy for planning, program operations, coordination, and related cooperative activities of state and local governmental units and to enhance the ability of and opportunity for local governmental units to resolve issues and problems transcending their individual boundaries. In furtherance of this purpose, the legislative assembly finds that the governor, through the state ~~planning-division~~ federal aid coordinator office, is required to assure orderly and harmonious coordination of state and local plans and programs with federal, state, and regional planning and programming.

SECTION 17. AMENDMENT.) Subsection 2 of section 54-40.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. ~~"Division"~~ "Coordinator" means the state ~~planning-division~~ federal aid coordinator.

SECTION 18. AMENDMENT.) Subsection 6 of section 54-40.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. Prepare a regional comprehensive plan and upon the preparation of such a plan or any phase, amendment, revision, extension, addition, functional part, or part thereof, file such plan, phase, functional part, amendment, revision, extension, addition, or part thereof with the division coordinator, all local planning agencies within the region, and other planning agencies in adjoining areas.

SECTION 19. REPORT TO BUDGET SECTION OF LEGISLATIVE COUNCIL.)
The federal aid coordinator shall periodically report to the budget section of the legislative council on areas where the consolidation of the receipt of federal funds by state agencies would result in improved efficiency in the expenditure of federal funds.

SECTION 20. REPEAL.) Sections 54-07-06, 54-34.1-01, 54-34.1-02, 54-34.1-03, 54-34.1-04, 54-34.1-05, 54-34.1-08, 54-34.1-09, and 54-34.1-15 of the North Dakota Century Code are hereby repealed.

SECTION 21. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, the sums as hereinafter provided, or so much thereof as may be necessary, to the federal aid coordinator office for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 1,185,136
Fees and services	1,010,487
Data processing	74,022
Supplies and materials	235,606
Equipment	15,313
Grants, benefits, and claims-energy management and conservation	11,616,559
Grants, benefits, and claims-economic opportunity	4,576,502
Grants, benefits, and claims-state planning	1,257,670
Total all funds	\$19,971,295
Less estimated income	19,555,878
Total general fund appropriation	\$ 415,417

SECTION 22. APPROPRIATION - NATURAL RESOURCES COUNCIL.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, the sums as hereinafter provided, or so much thereof as may be necessary, to the natural resources council of the state of North Dakota for the purposes of defraying the expenses thereof, for the biennium beginning July 1, 1979, and ending June 30, 1981, as follows:

Salaries and wages	\$ 192,911
Fees and services	69,924

Supplies and materials	7,780
Equipment	1,100
Grants, benefits, and claims	<u>134,301</u>
Total all funds	\$ 406,016
Less estimated income	<u>321,433</u>
Total general fund appropriation	\$ 84,583

SECTION 23. COMMUNITY DEVELOPMENT BLOCK GRANTS.) If federal funds are made available to the federal aid coordinator related to the community development block grants program, and if such federal funds do not require additional state matching funds, the federal aid coordinator is authorized to accept and expend such funds upon approval by the emergency commission during the biennium beginning July 1, 1979, and ending June 30, 1981.

SECTION 24. LEGISLATIVE COUNCIL TO REVIEW THE OPERATIONS OF THE FEDERAL AID COORDINATOR OFFICE.) The legislative council committee conducting the study of reorganizing the executive branch of state government pursuant to 1979 Senate Concurrent Resolution No. 4001 shall review the operations of the federal aid coordinator office. The federal aid coordinator shall report to that legislative council committee on the effect of the consolidation of agencies into the federal aid coordinator office as provided by this Act. That committee shall report the results of the review of the federal aid coordinator office to the forty-seventh legislative assembly along with its report and recommendations resulting from its study pursuant to Senate Concurrent Resolution No. 4001.

Approved April 12, 1979

CHAPTER 554

HOUSE BILL NO. 1112
(Committee on Industry, Business and Labor)
(At the request of the Bank of North Dakota)

REAL ESTATE BOND INTEREST RATE AND SALE

AN ACT to amend and reenact sections 54-30-06 and 54-30-09 of the North Dakota Century Code, relating to the maximum interest rates, coupons, and sale at less than par of real estate bonds.

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

SECTION 1. AMENDMENT.) Section 54-30-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-06. INTEREST RATE OF BONDS.) The bonds shall bear interest at a rate net interest cost not exceeding eight percent per annum from their date until maturity, payable semiannually ~~on the first day of January and July in each year~~. There shall be no interest rate ceiling on those issues sold at public sale. Coupons ~~shall~~ may be attached to each bond evidencing the amount of interest payable ~~on each first day of January and July~~ until maturity, unless and until the holder or purchaser shall have exercised the privilege granted by sections 54-11-08 and 54-11-09. No bond or coupon shall bear interest after maturity unless payment thereof shall not be made upon due presentation for payment.

SECTION 2. AMENDMENT.) Section 54-30-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-30-09. SALE AND DELIVERY OF BONDS BY INDUSTRIAL COMMISSION.) The industrial commission, in connection with and in addition to its other powers and duties, shall act as the agent of the state for the negotiation, sale, and delivery of the bonds issued under the provisions of this chapter. It shall sell them at not less than ninety-eight percent of par value for cash in such manner and at such times as in its sound discretion it shall deem most advantageous to the interests of the state. The commission may receive all moneys paid by buyers of the bonds, upon the sale thereof, and upon receipt of the purchase price may deliver to each purchaser the bonds by him purchased according to law. The moneys so derived and received from the sale of the bonds shall be placed by the industrial commission in the funds of the Bank of North Dakota. Where any bonds issued under the provisions of this chapter are sold at a premium, such moneys to the extent of the amount of such premium shall be delivered to the reimbursement of the Bank of North Dakota for the expenses of conducting the work in the department.

Approved March 3, 1979

CHAPTER 555

HOUSE BILL NO. 1116
(Committee on State and Federal Government)
(At the request of the Indian Affairs Commission)

INDIAN DEVELOPMENT FUND USE

AN ACT to amend and reenact sections 54-34.2-02, 54-34.2-03, 54-34.2-04, and 54-34.2-05 of the North Dakota Century Code, relating to the administration and purpose of the Indian development fund.

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

SECTION 1. AMENDMENT.) Section 54-34.2-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-02. PURPOSE.) It is declared that the Indian people of North Dakota need the assistance of their state to take full advantage of the opportunities they have to improve their economic well-being. It is further declared that increased economic strength and stability among the Indian people of North Dakota are clearly in the best interests of the entire state. Therefore, the Indian development fund is created to provide ~~Indian communities with matching funds for economic expansion programs, and thus provide additional opportunities for~~ the Indian people of North Dakota to take full advantage of ~~such programs~~ the opportunities available to them.

SECTION 2. AMENDMENT.) Section 54-34.2-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-03. DEFINITIONS.)

1. "Indian people" shall mean any people of American Indian ancestry living within the boundaries of the state of North Dakota.
2. "Federal agency" shall mean and include the president of the United States of America and any department of, or any corporation, agency, or instrumentality heretofore or

hereinafter created, designated, or established by the United States of America.

3. "Matching funds" shall mean the portion of state or local funds that may be required as a condition for receiving funds from federal, tribal, or private agencies.
4. "Development project" shall mean any business or industry to be owned ~~or~~ and operated by Indian people to provide permanent employment for Indian people and located in North Dakota.

SECTION 3. AMENDMENT.) Section 54-34.2-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-04. DEVELOPMENT PROJECT ELIGIBILITY.) Moneys from the Indian development fund ~~may~~ shall be used only for state or local matching funds as may be required by a federal, tribal, or private agency for participation in Indian development projects. Reservation development projects must be approved by a tribal council ~~or--a--corporation--approved--by--the--tribal--council--and--organized--by--Indian--people--for--the--purpose--of--improving--their--economic--well--being.~~ Off-reservation development projects must be approved by the North Dakota Indian affairs commission.

SECTION 4. AMENDMENT.) Section 54-34.2-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-05. APPLICATION FOR FUNDS.) A tribal council or ~~corporation--organized--by--Indian--people~~ a development project approved by a tribal council or an off-reservation development project may make application for funds to the executive director of the North Dakota Indian affairs commission. Such application shall include a description of the projects for which the funds will be used, along with copies of the applications to the federal, tribal, or private agencies which are to provide the major portions of the funds for the project. The Indian affairs commission shall consider each project on its merits and feasibility, and either approve or deny the application. The executive director of the Indian affairs commission may confer with appropriate federal, state, and local officials and the tribal council as ~~he~~ the director deems necessary to properly analyze the feasibility of such a project or projects.

Approved March 3, 1979

CHAPTER 556

SENATE BILL NO. 2075
(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

SCREENING OF COUNCIL STUDY RESOLUTIONS

AN ACT to amend and reenact section 54-35-02 of the North Dakota Century Code, relating to the powers and duties of the legislative council and to provide authority to screen and prioritize study resolutions; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 54-35-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-35-02. POWER POWERS AND DUTIES.) In addition to the other applicable provisions of this chapter, the council shall have the ~~power-and-right-to~~ following powers and duties:

1. To study, consider, accumulate, compile, and assemble information on any subject upon which the legislature legislative assembly may legislate, and upon such subjects as the legislature legislative assembly may by concurrent or joint resolution authorize or direct, or any subject requested by a member of the legislature,--to legislative assembly, provided that the council may screen and prioritize studies assigned by concurrent or joint resolution to maintain its workload within the limitations of time and legislative appropriations.
2. To collect information concerning the government and general welfare of the state and of its political subdivisions,--to.
3. To study and consider important issues of public policy and questions of general interest,--to.
4. To study and promote uniformity of legislation in the United States upon subjects upon which uniformity is desirable and to confer with the commissioners or similar groups appointed for the same purpose by any other state in drafting uniform laws to be submitted for the approval

PROPERTY OF
STATE DEPARTMENT OF HEALTH
BISMARCK, NORTH DAKOTA 58505

and adoption by the several states and through such member or members or council staff persons as the council may appoint to meet annually with the conference of commissioners on uniform state laws for the promotion of uniformity of legislation in the United States and join with it in such measures as may be deemed most expedient to advance the objects of such conference.

5. ~~It--shall~~ To prepare proposed bills and resolutions for consideration of the succeeding ~~legislature--The--council~~ may-as-it-deems-advisable legislative assembly.
6. To call to its assistance other members of the ~~legislature~~ legislative assembly, and it may create committees consisting of its own members, or one or more of its own members and one or more other members of the ~~legislature~~ legislative assembly and delegate by written resolution to such committees such of its powers and rights as it may deem advisable. Committees of the council may also include nonlegislator members. Any member of the ~~legislature~~ legislative assembly shall have the right to attend any meeting of the council, and may present his views on any subject which the council may at any particular time be considering. ~~The-council--and--any--of~~ its--committees-if-specifically-authorized-by-the-council, ~~shall-have-the-power-to~~
7. To issue subpoenas or subpoenas duces tecum in the manner provided in sections 54-03.2-08 and 54-03.2-09. Committees of the council may issue subpoenas and subpoenas duces tecum in the same manner if specifically authorized by the council. Failure to obey a subpoena issued by the council, or one of its committees, shall be a civil contempt.

SECTION 2. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 8, 1979

CHAPTER 557

SENATE BILL NO. 2151
(Melland)

LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

AN ACT to establish a legislative committee on administrative rules with authority to review proposed and existing administrative rules.

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

SECTION 1. COMMITTEE ON ADMINISTRATIVE RULES.) The legislative council shall, during each biennium, appoint a committee on administrative rules in the same manner as the council appoints other interim committees. The membership of the committee may appoint one or more citizen members representing the segment of the state's population affected by the rules to be reviewed. The legislative council shall designate the chairman of the committee. The committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees.

SECTION 2. RULES REFERRED TO INTERIM COMMITTEE - COMMITTEE RESPONSIBILITY.) The chairman of the legislative council may assign proposed and existing rules and regulations of administrative agencies, as defined by section 28-32-01, and written complaints received concerning such rules to the committee. The committee shall study and review assigned rules to determine whether:

1. Administrative agencies are properly implementing legislative purpose and intent.
2. There are court or agency expressions of dissatisfaction with state statutes or with rules of administrative agencies promulgated pursuant thereto.
3. The court opinions or rules indicate unclear or ambiguous statutes.

The committee may make rule change recommendations to the adopting agency and may make recommendations to the legislative council for the amendment or repeal of enabling legislation serving as authority

for rules. The committee's failure to review proposed rules prior to publication in the North Dakota Administrative Code shall not prevent rules from taking effect, nor shall the recommendations or opinions of the committee affect the legality of any rule as determined by the attorney general.

Filed April 3, 1979

NOTE: This bill was vetoed by the Governor and subsequently approved by a two-thirds majority of the members of the Senate and the House of Representatives.

CHAPTER 558

SENATE BILL NO. 2483
(Committee on Delayed Bills)
(At the request of Senator Melland)

JOINT CITY-COUNTY BUILDING

AN ACT to create and enact section 54-40-02.1 of the North Dakota Century Code, relating to the joint construction and use of a public building by a city and a county; and to amend and reenact section 54-40-03 of the North Dakota Century Code, relating to the disbursement of funds under an agreement for the joint exercise of governmental powers.

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

SECTION 1.) Section 54-40-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-40-02.1. BUILDING MANAGEMENT COMMISSION FOR COUNTY AND CITY BUILDING - LEASE AUTHORITY.) Any agreement entered into between a county and a city under this chapter for the acquisition, construction, and maintenance of a building for their joint use by bonds issued pursuant to section 54-40-03 shall provide for a building management commission composed of elected officials of the county, elected officials of the city, and representatives of the public, with the exact number of each to be specified in the agreement. The agreement shall specify the powers to be exercised by the building management commission with respect to the acquisition, construction, and maintenance of the building, and with respect to any lease entered into by the commission and any noncounty and noncity governmental entity for use of a portion of the building. Notwithstanding section 48-08-07, a lease of a portion of any building used jointly by a county and a city pursuant to this section may be for a term longer than one year.

SECTION 2. AMENDMENT.) Section 54-40-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-03. DISBURSEMENT OF FUNDS - ISSUANCE OF BONDS.) The parties to such agreement may provide for disbursements from public funds, including funds already raised to buy real estate for public buildings, proceeds of bonds issued pursuant to chapter 21-03, and other proper funds or properties already on hand, to carry out the

purposes of the agreement. The total amount of bonds issued by a county and a city under this section shall be in proportion to the joint usage of the building by the county and the city and shall also consider the tax base of the county and the tax base of the city. When a county and a city wholly within the county boundaries propose to issue bonds for the purpose of a building for their joint use, the governing body of the county may submit to its qualified voters the proposition of issuing bonds in the total amount required to be borrowed for the building, under an initial resolution and ballot stating the maximum total principal amount of the bonds and the maximum principal amount thereof for which the city shall be obligated. In this event the governing body of the city shall adopt an ordinance or resolution stating the maximum amount of the obligation proposed to be incurred by the city and the other matters of information required for an initial resolution for bonds under the provisions of section 21-03-09, which ordinance or resolution shall be subject to referral to the electors of the city by petition of the percentage of the electors referred to in chapter 40-12 and upon the conditions and in the manner therein set forth. If the issuance of the bonds is approved by the required majority of the qualified voters of the county voting thereon, and if the city ordinance or resolution is not referred or is approved by a majority of the qualified electors of the city voting thereon, the bonds may be issued by the county and the obligation incurred by the city. The principal amount of the obligation incurred by the city to the county, as provided in the agreement, shall be a general obligation and indebtedness of the city as referred to and limited by section 21-03-04 and by section 183 of the Constitution, and shall be deducted from the principal amount of the bonds in determining the net indebtedness incurred by the county in the issuance thereof. The city shall levy a direct, annual, irrevocable tax for the payment of its obligation and the interest thereon as required for the payment of general obligation bonds under the provisions of section 21-03-15, which tax shall be retained by the county auditor in the sinking and interest fund for the county bonds as provided in section 21-03-41. Each payment of principal, interest and premium, if any, due with respect to the county bonds shall be the obligation of the city in the proportion that the original principal amount of the city's obligation bears to the original principal amount of the bonds, for the purpose of ascertaining the amount of net indebtedness of the city and the county outstanding at any time, of determining the amounts of taxes required to be assessed and collected annually by the city and the county for the bond sinking and interest fund, and of determining the amounts of income from the investment of the sinking and interest fund which are to be credited against the obligations of the city and county, respectively, and for all other purposes whatsoever. Nothing herein requires the city-county agreement to be executed before the authorization of the bonds and the city's obligation thereon. The agreement when executed shall fix the relative contributions of the city and county to the capital cost of the building in a manner consistent with the maximum net indebtedness authorized to be incurred by each of them, respectively. If so provided in the agreement, the city may evidence its obligation by the issuance of general obligation bonds

of the city and appropriate the proceeds of its bonds for expenditure in accordance with the terms of the agreement, and the amount of the county bonds may be reduced by the amount issued by the city. Funds other than taxes for debt service may be paid to and disbursed by such agency as may be agreed upon, but the method of disbursement shall agree as far as practicable with the method provided by law for the disbursement of funds by the parties to the agreement. Strict accountability of all funds and report of all receipts and disbursements shall be provided for.

Not approved or disapproved by the Governor

Filed March 29, 1979

CHAPTER 559

HOUSE BILL NO. 1059
(Legislative Council)
(Interim Committee on Health Services)

HUMAN SERVICE CENTERS

AN ACT to provide for the appointment of a human service center board of directors; to create and enact sections 54-40-10 and 54-40-11 of the North Dakota Century Code, relating to certification of human service centers and to a fiscal incentive for the collocation of county social services with human service centers; and to amend and reenact section 54-40-09 of the North Dakota Century Code, relating to human service centers, their boards of directors, powers, duties, and certification.

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

SECTION 1. APPOINTMENT OF BOARDS OF DIRECTORS - STATUS OF PRESENT BOARD.) The chairman of the board of county commissioners of the county with the largest population within a multicounty area which has a human service center shall within sixty days after the effective date of this Act call a joint meeting of the county commissions within the multicounty area to appoint a new board of directors for the human service center. Persons serving as directors of a human service center on the effective date of this Act shall continue to serve until a new board of directors is appointed.

SECTION 2. AMENDMENT.) Section 54-40-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40-09. HUMAN SERVICE CENTERS - POWERS - DUTIES.) Human service centers organized under this chapter are those centers established to provide human services otherwise authorized by law by the state or any of its political subdivisions. The term "human service" means service provided to individuals or their families in need thereof to help them achieve, maintain, or support the highest level of personal independence and economic self-sufficiency, including health, mental health, education, manpower, social, vocational rehabilitation, aging, food and nutrition, and housing service. Human service centers shall function as single collocated administrative units established, within the multicounty areas,

designated by the governor's executive order 49, dated September 18, 1969, to provide for the planning and delivery of human services. Human service centers shall provide human services to all eligible individuals and families to help them achieve or maintain social, emotional and economic self-sufficiency; prevent, reduce, or eliminate dependency; prevent or remedy the neglect, abuse, or exploitation of children and of adults unable to protect their own interests; aid in the preservation, rehabilitation, and reuniting of families; prevent or reduce inappropriate institutional care by providing for care while institutionalized or providing for community-based or other forms of less restrictive care; and secure referral or admission for institutional care. Human service center boards shall plan and develop health and social resources to assure the effective and efficient delivery of high quality human services fully accessible to all citizens. Human service center boards shall maximize the coordination and integration of services and functions to the fullest extent practicable to avoid unnecessary duplication and overlapping of functions and services. A human service center shall be established by the appointment of a board of directors of not less than eleven members by the authorized representatives of the agencies and political subdivisions for whom the services will be rendered by such center and by the passage of a motion by the governing bodies of such units setting forth its purposes and programs, and the approval of rules or bylaws under which operations shall be conducted, and the approval of the agreement stating the relationships between the center and parent agencies upon a majority vote of those commissioners within a multicounty area present at a joint meeting of the boards of county commissioners called by the chairman of the board of county commissioners of the county with the largest population. Following that majority vote, the state department of health, the state social service board, the mental health and retardation service units shall, and other state departments and governmental units performing human service functions within the multicounty area may, pursuant to written agreement entered into by their respective boards or agencies with the center board, identify and delegate the planning and delivery of specified human services within their jurisdiction to the human service center. Human service centers shall deliver such human services in the manner prescribed by the state departments and governmental units accountable for such services. The governing body of a human service center shall be a board of directors of not more than thirteen members appointed by the boards of county commissioners of the respective counties within the multicounty area meeting jointly. The terms of office shall be three years or less and arranged so that the term of one-third, calculated as nearly as practicable, shall expire in one year, the term of one-half, calculated as nearly as practicable, of the remaining members in the next year, and the term of the remaining members the third year. New appointments to the board shall be made in accordance with the procedure adopted by a majority of the commissioners attending a joint meeting of the boards of county commissioners of the multicounty area. Members of the board shall be compensated at the rate of forty-five dollars per day, not to exceed twenty-five days in any one year. The members shall also be paid for expenses

incurred in attending meetings and in the performance of their official duties in the amounts provided by law for other state officers. Human service centers-and-their-parent-boards-or-agencies center boards shall have such powers and duties as authorized in this chapter for political subdivisions of the state, unless otherwise provided in this section. Such powers shall include the power to employ staff to discharge the center's responsibilities. Persons employed will be state employees and all employment practices shall be subject to the state central personnel system. Human service centers shall expend funds in accordance with law and within the limits of legislative appropriations, and shall have access to the services of the state's combined automatic telecommunications system, and the department of accounts and purchases computer, duplicating, accounting, purchasing, and other services rendered by such department to state agencies and institutions. The state social service board, the state health department, and such other agencies of the state as may have responsibilities in the field of service as provided by human service centers shall provide such centers assistance to the extent that the requests for such services are reasonable and related to the programs of such departments.

SECTION 3.) Section 54-40-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-40-10. CERTIFICATION - STANDARDS.) The human services provided by a human service center for the state department of health and the state social service board shall be subject to joint certification by the state department of health and the state social service board for quality assurance on or after July 1, 1981, or on such earlier date as may be requested by a human service center.

SECTION 4.) Section 54-40-11 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-40-11. COUNTY SOCIAL SERVICE BOARD COLLOCATION WITH HUMAN SERVICE CENTERS - FISCAL INCENTIVES.) Any county social service board collocating its offices within a human service center shall, within the limits of legislative appropriation, be reimbursed up to fifty percent of the amount expended for space costs in excess of the amount provided by the federal government.

Approved March 3, 1979

CHAPTER 560

HOUSE BILL NO. 1176

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

ACCOUNTS AND PURCHASES BIENNIAL REPORT

AN ACT to amend and reenact subsection 15 of section 54-44-04 of the North Dakota Century Code, relating to the contents of the biennial report of the director of the department of accounts and purchases.

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

SECTION 1. AMENDMENT.) Subsection 15 of section 54-44-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

15. Shall submit a biennial report as prescribed by section 54-06-04 to the governor and the department of accounts and purchases covering the activities of all the divisions of the department. In addition to any requirements established pursuant to section 54-06-04, the report shall include a statement of the funds of the state, the revenues of the state, and public expenditures during the two preceding fiscal years.

Approved March 8, 1979

CHAPTER 561

HOUSE BILL NO. 1217

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

ACCOUNTS AND PURCHASES OPERATING FUNDS

AN ACT to amend and reenact section 54-44-11 of the 1977 Supplement to the North Dakota Century Code, relating to the purchasing department operating fund.

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

SECTION 1. AMENDMENT.) Section 54-44-11 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44-11. PURCHASING--DEPARTMENT--OPERATING--FUND--CREATION
DEPARTMENT'S OPERATING FUNDS CREATION.)

1. The department of accounts and purchases shall establish a state purchasing department operating fund to be used for the procurement and maintenance of an inventory of equipment and supplies ~~and--to--provide--data--processing services--to~~ for the state departments and agencies. ~~The sum-of-thirty-five-thousand-dollars-is-hereby--transferred from--the--state--general--fund--to--the--state-purchasing department-operating-fund-to-provide-the--initial--working capital--and--is--hereby--appropriated--for--supplies--and equipment-as-a-standing--appropriation.~~ Any surplus in this fund in excess of one hundred ~~and-fifty~~ thousand dollars on June thirtieth of each year shall be transferred to the state general fund.
2. The department of accounts and purchases shall establish a state printing operating fund to be used for the procurement and maintenance of an inventory of printing equipment and supplies for the state departments and agencies. Any surplus in this fund in excess of fifty thousand dollars on June thirtieth of each year shall be tranferred to the state general fund.
3. The department of accounts and purchases shall establish a state central data processing operating fund to be used

for the procurement and maintenance of data processing equipment and supplies and for providing data processing services to state departments and agencies. Any surplus in this fund in excess of two hundred twenty-five thousand dollars on June thirtieth of each year shall be transferred to the state general fund.

- 2- 4. Each office, agency, or institution provided with purchasing, printing, or data processing service services, unless exempted by law, shall pay to the department of accounts and purchases a proportionate share of the cost of such service as determined by the director of the department of accounts and purchases, based on actual costs and actual usage. The amounts paid to the department of accounts and purchases by the various offices, agencies, and institutions shall be deposited in the ~~purchasing-department~~ appropriate operating fund and shall be expended in accordance with legislative appropriations.

Approved March 27, 1979

CHAPTER 562

SENATE BILL NO. 2208

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

BUDGET DATA PREPARATION

AN ACT to amend and reenact subsection 1 of section 54-44.1-06 of the North Dakota Century Code, relating to the preparation of budget data.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 54-44.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Summary statements of the financial condition of the state, accompanied by such detailed schedules of assets and liabilities as the director of the budget deems desirable, which shall include, but not be limited to, the following:

~~a--A--comparative--consolidated--balance--sheet--showing--all
the--assets--and--liabilities--of--the--state--and--the
surplus--or--deficit--as--the--case--may--be--at--the--close
of--the--first--fiscal--year--of--the--current--biennium,~~

- ~~b-~~ a. Summary statements of fund balances and assets showing in detail for each fund the surplus or deficit at the beginning of each of the two fiscal years of the previous biennium and the first fiscal year of the present biennium, the actual revenue for those years, the total appropriations for the previous and present biennium, and the total expenditures for those fiscal years; and

- ~~e-~~ b. Similar summary statements of the estimated fund balances and assets for the current fiscal year and each of the fiscal years of the next biennium.

Summary statements may include, but not be limited to, a comparative consolidated balance sheet showing all the assets and liabilities of the state and the surplus or deficit, as the case may be, at the close of the first fiscal year of the current biennium.

Approved March 10, 1979

CHAPTER 563

SENATE BILL NO. 2148

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

APPROPRIATIONS CONTINUATION

AN ACT to amend and reenact section 54-44.1-11 of the North Dakota Century Code, relating to the time during which appropriations remain available.

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

SECTION 1. AMENDMENT.) Section 54-44.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.1-11. DEPARTMENT OF ACCOUNTS AND PURCHASES TO CANCEL UNEXPENDED APPROPRIATIONS - WHEN THEY MAY CONTINUE.) The department of accounts and purchases, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations, which shall have remained undrawn after the expiration of the biennial period during which they became available under the law. The chairman of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force ~~for--new--construction--projects and--for--major--repair--or--improvement--projects~~ for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase where the total purchase price is within the authorized appropriation.

Approved March 12, 1979

CHAPTER 564

SENATE BILL NO. 2163

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

CENTRAL DATA PROCESSING EQUIPMENT

AN ACT to amend and reenact subsection 3 of section 54-44.2-02 of the North Dakota Century Code, relating to the powers and duties of the office of central data processing.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 54-44.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Have the authority to purchase or lease such additional equipment or replace, including by trade or resale, present equipment as may be necessary to carry out the provisions of this chapter. The director of the office of central data processing shall require each department, agency, or institution, except the North Dakota employment security bureau, and the office of adjutant general, which may desire to maintain or procure data processing services or equipment not available from the office of central data processing, to submit a written request for these services or equipment, accompanied by full justification for their need, to the director of the office of central data processing, who must approve such request in writing before such department, institution, or agency shall be authorized to procure, maintain, or contract for these services or equipment from sources other than the office of central data processing. The director of the office of central data processing shall not approve any such requests for authority to rent, purchase, or to otherwise acquire or contract for additional or new data processing services or equipment unless, after full study of the justification submitted and such further study or independent evaluation and testing as he shall deem necessary, he shall find that such services cannot be reasonably provided by the office of central data processing and that such equipment would be fully and economically usable and compatible with the central data

processing system. If an equipment purchase or rental is authorized, the equipment, except that which may be purchased for institutions under the control of the board of higher education, shall become the property of the office of central data processing and shall be delivered to such office by the vendor of such equipment and shall be operated by personnel of the office of central data processing.

Approved March 10, 1979

CHAPTER 565

HOUSE BILL NO. 1173

(Committee on State and Federal Government)

(At the request of the Department of Accounts and Purchases)

CENTRAL DATA PROCESSING REPORT REPEALED

AN ACT to repeal section 54-44.2-05 of the North Dakota Century Code, relating to the biennial report required of the director of central data processing to the governor and the legislature.

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

SECTION 1. REPEAL.) Section 54-44.2-05 of the North Dakota Century Code is hereby repealed.

Approved March 8, 1979

CHAPTER 566

HOUSE BILL NO. 1042
(Legislative Council)
(Interim Committee on Budget "A")

CENTRAL PERSONNEL PROCEDURES

AN ACT to create and enact two new sections to chapter 54-44.3 of the North Dakota Century Code, relating to revisions to the classification and compensation plan established by the central personnel division, and setting forth intent that employee complaints be resolved by basic agency grievance procedures and a statewide appeal mechanism.

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

SECTION 1.) A new section to chapter 54-44.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

REVISIONS TO CLASSIFICATION AND COMPENSATION PLANS.) Revisions to classification and compensation plans shall only be made on July first, following the close of a regular legislative session. Such revisions shall only be made to the extent the legislative assembly appropriates funds to implement such plans.

SECTION 2.) A new section to chapter 54-44.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

EMPLOYEE COMPLAINTS - COOPERATION IN DEVELOPMENT AND IMPLEMENTATION OF BASIC AGENCY GRIEVANCE PROCEDURES AND A STATEWIDE APPEAL MECHANISM.) It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees. To ensure this the state desires to resolve bona fide employee complaints as quickly as possible. The central personnel division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism.

Approved March 27, 1979

CHAPTER 567

HOUSE BILL NO. 1639
(Wessman, Gorder, Kelly, Kingsbury)

MINIMUM RAISES FOR STATE EMPLOYEES

AN ACT to provide minimum raises for all state employees; and providing an effective date.

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

SECTION 1. MINIMUM SALARY INCREASE FOR ALL STATE EMPLOYEES - EFFECTIVE DATE.) Effective July 1, 1979, and again on July 1, 1980, each full-time employee of any state agency, institution, or entity, notwithstanding the central personnel division classification and compensation plan, who is receiving \$9,200 base pay annually or less shall receive a permanent increase of fifty dollars per month. The increases provided in this Act shall be paid from appropriations made by the legislative assembly to state agencies, institutions, and entities for the biennium beginning July 1, 1979, and ending June 30, 1981.

Approved April 7, 1979

CHAPTER 568

SENATE BILL NO. 2048
(Legislative Council)
(Interim Committee on Budget "B")

STATE PURCHASING PRACTICES

AN ACT to authorize the department of accounts and purchases to make purchases for state agencies and institutions, to provide for the promulgation of purchasing rules and regulations by the department of accounts and purchases, to provide for competitive bidding procedures; to create and enact a new subsection to section 15-10-17 of the North Dakota Century Code, relating to the powers and duties of the board of higher education; to amend and reenact sections 54-21-19 and 54-42-06 and subsection 21 of section 54-44-04 of the North Dakota Century Code, relating to the director of institutions furnishing supplies for the capitol, state offices, and the executive mansion; merit system coverage for purchasing division personnel; and the operation of a central purchasing service; and to repeal sections 25-01.1-23, 25-01.1-25, 25-01.1-27, 54-23-31, 54-23-34, 54-23-35, and 54-23-37 of the North Dakota Century Code, relating to purchases by the department of accounts and purchases for the state hospital and the institutions under the control of the director of institutions.

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

SECTION 1. DECLARATION OF POLICY.) It is hereby declared to be state policy to provide comprehensive purchasing services based upon sound procurement practices and principles wherein, through full competition with fair and equal opportunity to all qualified persons and firms to sell to the state, each state agency and institution shall obtain its necessary supplies and equipment at competitive cost, consistent with quality, time, and performance requirements.

SECTION 2. DEPARTMENT OF ACCOUNTS AND PURCHASES PURCHASING SERVICES.) The department of accounts and purchases shall purchase or lease or otherwise arrange for the procurement, for all state agencies and institutions in the executive branch of state government, all materials, furniture, fixtures, printing, insurance, and other commodities, except the following:

1. Land, buildings, space, or the rental thereof.
2. Telephone and telegraph service, and electrical light and power services.
3. Public books, maps, periodicals, and technical pamphlets.
4. State highway department materials, equipment, and supplies in accordance with the provisions of chapters 24-02 and 24-03.
5. Professional services pursuant to written contract.
6. Services for the maintenance or servicing of equipment by the manufacturer or authorized servicing agent of that equipment where the maintenance or servicing can best be performed by the manufacturer or authorized service agent, or where such a contract would otherwise be advantageous to the state.
7. Emergency purchases the department of accounts and purchases cannot make within the required time and which involve public health or public safety, or where immediate expenditures are necessary for repairs of state property to protect it against further loss or damage, or to prevent or minimize serious disruption in state services.
8. Such specific items as determined and indicated by written directive by the director of the department of accounts and purchases.

The department of accounts and purchases shall purchase items as requested by agencies and institutions under the jurisdiction of the state board of higher education and the legislative and judicial branches of state government. The agencies and institutions under the jurisdiction of the state board of higher education shall, together with the department of accounts and purchases, make such joint purchases of like items of high common usage as determined jointly by the agencies and institutions under the jurisdiction of the state board of higher education and the department of accounts and purchases as will result in less cost to the state.

SECTION 3. DIRECTOR OF THE DEPARTMENT OF ACCOUNTS AND PURCHASES MAY DELEGATE PURCHASING AUTHORITY.) The director of the department of accounts and purchases may delegate to state agencies and institutions the authority to make purchases of items not otherwise exempted by law when the purchases are necessary due to an agency being able to obtain a lower price with equal quality, the perishability of items, or the location of the items. Any delegation of purchasing authority shall be in writing and shall indicate what is to be purchased and the duration of the delegation.

SECTION 4. DEPARTMENT OF ACCOUNTS AND PURCHASES - RULES AND REGULATIONS.) The department of accounts and purchases shall

promulgate, pursuant to chapter 28-32, rules and regulations necessary to administer this Act. Additionally, such rules and regulations, and any changes thereto, shall be submitted to the legislative council for its review and approval or disapproval prior to promulgation.

SECTION 5. COMPETITIVE BIDDING ON PURCHASES.) Except as otherwise provided in section 44-08-01, purchasing contracts shall be awarded to the lowest responsible bidder considering conformity with specifications, terms of delivery, and quality and serviceability. The department of accounts and purchases may reject any or all bids or negotiate for a lower price with a successful bidder. The department of accounts and purchases shall publish at least once per year in each official county newspaper in the state the procedures to be followed to sell goods and materials to state agencies, departments, and institutions. Each bid received, with the name of the bidder, shall be recorded.

SECTION 6. ALL PURCHASES TO BE MADE IN ACCORDANCE WITH SPECIFICATIONS.) For purposes of this Act, specification means a description of all required physical, design, performance, functional, and other characteristics of an item the purchaser requires and, consequently, what a bidder must offer. All purchases made by the department of accounts and purchases, institutions of higher education, or any state agency or institution to which authority to purchase has been delegated, shall be made in accordance with written policies of the department of accounts and purchases and the agencies and institutions under the jurisdiction of the state board of higher education. The department of accounts and purchases and institutions of higher education shall develop similar specifications for purchases of items of high common usage. State agencies and institutions shall provide such assistance as may be requested by the department of accounts and purchases and the institutions of higher education in the development of specifications. The department of accounts and purchases and the institutions of higher education shall implement such procedures as are necessary for the inspection, testing, and acceptance of supplies and equipment to determine that goods received are in conformity with contract specifications.

SECTION 7.) A new subsection to section 15-10-17 of the 1977 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

To determine policy for purchasing by the institutions of higher education in coordination with the department of accounts and purchases as provided by law.

SECTION 8. AMENDMENT.) Section 54-21-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-19. DIRECTOR TO FURNISH SUPPLIES AND MAINTAIN CAPITOL, STATE OFFICES, AND EXECUTIVE MANSION AND SHALL HAVE AUTHORITY TO CHARGE FOR SERVICES.) The director shall, ~~through the department of~~

~~accounts--and--purchases,~~ provide all necessary fuel, ~~light~~ electricity, insurance, janitorial, telephone, and other services necessary to maintain the state offices on the capitol grounds as well as all necessary furniture, fuel, ~~lights~~ electricity, express, freight, drayage, and all other necessary supplies for the executive mansion and the ~~public-grounds-and-parks-connected-there-with~~ capitol grounds, and shall make all necessary repairs ~~upon--the--capitol building-and-executive-mansion--and-the.~~ Such purchases shall be in accordance with the provisions of this Act. The director shall charge an amount equal to the fair value of the office space and other services rendered to all departments which receive and expend moneys from other than the general fund, except that for good cause the amounts charged may be waived by the director for a one-year period of time with such waiver being subject to further annual renewals after proper application has been filed with the director.

SECTION 9. AMENDMENT.) Section 54-42-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-42-06. AGENCIES SUBJECT TO MERIT SYSTEM.) All personnel employed by the social service board of North Dakota, the area and county offices of such board, the North Dakota employment security bureau, the North Dakota merit system council ~~and,~~ the North Dakota state department of health, and other agencies or political subdivisions as may by federal laws or regulations be required to be subject to the merit system in order to obtain federal grants-in-aid, shall be covered by the complete merit system provided in this chapter. The merit system council shall provide merit system coverage to mental health and retardation service units, human service centers, and other units resulting from combinations of mental health and retardation service units, area social service centers, and other functions or services of state agencies or political subdivisions upon the request of such centers or units. Merit system coverage shall also be provided to personnel employed as purchasing agents or buyers in the purchasing division of the department of accounts and purchases. Such other agencies, departments or divisions, or positions, shall be placed under the complete or limited merit system in the manner and to the extent the legislative assembly shall by law direct.

SECTION 10. AMENDMENT.) Subsection 21 of section 54-44-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21. Shall be vested with the duties, powers, and responsibilities involved in the operation of a centralized purchasing service. ~~This purchasing service shall--include--the--purchase,--lease--or--rental--of--all equipment,---furniture,---fixtures,--printing,--materials, supplies,--insurance-and-other-commodities--for--all--state departments,---institutions,---offices,---and--agencies, excluding-land,--buildings,--or-space,--or-the-rental--thereof and--excepting--emergency-purchases-that-are-impossible-of execution-by-the--department--of--accounts--and--purchases~~

~~within--the--required--time,--highly-specialized-equipment
which--can--be--better--purchased---by---the---department,
institution--or--office-which-is-to-utilize-such-equipment,
and--such--specific--items--and--minor--purchases--as--the
director-may-exempt,~~

SECTION 11. REPEAL.) Sections 25-01.1-23, 25-01.1-25, 25-01.1-27, 54-23-31, 54-23-34, 54-23-35, and 54-23-37 of the North Dakota Century Code are hereby repealed.

Approved March 21, 1979

CHAPTER 569

SENATE BILL NO. 2173
(Committee on State and Federal Government)
(At the request of the Civil Air Patrol)

CIVIL AIR PATROL DUTIES AND EXPENDITURES

AN ACT to amend and reenact sections 54-45-02 and 54-45-03 of the North Dakota Century Code, relating to the duties of the department of civil air patrol and to the expenditure of funds by the civil air patrol for secretarial or administrative personnel.

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

SECTION 1. AMENDMENT.) Section 54-45-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-45-02. COOPERATION WITH STATE AND FEDERAL GOVERNMENTS.) The department of civil air patrol may fully cooperate with any department or agency of the state of North Dakota, or with the United States government or any department or agency thereof, for the purpose of providing communications, ~~rescue--work,--mercy missions,--aerial-observation,~~ cadet training, disaster relief, and search and rescue missions or assistance, or other related functions within the scope of the activity of the civil air patrol with the exception of law enforcement.

SECTION 2. AMENDMENT.) Section 54-45-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-45-03. EXPENDITURE OF FUNDS - LIMITATION.) The commanding officer, North Dakota wing, civil air patrol, may issue vouchers covering all expenditures of funds of the department, and the state auditor shall issue his warrant therefor in the same manner as other state funds are expended. There shall be expended from the moneys appropriated to the department only such sums as shall be needed to purchase adequate communications systems, the upkeep of said communications systems, maintenance of aircraft and vehicles owned by civil air patrol and provided that only such sums shall be expended for procurement of equipment or replacement not otherwise obtainable by grant or gift from any other source. No funds shall be expended for uniforms or personal equipment of any member of the

civil air patrol or for the purchase of aircraft or motor vehicles, nor shall any money be paid out of appropriated funds for any salaries, except ~~that-the~~ for secretarial or administrative support personnel. The commanding officer is authorized to apply for and accept federal funds for use in funding secretarial or administrative support personnel.

Approved March 13, 1979

CHAPTER 570

SENATE BILL NO. 2313
(Miller Heinrich)

RETIREMENT SYSTEM MEMBERSHIP AND ASSESSMENTS

AN ACT to amend and reenact subsection 8 of section 54-52-01 and section 54-52-05 of the North Dakota Century Code, relating to definition of terms and membership and assessments for the public employees retirement system.

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

SECTION 1. AMENDMENT.) Subsection 8 of section 54-52-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Permanent employee" means a governmental unit employee ~~who has been employed by~~ whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit ~~for five continuous months~~, and is employed for more than twenty hours per week and more than five months each year.

SECTION 2. AMENDMENT.) Section 54-52-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-05. MEMBERSHIP AND ASSESSMENTS.) Every eligible permanent state, county, city, or noncertified school district employee concurring in the plan shall so state in writing and all future eligible employees shall be participating members. An eligible employee shall be a permanent employee whose services are not limited in duration and who is filling an approved and regularly funded position, who ~~has been~~ is employed by the state, county, city, or school district ~~for five consecutive months~~, has reached age eighteen, and is employed for more than twenty hours per week for more than five months each year. Each member shall be assessed and required to pay monthly four percent of the monthly salary or wage paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments commencing with the first month of employment.

Approved March 27, 1979

CHAPTER 571

SENATE BILL NO. 2077
(Legislative Council)
(Interim Committee on Retirement)

WITHDRAWAL FROM RETIREMENT SYSTEM

AN ACT to amend and reenact section 54-52-02.1 of the North Dakota Century Code, relating to membership of county, city, and noncertified school district employees in the public employees retirement system; and to repeal subsection 10 of section 54-52-17 of the North Dakota Century Code, relating to the opportunity for certain members of the public employees retirement system to withdraw from that system.

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

SECTION 1. AMENDMENT.) Section 54-52-02.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02.1. COUNTY, CITY, AND NONCERTIFIED SCHOOL DISTRICT EMPLOYEES AUTHORIZED TO JOIN PUBLIC EMPLOYEES RETIREMENT SYSTEM.) The boards of county commissioners of the several counties and the governing bodies of any city or school district are hereby authorized on behalf of their permanent employees, and permanent noncertified employees only in the case of school districts, to enter into agreements with the state retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to such employees. Such an agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the state retirement board and the board of county commissioners or governing body of a city or a school district shall agree upon, but such agreement shall provide that:

1. The county, city, or school district will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06.

2. A portion of the moneys, paid by the counties, cities, or school districts may be used to pay administrative expenses of the retirement board.

Notwithstanding any other provision of this chapter, no political subdivision of this state not participating in the retirement system on June 30, 1977, shall thereafter become a participant in the system until an actuarial study is performed under the direction of the board to calculate the cost of that portion of benefits to be paid by the retirement system to the employees of such political subdivision based on any prior service or on any service after June 30, 1977, and before the date of initial participation in the retirement system, or both; and the political subdivision has adopted a method, approved by the board, to pay the costs determined in this subsection over a period not to exceed twenty-five years from June 30, 1977. No political subdivision may discontinue participation in the fund without first making such payment to the fund as may be necessary for the fund to pay the future benefits of the eligible employees of such political subdivision as determined on the basis of rules and regulations promulgated by the board. ~~Within thirty days after July 1, 1977, except as otherwise provided in this section, any political subdivision may withdraw the total sums in its employee and employer accounts with the fund, make appropriate refunds, and terminate its participation in the public employees retirement system.~~

* SECTION 2. REPEAL.) Subsection 10 of section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby repealed.

Approved January 29, 1979

- * NOTE: Subsection 10 of section 54-52-17 was deleted by section 1 of Senate Bill No. 2137, chapter 573, and by section 1 of Senate Bill No. 2273, chapter 574.

CHAPTER 572

HOUSE BILL NO. 1272

(Committee on State and Federal Government)

(At the request of the Public Employees Retirement System)

PUBLIC OFFICIALS IN RETIREMENT SYSTEM

AN ACT to create and enact section 54-52-02.4 of the North Dakota Century Code, relating to newly appointed officials entitled to participate in the public employees retirement system; and to amend and reenact subsection 2 of section 54-52-01 of the North Dakota Century Code, relating to the definition of eligible employees.

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

* SECTION 1.) Section 54-52-02.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-52-02.4. NEWLY APPOINTED OFFICIALS.) After July 1, 1979, any person appointed to an office for the first time shall, from and after the date he qualifies and takes office, be a participating member of the public employees retirement system. As used in this section, the phrase "for the first time" shall mean a person appointed, who, after the effective date of this section, does not hold office as an appointed official at the time of his appointment.

SECTION 2. AMENDMENT.) Subsection 2 of section 54-52-01 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and shall include appointive and elective officials at their sole election, provided that judges of the supreme and district courts eligible under section 54-52-02.3 and appointed officials eligible under section 54-52-02.4 shall be eligible employees and shall participate in the public employees retirement system.

Approved March 8, 1979

* NOTE: This section is codified as North Dakota Century Code Section 54-52-02.5.

CHAPTER 573

SENATE BILL NO. 2137
(Miller Heinrich)

RETIREMENT SYSTEM SERVICE CREDIT

AN ACT to amend and reenact section 54-52-17 of the North Dakota Century Code, relating to prior service credit and withdrawal from the public employees retirement system; and to provide for retroactivity.

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

* SECTION 1. AMENDMENT.) Section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-17. FORMULATION OF PLAN.) Participating members shall receive benefits according to this section and according to the rules and regulations promulgated by the retirement board, not inconsistent with this chapter. No person shall receive a prior service benefit if ~~such~~ the person was not continuously employed by a governmental unit in North Dakota ~~from July 1, 1966, to June 30, 1977~~ for a period of not less than two years immediately prior to eligibility for retirement.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, as defined in this section. No participating member shall receive credit for more than thirty years of full-time employment unless such member has contributed to the plan or its predecessor established on July 1, 1966, in excess of thirty years; members who have contributed to these plans in excess of thirty years shall receive credit for the years of full-time employment after July 1, 1966. Part-time employment will be recognized as full-time employment on such a prorated basis as the board may prescribe.
2. Retirement benefits shall be calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any sixty consecutive months employed during the last one

* NOTE: Section 54-52-17 was also amended by section 1 of Senate Bill No. 2273, chapter 574; subsection 3 was also amended by section 1 of House Bill No. 1119, chapter 575; and subsection 10 was repealed by section 2 of Senate Bill No. 2077, chapter 571.

hundred twenty months of employment. Months not employed or months where employment was not full-time shall be excluded in arriving at the sixty months to be used for the purpose of computing an average. If the participating member has worked for less than sixty months at the normal retirement date, the final average salary shall be the average salary for the total months of employment.

3. Retirement dates shall be defined as follows:

- a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years.
- b. Postponed retirement date is the first day of the month next following the month in which the member actually severs his employment after attaining the age of sixty-five years.
- c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ten years of eligible employment.
- d. Disability retirement date is the first day of the sixth month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the retirement board, and has completed at least ten years of eligible employment. No member shall be eligible for benefits resulting from a disability unless he shall also be determined eligible for benefits under the Social Security Act as amended.

4. Retirement benefits shall be calculated by the retirement board as follows:

- a. Normal retirement benefits for all retirees reaching normal retirement date shall be an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which shall be determined as follows:
 - (1) Service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of prior service employment.
- b. Postponed retirement benefits shall be calculated as for normal retirement benefits, except years of

employment only to the normal retirement date and salary to the actual retirement date shall be used.

- c. Early retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment, but shall be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree shall be eligible for early retirement benefits only after having completed ten years of eligible employment.
 - d. Disability retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment due to permanent and total disability.
5. Upon termination of employment after completing ten years of eligible employment but prior to normal retirement date, a member who does not elect to receive early retirement benefits shall be eligible to receive deferred vested retirement benefits payable commencing on his normal retirement date equal to one hundred percent of his accrued normal retirement benefits.
 6. If a member dies after completing ten years of eligible employment, but prior to retiring, the surviving spouse of the member shall receive monthly retirement benefits equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies or remarries, whichever first occurs. If the spouse dies or remarries, he shall come under the provisions of subsection 8.
 7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, he or his designated beneficiary shall be entitled to the balances of his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977, with five percent annual interest thereon to date of termination. In addition, the member or his designated beneficiary shall be entitled to his contribution made after June 30, 1977, with five percent annual interest thereon to the date of termination. If the termination results from death or permanent and total disability, the member shall be deemed one hundred percent vested in the vesting fund on June 30, 1977.
 8. If a member who is receiving retirement benefits or his surviving spouse who is receiving retirement benefits dies or if the surviving spouse remarries before the total amount of benefits paid to either or both equals the amount of the member's contribution with five percent interest, plus the vested amount on June 30, 1977, with five percent interest, the difference shall be paid to

such spouse, his surviving beneficiary, if any, or his estate.

9. The retirement board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:

- a. Joint and survivor, with fifty percent or one hundred percent options.
- b. Level social security option, which shall be available only to early retirees.
- c. Life with five- or ten-year certain options.

Unless a member requests that he receive benefits according to one of these options at the time of applying for retirement, all retirement benefits shall be in the form of a lifetime monthly pension.

~~10. Employees who were continuously employed by a governmental unit in North Dakota during the entire period from July 1, 1966, to June 30, 1977, shall have the opportunity within one month after July 1, 1977, to choose whether or not they wish to continue as members of the North Dakota public employees retirement system. Such an employee who chooses to withdraw from the fund shall receive his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977.~~

SECTION 2. RETROACTIVITY.) The provisions of this Act are retroactive to and are effective as of July 1, 1977.

Approved March 26, 1979

CHAPTER 574

SENATE BILL NO. 2273
(Miller Heinrich)

PUBLIC EMPLOYEE POSTPONED RETIREMENT BENEFITS

AN ACT to amend and reenact section 54-52-17 of the North Dakota Century Code, relating to normal and postponed retirement under the public employees retirement system.

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

* SECTION 1. AMENDMENT.) Section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-17. FORMULATION OF PLAN.) Participating members shall receive benefits according to this section and according to the rules and regulations promulgated by the retirement board, not inconsistent with this chapter. No person shall receive a prior service benefit if such person was not continuously employed by a governmental unit in North Dakota from July 1, 1966, to June 30, 1977.

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date or postponed retirement date, as defined in this section. No participating member shall receive credit for more than thirty years of full-time employment unless such member has contributed to the plan or its predecessor established on July 1, 1966, in excess of thirty years; members who have contributed to these plans in excess of thirty years shall receive credit for the years of full-time employment after July 1, 1966. Part-time employment will be recognized as full-time employment on such a prorated basis as the board may prescribe.
2. Retirement benefits shall be calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any sixty consecutive months employed during the last one hundred twenty months of employment. Months not employed

* NOTE: Section 54-52-17 was also amended by section 1 of Senate Bill No. 2137, chapter 573; subsection 3 was also amended by section 1 of House Bill No. 1119, chapter 575; and subsection 10 was repealed by section 2 of Senate Bill No. 2077, chapter 571.

or months where employment was not full time shall be excluded in arriving at the sixty months to be used for the purpose of computing an average. If the participating member has worked for less than sixty months at the normal retirement date, the final average salary shall be the average salary for the total months of employment.

3. Retirement dates shall be defined as follows:

- a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years.
- b. Postponed retirement date is the first day of the month next following the month in which the member actually severs his employment after attaining the age of sixty-five years.
- c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ten years of eligible employment.
- d. Disability retirement date is the first day of the sixth month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the retirement board, and has completed at least ten years of eligible employment. No member shall be eligible for benefits resulting from a disability unless he shall also be determined eligible for benefits under the Social Security Act as amended.

4. Retirement benefits shall be calculated by the retirement board as follows:

- a. Normal retirement benefits for all retirees reaching normal retirement date shall be an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which shall be determined as follows:
 - (1) Service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of prior service employment.
- b. Postponed retirement benefits shall be calculated as for normal retirement benefits, ~~except years of~~

~~employment--only--to--the--normal--retirement-date-and
salary--to--the--actual--retirement-date--shall--be--used.~~

- c. Early retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment, but shall be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree shall be eligible for early retirement benefits only after having completed ten years of eligible employment.
 - d. Disability retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment due to permanent and total disability.
5. Upon termination of employment after completing ten years of eligible employment but prior to normal retirement date, a member who does not elect to receive early retirement benefits shall be eligible to receive deferred vested retirement benefits payable commencing on his normal retirement date equal to one hundred percent of his accrued normal retirement benefits.
6. If a member dies after completing ten years of eligible employment, but prior to retiring, the surviving spouse of the member shall receive monthly retirement benefits equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies or remarries, whichever first occurs. If the spouse dies or remarries, he shall come under the provisions of subsection 8.
7. If a member not coming under the provisions of subsection 6 terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, he or his designated beneficiary shall be entitled to the balances of his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977, with five percent annual interest thereon to date of termination. In addition, the member or his designated beneficiary shall be entitled to his contribution made after June 30, 1977, with five percent annual interest thereon to the date of termination. If the termination results from death or permanent and total disability, the member shall be deemed one hundred percent vested in the vesting fund on June 30, 1977.
8. If a member who is receiving retirement benefits or his surviving spouse who is receiving retirement benefits dies or if the surviving spouse remarries before the total amount of benefits paid to either or both equals the amount of the member's contribution with five percent interest, plus the vested amount on June 30, 1977, with five percent interest, the difference shall be paid to

such spouse, his surviving beneficiary, if any, or his estate.

9. The retirement board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:
 - a. Joint and survivor, with fifty percent or one hundred percent options.
 - b. Level social security option, which shall be available only to early retirees.
 - c. Life with five- or ten-year certain options.

Unless a member requests that he receive benefits according to one of these options at the time of applying for retirement, all retirement benefits shall be in the form of a lifetime monthly pension.

~~10. Employees who were continuously employed by a governmental unit in North Dakota during the entire period from July 1, 1966, to June 30, 1977, shall have the opportunity within one month after July 1, 1977, to choose whether or not they wish to continue as members of the North Dakota public employees retirement system. Such an employee who chooses to withdraw from the fund shall receive his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977.~~

Approved March 19, 1979

CHAPTER 575

HOUSE BILL NO. 1119
(Mertens)

PUBLIC EMPLOYEE DISABILITY RETIREMENT DATE

AN ACT to amend and reenact subsection 3 of section 54-52-17 of the North Dakota Century Code, relating to retirement dates under the public employees retirement system.

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

* SECTION 1. AMENDMENT.) Subsection 3 of section 54-52-17 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Retirement dates shall be defined as follows:

- a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years.
- b. Postponed retirement date is the first day of the month next following the month in which the member actually severs his employment after attaining the age of sixty-five years.
- c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ten years of eligible employment.
- d. Disability retirement date is the first day of the ~~sixth~~ month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the retirement board, and has completed at least ten years of eligible employment. No member shall be eligible for benefits resulting from a disability unless he shall also be determined eligible for benefits under the Social Security Act as amended.

Approved March 3, 1979

* NOTE: Section 54-52-17 was also amended by section 1 of Senate Bill No. 2137, chapter 573, and by section 1 of Senate Bill No. 2273, chapter 574.

CHAPTER 576

HOUSE BILL NO. 1301

(Martinson, Kingsbury, Stenehjem, Swiontek, Unhjem)

UNIFORM GROUP INSURANCE PROGRAM
CONTRIBUTION

AN ACT to amend and reenact sections 54-52.1-06 and 54-52.1-07 of the North Dakota Century Code, relating to the state contribution to the uniform group insurance program and optional coverage for employee's family.

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

SECTION 1. AMENDMENT.) Section 54-52.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-06. STATE CONTRIBUTION.) Each department, board, or agency shall pay to the board each month from its funds appropriated for payroll and salary amounts a state contribution in the amount of the full single rate monthly premium for each of its eligible employees enrolled in the uniform group insurance program and the full rate monthly premium, in an amount equal to that contributed under the alternate family contract, including major medical coverage, for hospital and medical benefits coverage for spouses and dependent children of its eligible employees enrolled in the uniform group insurance program pursuant to section 54-52.1-07. The board shall then pay the necessary and proper premium amount for the uniform group insurance program to the proper carrier or carriers on a monthly basis. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium amount shall be credited at least annually to a separate fund of the uniform group insurance program to be used by the board to reimburse the administrative expense and benefit fund of the state employees retirement program for the costs of administration of the uniform group insurance program. Any amount credited to the separate fund in excess of the costs of administration of the program shall be held in the separate fund to be used by the board to reduce the amount of premium amounts paid monthly by enrolled eligible employees, to reduce any increase in premium amounts paid monthly by enrolled eligible employees or to provide increased insurance coverage, as the board may determine. In the event an enrolled eligible employee is not entitled to receive salary, wages, or other

compensation for a particular calendar month, he may make direct payment of the required premium to the board to continue his coverage, and the employing department, board, or agency shall provide for the giving of a timely notice to the employee of his right to make such payment at the time such right arises.

SECTION 2. AMENDMENT.) Section 54-52.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-07. OPTIONAL COVERAGE FOR EMPLOYEE'S FAMILY.) Each eligible employee enrolled in the uniform group insurance program may elect to include his spouse and all qualified dependents (as provided for in the plan) within the hospital benefits coverage and medical benefits coverage, the employee state to be-assessed pay the entire cost of such coverage as provided in section 54-52.1-06. ~~Such--assessment--shall--be--deducted--and--retained--out--of--his--salary, wages,--or--other--compensation,--in--equal--monthly--installments--and forwarded--to--the--board--as--in--section--54-52.1-06.~~

Approved March 21, 1979

CHAPTER 577

HOUSE BILL NO. 1084
(Legislative Council)
(Interim Committee on State and Federal Government)

COUNCIL ON THE ARTS

AN ACT to amend and reenact subsection 1 of section 54-07-01.2 and section 54-54-02 of the North Dakota Century Code, relating to the North Dakota council on the arts and humanities.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Notwithstanding the provisions of sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09.1-02, 12-55-01, 12-59-01, 15-21-17, 15-38-17, 15-39.1-05, 15-65-02, ~~20-02-29~~, ~~20-1-02-23~~ 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-02, 50-06-03.1, 50-26-01, 51-10-13, 54-03-20.2, 54-34-03, 54-42-01, 54-54-02, 55-01-01, 55-06-01, 61-02-04, 61-28-03, and 65-02-01, all members of the following boards and commissions shall, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
 - a. The aeronautics commission.
 - b. The milk stabilization board.
 - c. The dairy products promotion commission.
 - d. The state banking board.
 - e. The state credit union board.
 - f. The advisory board of directors ~~of~~ to the Bank of North Dakota.
 - g. The board of pardons.

- h. The state parole board.
- i. The state board of public school education.
- j. The teachers' professional practices commission.
- k. The board of trustees for the teachers' fund for retirement.
- l. The educational broadcasting council.
- m. The state game and fish advisory board.
- n. The health council.
- o. The air pollution control advisory council.
- p. The livestock sanitary board.
- q. The administrative committee on veterans' affairs.
- r. The social service board of North Dakota.
- s. The governor's council on human resources.
- t. The North Dakota trade commission.
- u. The legislative compensation commission.
- v. The business and industrial development commission.
- w. The merit system council.
- x. The North Dakota council on the arts ~~and-humanities~~.
- y. The state historical board.
- z. The Yellowstone-Missouri-Fort Union commission.
- aa. The state water conservation commission.
- bb. The state water pollution control board.
- cc. The workmen's compensation bureau.

SECTION 2. AMENDMENT.) Section 54-54-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-54-02. COUNCIL - MEMBERS - APPOINTMENT.) There is hereby created and established a state council, to be known as the "North Dakota council on the arts ~~and-humanities~~", which shall consist of fifteen members, broadly representative of all fields of the performing and fine arts, who are to be appointed by the governor by and with the consent of the senate as provided in this chapter, from

among the citizens of North Dakota who are widely known for their competence and experience in connection with the performing and fine arts. In making such appointments, due consideration shall be given to the recommendations made by representative civic, educational, and professional associations and groups, concerned with or engaged in the production or presentation of the performing and fine arts generally.

Approved March 3, 1979

CHAPTER 578

HOUSE BILL NO. 1437
(Representative Kloubec)
(Senator Strinden)

CULTURAL ENDOWMENT FUND

AN ACT to establish the North Dakota cultural endowment fund under the jurisdiction of the council on the arts; and declaring an emergency.

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

SECTION 1. ENDOWMENT FUND - PURPOSES.) The North Dakota cultural endowment fund is hereby established to improve the intrinsic quality of the lives of the state's citizens now and in the future through programs approved by the council on the arts. Such programs shall:

1. Increase cultural awareness by the state's citizens through programs in arts, crafts, theater, ethnic and folk arts, literature, journalism, public media, historic preservation and interpretation, visual arts, and architecture.
2. Make the items named in subsection 1 more available to the state's citizens.
3. Encourage the development of talent in the areas named in subsection 1 within the state.
4. Preserve and increase understanding of North Dakota's heritage and future.

SECTION 2. CULTURAL ENDOWMENTS - LIMITATIONS.) The cultural endowment fund shall be maintained by the Bank of North Dakota which shall also be responsible for the investment of the principal moneys deposited in such fund. Funds will be expended from the cultural endowment fund only to the limits of accrued interest on state general fund appropriations and other public and private funds received. The expenditure of endowment funds shall occur at the direction of the North Dakota council on the arts. The council may seek the counsel and assistance of a group or groups of private citizens of the council's choosing to aid it in arriving at

expenditure decisions where private funds are involved. Section 54-54-06 applies to private donations to the cultural endowment fund, provided that gifts, donations, and bequests can be dedicated as principal of the fund in perpetuity or for a term of years, in which case only the income earned as a result of investment of those funds can be expended pursuant to this Act.

SECTION 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall be in effect from and after its passage and approval.

Approved March 10, 1979