

# STATE GOVERNMENT

## CHAPTER 489

### HOUSE BILL NO. 1098

(Representatives Grosz, Boehm)

(At the request of the Governor)

## **NORTH DAKOTA-SASKATCHEWAN-MANITOBA BOUNDARY ADVISORY COMMITTEE ELIMINATED**

AN ACT to repeal section 54-01-17.2 of the North Dakota Century Code, relating to the North Dakota-Saskatchewan-Manitoba boundary advisory committee.

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

**SECTION 1. REPEAL.** Section 54-01-17.2 of the 1993 Supplement to the North Dakota Century Code is repealed.

Approved March 6, 1995

Filed March 6, 1995

## CHAPTER 490

### SENATE BILL NO. 2448

(Senators Streibel, Mutch, Robinson)  
(Representatives Carlson, Huether, Olson)

### GREAT SEAL USE

AN ACT to amend and reenact section 54-02-01 of the North Dakota Century Code, relating to use of the great seal.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 54-02-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-02-01. Great seal - Permitted uses - Penalty for commercial use.**

1. The great seal of the state is that prescribed in section 2 of article XI of the Constitution of North Dakota. A description in writing of such seal must be deposited and recorded in the office of the secretary of state and must remain a public record. A reproduction of the great seal may be placed on any official form, document, or stationery of any agency, authority, board, body, branch, bureau, commission, committee, council, department, division, industry, institution, or instrumentality of the state or of any elected or appointed official of the state. Any use of the great seal on any other object or thing by any of the foregoing state entities or officials is prohibited unless approved by the secretary of state; provided however, that the state historical society and the parks and recreation department may, with the concurrence of the secretary of state, reproduce the great seal on any objects they offer for sale as souvenirs.
2. It is a class B misdemeanor for any person to:
  - a. Place or cause to be placed the great seal, or any reproduction of the great seal, on any political badge, button, insignia, pamphlet, folder, display card, sign, poster, billboard, or on any other public advertisement, or to otherwise use the great seal for any political purpose, as defined in section 16.1-10-02.
  - b. Place or cause to be placed on the great seal, or any reproduction thereof, any advertisement.
  - ~~b~~ c. Expose the great seal, or any reproduction thereof, to public view with any advertisement attached thereto.
  - ~~e~~ d. Utilize the great seal, or a copy or reproduction thereof, for any commercial purpose.

As used in this subsection, "advertisement" means any printed matter, device, picture, or symbol, no matter how presented to the senses, which informs the public that a good or service is available; and "commercial purpose" means with intent to produce a pecuniary gain through sale of a good or service. Notwithstanding any other provision of law, the secretary of state may grant a written request by a private vendor to reproduce official state forms and documents, containing a reproduction of the great seal, for resale to persons intending to submit the forms or documents to any state entity in the regular course of business. The secretary of state may also grant a written request by a publisher, educational institution, or author to reproduce the great seal in any research, reference, or educational publication containing a compilation of the great seals of other states.

Approved March 17, 1995  
Filed March 20, 1995

**CHAPTER 491****SENATE BILL NO. 2214**

(Government and Veterans Affairs Committee)

(At the request of the Secretary of State)

**ROUGH RIDER AWARD RECORDS RETENTION**

AN ACT to amend and reenact section 54-02-07 of the North Dakota Century Code, relating to Theodore Roosevelt rough rider award records.

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

**SECTION 1. AMENDMENT.** Section 54-02-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-02-07. Theodore Roosevelt rough rider award.** There shall be awarded by the state of North Dakota in the name of the legislative assembly and the citizens of this state, an award to be known as the Theodore Roosevelt rough rider award. Such award shall be the highest recognition by the state of present or former North Dakotans who have been influenced by this state in achieving national recognition in their fields of endeavor, thereby reflecting credit and honor upon this state and its citizens. The award shall not be for momentary success, but only for genuine achievements of lasting significance. It is the intent of this section to guard the dignity of the rough rider award for recipients of the past as well as the future. The award, of a type and design approved by the governor, must be awarded by the governor upon the concurrence of the secretary of state and the superintendent of the state historical board. A record of all such awards and pertinent information in regard to each recipient must be retained by the ~~secretary of state~~ archivist.

Approved March 7, 1995

Filed March 7, 1995

**CHAPTER 492****HOUSE BILL NO. 1412**

(Representatives Tollefson, Martinson, Price, Kelsch)  
(Senators Wanzek, Mushik)

**SQUARE DANCE DESIGNATED STATE DANCE**

AN ACT to create and enact a new section to chapter 54-02 of the North Dakota Century Code, relating to the state dance.

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

**SECTION 1.** A new section to chapter 54-02 of the North Dakota Century Code is created and enacted as follows:

**State dance.** The square dance, in consideration of its contribution to the art and culture of North Dakota, is designated the official American folk dance of North Dakota.

Approved March 24, 1995

Filed March 27, 1995

## CHAPTER 493

## HOUSE BILL NO. 1385

(Representatives Monson, Olson, Thompson)  
(Senators Christmann, Kinnoin, Tallackson)

## LEGISLATIVE REDISTRICTING CHANGES

AN ACT to amend and reenact subsections 4, 16, and 33 of section 54-03-01.9 of the North Dakota Century Code, relating to legislative redistricting.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsections 4, 16, and 33 of section 54-03-01.9 of the 1993 Supplement to the North Dakota Century Code are amended and reenacted as follows:

4. District 4 consists of all of Mountrail County; those portions of Dunn County; and McKenzie County; ~~and Mercer County~~ within the Fort Berthold reservation; that part of McLean County west of a line commencing at the intersection of the McLean County line and the east side of township 147-85, thence north to the northeast corner of Saint Mary township, thence east to the southeast corner of McGinnis township, thence north to the northeast corner of McGinnis township, thence west to the southwest corner of Douglas township, thence north to the county line; and Anna, Berthold, Burt, Cameron, Carpio, Des Lacs, Evergreen, Foxholm, Hiddenwood, Hilton, Kirkelie, Linton, Lund, Mandan, Mayland, Orlien, Passport, Ree, Rice Lake, Rolling Green, Ryder, Saint Mary, Shealey, Spring Lake, Tolgen, Torning, and Vang townships in Ward County.
16. District 16 consists of all of Walsh County except those portions contained in District 23; and Crystal, Drayton, Elora, ~~Gardar~~ Lincoln, Midland, and Saint Thomas townships in Pembina County.
33. District 33 consists of all of Oliver County; ~~all of and Mercer County except that portion within the Fort Berthold reservation;~~ and that part of Dunn County east and south of a line commencing at the southwest corner of section 19 of township 141-92, thence north to the northwest corner of township 144-92, thence east to the southwest corner of section 34 of township 145-92, thence north to the boundary of the Fort Berthold reservation, thence east following the Fort Berthold reservation boundary to the county line.

Approved April 4, 1995

Filed April 4, 1995

**CHAPTER 494****HOUSE BILL NO. 1435**

(Representatives Kretschmar, Dorso, Martin, Oban)  
(Senators G. Nelson, Wogsland)

**LEGISLATIVE ASSEMBLY RECONVENED SESSIONS**

AN ACT to create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to the authority of the legislative council; and to amend and reenact sections 54-03-02 and 54-03-02.1 of the North Dakota Century Code, relating to reconvened sessions of the legislative assembly.

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

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

**54-03-02. When legislative assembly meets.**

1. 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 the time provided in subsection 2.
2. The legislative assembly shall reconvene at twelve noon on the first Tuesday after the third day in January of the ~~next~~ year ~~or until~~ following the organizational session as provided in subsection 1 or at twelve noon on a date selected by the legislative council but not earlier than January second nor later than January eleventh of the year following the organizational session and, following the close of business of the regular session, shall adjourn subject to subsection 3.
3. Notwithstanding a motion to adjourn sine die, the legislative assembly shall reconvene as determined by the legislative council. The number of natural days used may not exceed the number of natural days available under the constitution which have not been previously used by that legislative assembly in regular session under subsection 2.

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

**54-03-02.1. Definitions.** For the purposes of this chapter and chapter 54-03.1; ~~the following terms have the following meanings:~~

1. "Organizational session" 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" means the legislative session commencing in January of the odd-numbered years and includes any reconvened legislative session, as provided in section 54-03-02.

SECTION 3. A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

Authority to determine if legislative assembly meets. The council may issue a call for the legislative assembly to convene after it has adjourned under subsection 2 of section 54-03-02. The length of a legislative session called under this section may not exceed the number of natural days available under the constitution which have not been used by that legislative assembly. The council may exercise this authority, and the legislative assembly shall meet, regardless of whether the motion to close the regular session of the legislative assembly was to recess to a time certain, adjourn to a time certain, or adjourn sine die.

Filed April 7, 1995

NOTE: The Governor's veto of House Bill No. 1435 was not sustained. For the text of the Governor's veto message see chapter 636.



**CHAPTER 495****HOUSE BILL NO. 1203**

(Representatives Carlisle, DeWitz, Dobrinski, Froseth, Sitz)

**CENTURY CODE RETURN AFTER LEGISLATIVE  
SERVICE**

AN ACT to amend and reenact section 54-03-23 of the North Dakota Century Code, relating to return of legislators' copies of the North Dakota Century Code after termination of service.

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

**SECTION 1. AMENDMENT.** Section 54-03-23 of the North Dakota Century Code is amended and reenacted as follows:

**54-03-23. Century 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 Upon the election of a member of the legislative assembly, the secretary of state shall request of that member whether that member wants to receive a set of the code under this section. The secretary of state shall deliver a set of the code to each member who elects to receive a copy of the code. A legislator who elects to receive a set of the code 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 that the legislator may elect to retain the set of the code or to return the set at the expense of the secretary of state. If the legislator elects to retain the set, the secretary of state shall inform the legislator how to obtain a subscription to maintain the legislator's code.

Approved March 14, 1995

Filed March 14, 1995

## CHAPTER 496

### SENATE BILL NO. 2167 (Government and Veterans Affairs Committee) (At the request of the Secretary of State)

## LOBBYING REGULATIONS

AN ACT to amend and reenact subsection 2 of section 54-05.1-02, sections 54-05.1-03, and 54-05.1-07 of the North Dakota Century Code, relating to legislative lobbying; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Subsection 2 of section 54-05.1-02 of the North Dakota Century Code is amended and reenacted as follows:

2. This chapter does not apply to any person who is:
  - a. A legislator.
  - b. A private citizen appearing on his own behalf.
  - c. An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and whether or not compensated, who is acting in ~~the employee's~~ that person's official capacity.
  - d. Invited by the chairman of the legislative council ~~or by the chairman of~~, an interim committee of the legislative council, or a standing committee of the legislative assembly to appear before the council ~~or~~, interim committee, or standing committee for the purpose of providing information.
  - e. An individual who appears before a legislative committee for the sole purpose of presenting testimony on behalf of a trade or professional organization or a business or industry if the individual is introduced to the committee by the registered lobbyist for the trade or professional organization or the business or industry.

**SECTION 2. AMENDMENT.** Section 54-05.1-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-05.1-03. Registration as a lobbyist - Fee - Filing of information - Public inspection - Certificate of registration.**

1. Any person who shall engage himself or be engaged by any other person either on a part-time or on a full-time basis for any of the activities listed in section 54-05.1-02, shall, before doing anything in furtherance of such purposes, register with the secretary of state and receive a certificate of registration and a distinctive lobbyist identification badge that must be prominently worn by the lobbyist when engaged in any of the activities listed in section 54-05.1-02 while on the capitol grounds. In lieu of wearing the official badge provided by the secretary of state, a lobbyist

may wear a reasonable reproduction of the official badge that contains the name of the lobbyist and any of the following: the word lobbyist, the registration number of the lobbyist, or the organization name of the lobbyist in characters no smaller than one-quarter inch [6.35 millimeters]. The registrant shall state in writing ~~his~~ the registrant's full name and business address, the name and address of the person or persons upon whose behalf ~~he~~ the registrant appears, all persons, corporations, limited liability companies, associations, groups, or organizations in whose interest ~~he~~ the registrant appears or works, the duration of such employment or appearances, and by whom ~~he~~ the registrant is paid or is to be paid. The registration period commences on July first and expires on December thirty-first ~~June thirtieth~~ of each the following calendar year unless an earlier expiration date is requested by the registrant. Lobbyists required to be registered shall file with the secretary of state, ~~within ten days~~ prior to the issuance of a certificate of registration, a written authorization to act as lobbyist. Such authorization must be signed by the person or official of the corporation, limited liability company, association, group, or organization employing such lobbyist and may be filed by facsimile transmission. The secretary of state shall charge a fee of twenty dollars for registering each lobbyist and the first person or entity represented by the lobbyist and an additional fee of five dollars for each subsequent person or entity represented by the lobbyist.

2. Each person so registering to act as a lobbyist shall, on or before ~~December thirty-first in each year registered~~ August first following the expiration of the registration period, file with the secretary of state a detailed report. The report must include a statement as to each expenditure, if any, of twenty-five dollars or more expended on any single occasion during the legislative session or the interim, as the case may be, on any individual in carrying out ~~his~~ the lobbyist's work or include a statement that no reportable expenditures were made during the reporting period. No state official or agency may require reporting of lobbyist expenditures other than is required under this subsection. The secretary of state shall provide a prescribed form for reporting pursuant to this chapter.
3. All information required to be filed under the provisions of this section with the secretary of state and that previously filed, must be compiled by the secretary of state within forty days after the close of the period for which such information is filed, and such files must be open and accessible for public inspection during the normal working hours.

**SECTION 3. AMENDMENT.** Section 54-05.1-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-05.1-07. Penalty.** Any person who violates any provisions of this chapter is guilty of a class B misdemeanor except that a violation of section 54-05.1-02 or 54-05.1-03 is an infraction.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 7, 1995

Filed March 7, 1995

## CHAPTER 497

## HOUSE BILL NO. 1055

(Legislative Council)

(Interim Legislative Audit and Fiscal Review Committee)

(Representatives Dorso, Howard)

## STATE AGENCY BANK CLEARING ACCOUNTS

AN ACT to amend and reenact section 54-06-08.1 of the North Dakota Century Code, relating to accounts maintained by state agencies at banks other than the Bank of North Dakota.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-08.1 of the North Dakota Century Code is amended and reenacted as follows:

54-06-08.1. ~~Cash~~ Clearing accounts and cash balances maintained by state agencies - ~~Petty cash funds~~ - Bank accounts. All departments, institutions, or agencies of the state may maintain, subject to approval of the state auditor and the state treasurer, ~~maintain such reasonable minimum balance as may be necessary in the Bank of North Dakota, or, if the state entity is located outside Bismarck, in another state or federally chartered financial institution, an account for clearing or cashing of checks and making change. Such departments are hereby authorized, subject to approval of the state auditor and the state treasurer, to maintain minimum petty cash funds and may establish bank accounts in the Bank of North Dakota. It is not the intent hereof to deny to a institution or agency located outside of Bismarck the right to establish bank accounts in other state or federally chartered banks. To accommodate peak processing periods, the balance in an account at a financial institution other than the Bank of North Dakota may exceed the maximum amount of federal insurance coverage available if the excess in the account is secured by another form of security or security deposit; however, the balance may exceed the maximum amount of federal insurance coverage available only for the time it takes to clear the checks. Any check written on the account may be used only to transfer funds to the Bank of North Dakota or the state treasurer. A financial institution shall report to the state auditor in writing within thirty days after opening or closing an account for a state entity under this section. Subject to the approval of the state auditor, a state entity may maintain a cash balance reasonable for the conduct of business at the location of the entity.~~

Approved March 28, 1995

Filed March 28, 1995

**CHAPTER 498****HOUSE BILL NO. 1120**

(Government and Veterans Affairs Committee)  
(At the request of the Secretary of State)

**CREDIT CARD PAYMENTS TO STATE AGENCIES**

AN ACT to create and enact a new section to chapter 54-06 of the North Dakota Century Code, relating to payments to state agencies, boards, or commissions, the judicial branch, and political subdivisions by credit card.

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

**SECTION 1.** A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

**Payment by credit card.** A state agency, board, or commission, the judicial branch, or any political subdivision may accept payment by credit card of any fee, interest, penalty, tax, or other payment that is due or collectible by the agency, board, or commission. To assess and account for the credit card interchange to the respective state agency, board, or commission, the Bank of North Dakota is the processing depository for credit card transactions of state agencies, boards, or commissions. The judicial branch may accept payment by credit card for any fees, costs, or other assessments required or imposed under state law or court rule.

Approved March 17, 1995  
Filed March 17, 1995

## CHAPTER 499

### SENATE BILL NO. 2095

(Senators Nalewaja, St. Aubyn, Robinson, Grindberg)  
(Representatives Kelsch, Poolman)

## STATE EMPLOYEE LEAVE SHARING

AN ACT to amend and reenact subsections 1, 3, and 4 of section 54-06-14.1 and subsections 1 and 3 of section 54-06-14.2 of the North Dakota Century Code, relating to the state annual leave and sick leave sharing programs.

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

**SECTION 1. AMENDMENT.** Subsections 1, 3, and 4 of section 54-06-14.1 of the 1993 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. As used in this section:
  - a. "Household members" means those persons who reside in the same home, who have reciprocal duties to and do provide financial support for one another. This term includes foster children and legal wards even if they do not live in the household. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune.
  - b. "Relative of the employee" is limited to the spouse, child, stepchild, grandchild, grandparent, stepparent, or parent of an employee.
  - c. "Severe" or "extraordinary" means serious, extreme, or life threatening. These terms do not include conditions associated with normal pregnancy.
  - d. "State employee" means a permanent employee with over six months continuous service with the state. It does not include employees in probationary status or employees on temporary or other limited term appointments.
3. A state employee is eligible to receive shared leave pursuant to the following conditions:
  - a. The chief administrative officer of the employee determines that the employee meets the criteria described in this section.
  - b. The employee has abided by state policies regarding the use of sick leave.
  - c. The employee's use of shared leave, including both annual and sick leave, does not exceed four months in any twelve-month period.
4. A state employee may donate annual leave to another state employee only pursuant to the following conditions:

- a. The receiving employee has exhausted, or will exhaust, all annual leave, sick leave, and compensatory time off due to an illness, injury, impairment, or physical or mental condition, that is of an extraordinary or severe nature, and involves the employee, a relative of the employee, or a household member of the employee;
- b. The condition has caused, or is likely to cause, the receiving employee to go on leave without pay or terminate employment; and
- c. The donating employee donates leave in full-hour increments and retains a leave balance of at least ~~eighty~~ forty hours.

**SECTION 2. AMENDMENT.** Subsections 1 and 3 of section 54-06-14.2 of the 1993 Supplement to the North Dakota Century Code are amended and reenacted as follows:

1. As used in this section:
  - a. "Severe" or "extraordinary" means serious, extreme, or life threatening. These terms do not include conditions associated with normal pregnancy.
  - b. "State employee" means a permanent employee with over six months continuous service with the state. It does not include employees in probationary status or employees on temporary or other limited term appointments.
3. A state employee may be eligible to receive shared leave pursuant to the following conditions:
  - a. The chief administrative officer of the employee determines that the employee meets the criteria described in this section.
  - b. The employee has abided by state policies regarding the use of sick leave.
  - c. The employee's use of shared leave, including both sick and annual leave, does not exceed four months in any twelve-month period.

Approved March 15, 1995  
Filed March 15, 1995

**CHAPTER 500****SENATE BILL NO. 2511**

(Senator Heinrich)

**PUBLIC EMPLOYEE PERSONNEL FILE ACCESS  
NOTICE**

AN ACT to amend and reenact section 54-06-21 of the North Dakota Century Code, relating to notice of access to public employee personnel files.

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

**SECTION 1. AMENDMENT.** Section 54-06-21 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-06-21. Public employee personnel records - Administration - Access.** The official personnel file on each employee is the file maintained under the supervision of the agency head or the agency head's designated representative.

1. No documents that address an employee's character or performance may be placed in the file unless the employee has had the opportunity to read the material. The employee must acknowledge that the employee has read the material by signing the actual copy to be filed or an attachment to the actual copy to be filed, with the understanding that the signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign the copy to be filed, the agency head or the agency head's designated representative shall indicate on the copy that the employee was shown the material, was requested to sign the material to verify that the material had been read, and that the employee refused to sign the copy to be filed. In the presence of the employee and a witness, the agency head or the agency head's designated representative shall sign and date a statement verifying the refusal of the employee to sign the copy to be filed. The material must then be placed in the file.
2. The employee has the right to answer any material filed, and any answer must be attached to the file copy. The employee's answer to material filed may not be used as the basis for any subsequent adverse personnel action. If any material is found to be without merit or unfounded through an established grievance procedure, it must be immediately removed from the file and may not be used in any subsequent actions or proceedings against the employee.
3. The employee or the employee's designated representative must be permitted to examine the employee's official personnel file by appointment during normal business hours.
4. No anonymous letters or materials may be placed in the employee's file.
5. The employee must be permitted to reproduce at the employee's expense any material in the employee's file.



6. An employee may file a grievance regarding nonevaluation material placed in the employee's personnel file. A grievance is limited to an internal agency grievance unless such material is merged into a disciplinary proceeding.
7. This section does not prohibit administrators from maintaining written notes or records of an employee's performance separate from the personnel file for the purpose of preparing evaluations or possible disciplinary action.
8. Administrators are encouraged to place in the employee's file information of a positive nature, including any such material received from outside competent and responsible sources, indicating special competencies, achievements, performances, or contributions of a professional or civic nature.

★ Except when the employing agency inserts only salary, insurance, medical, tax, workers' compensation, pretax benefits, or deferred compensation information or employment forms, a record of access must be maintained by the employing agency and must be provided to the employee when the employee examines the employee's file. As used in this section, the term "public employee" means any person employed by the state and does not include persons employed by any political subdivision of the state.

Approved March 27, 1995

Filed March 28, 1995

## CHAPTER 501

### HOUSE BILL NO. 1489

(Representatives Stenehjelm, Rydell, Gorder)  
(Senators Lips, St. Aubyn, Tallackson)

## STATE EMPLOYEES COMPENSATION COMMISSION ELECTIONS

AN ACT to create and enact five new subsections to section 54-06-25 of the North Dakota Century Code, relating to the election of members, posting of election requirements, and eligibility of candidates for the state employees compensation commission; to amend and reenact subsection 2 of section 54-06-25 of the North Dakota Century Code, relating to eligibility to vote and eligibility of candidates for election to the state employees compensation commission; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Five new subsections to section 54-06-25 of the North Dakota Century Code are created and enacted as follows:

Each member of the classified service may be a candidate for election to the state employees compensation commission. A member of the nonclassified service may be a candidate for election to the commission if the employee occupies a regularly funded and approved position. In order to vote for a candidate in the election to fill a vacancy on the commission, an employee must be a member of the classified service or must occupy a regularly funded and approved position. Student and temporary employees, elected state officials, and appointees of the governor are not eligible to serve on the commission, participate as a candidate for election to the commission, or vote for members of the commission.

The commissioner of labor shall ensure that a notice of an opening on the commission and the election is provided to an officer at each agency and institution. The officer at each agency and institution shall post the notice in a conspicuous place. The notice must include a statement of voter and candidate eligibility, the candidate nomination requirements, the date of the election, and where to obtain the nomination petitions for filing.

In order to be placed on the commission ballot, an employee shall contact the commissioner of labor for a petition form. The petition form must be returned to the commissioner of labor no more than twenty calendar days after the publishing date of the notice by the commissioner of labor with at least one hundred signatures of eligible state employees. Petition forms that are not complete, or are returned after the required date, must be declared void.

The ballot must be prepared by the commissioner of labor and distributed to each agency and institution payroll officer. An officer of each agency and institution shall provide mailing labels for all qualified employees to the commissioner of labor upon the commissioner's

request. A ballot for the election must be distributed with each employee's payroll check on the employee's regularly scheduled payday.

Employees of the commissioner of labor shall count the ballots following the final day that the ballots must be returned. Each candidate may have one overseer present at the ballot counting who may examine each ballot as to its sufficiency after the ballot has been counted. A candidate may act as that candidate's overseer. If a candidate wishes to designate a representative to act as that candidate's overseer, the candidate must provide a notarized authorization to the election committee at the counting of ballots. An overseer may act on behalf of more than one candidate; however, the overseer must show required authorization from each candidate represented. The overseer may question the decision of the ballot counters regarding a ballot immediately after the counting of the ballot. If questioned, the comments of the overseer must be heard. The commissioner of labor or the commissioner's representative shall decide if the complaint is valid and whether the ballot will be accepted. The decision of the commissioner or the commissioner's representative is final and must be given in writing. Once all ballots have been counted and all questions raised by the overseers have been decided by the commissioner or the commissioner's representative, the election is closed and results must be declared final. The commissioner of labor shall notify all candidates of the election results within ten working days of the election.

**SECTION 2. AMENDMENT.** Subsection 2 of section 54-06-25 of the North Dakota Century Code is amended and reenacted as follows:

2. The governor or the governor's designee is a member of the commission and serves as chairman. Four members of the legislative assembly appointed by the chairman of the legislative council are members of the commission. Four state employees; elected at large by a ballot of all state employees; are members of the commission, three of whom must be members of the classified service of the state and one of whom must be a member of the nonclassified service of the state. The commissioner of labor shall conduct the election for the employee representatives. All commission members serve for a term of two years and may be reappointed or reelected for additional terms of office. The state employee members' terms begin on July first of the year they are elected. The terms of office of members who are members of the legislative assembly and the governor's designee begin on July first of each odd-numbered year. Of the initial state employees who are elected to the commission, one of the members of the classified service and the member of the nonclassified service must be elected for a one-year term and the other two elected state employees must be elected for a two-year term, and before the conclusion of each subsequent term, an election must be held to replace the two members whose terms will end in that year. No more than one employee from the same institution or agency may serve on the commission at the same time. If two or more employees from the same institution or agency appear on the ballot at the same time, the employee with the highest vote total is elected to the position. If a member of the commission moves to another agency where another current member of the commission is employed, then the moving member must resign. Vacancies on the commission must be filled by the person who received the next highest vote total in the previous election.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 11, 1995

Filed April 12, 1995

## CHAPTER 502

## SENATE BILL NO. 2041

(Legislative Council)  
(Interim Budget Committee on Youth Services)  
(Senator Robinson)  
(Representatives Rydell, Boucher)

CHILDREN'S SERVICES COORDINATING COMMITTEE  
DUTIES

AN ACT to create and enact a new subsection to section 54-07-01 of the North Dakota Century Code, relating to the duty of the governor to report on the status of children and families in the state; and to amend and reenact sections 54-56-03 and 54-56-04 of the North Dakota Century Code, relating to the duties and powers of the children's services coordinating committee.

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

SECTION 1. A new subsection to section 54-07-01 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

Shall produce and deliver to the legislative assembly by December tenth of each even-numbered year a report on the status of children and families and proposals for addressing the needs of children and families.

SECTION 2. AMENDMENT. Section 54-56-03 of the North Dakota Century Code is amended and reenacted as follows:

## 54-56-03. Functions.

1. The committee shall ~~plan~~:
  - a. Plan for and coordinate delivery of services to children and adolescents who are abused, neglected, emotionally disturbed, mentally ill, medically disabled, runaways, homeless, deprived, school dropouts, school-age parents, chemical or alcohol abusers, unruly, or delinquent. ~~The committee shall foster~~
  - b. Foster preventive strategies and early intervention to strengthen families in their capacity to parent children.
2. The committee may coordinate, sponsor, or oversee interagency or intergovernmental projects and programs for children, or projects and programs that require the participation of both governmental and private entities.

No funds, grants, gifts, or services may be used for the purposes of direct provision of contraception services, abortion, or abortion referrals to minors.

SECTION 3. AMENDMENT. Section 54-56-04 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-56-04. Charter public corporations - Duties.** The children's services coordinating committee may charter public corporations or designate organizations to serve as regional and tribal children's services coordinating committees to implement programs for the classes of children and programs described in section 54-56-03. The committee shall prescribe conditions for the creation, continuance, and duration of those corporations or designations. Each corporation must possess all powers and perform all the duties usual to corporations for public purposes or conferred upon it by law. Under its name, it may sue and be sued; enter into contracts; receive and expend moneys; employ personnel; and convey property that comes into its possession by will or otherwise. The employees of those corporations are not liable for acts performed within the scope of their employment, as defined in section 26.1-21-10.1. After approval by the children's services coordinating committee, a corporate charter becomes effective upon filing with the secretary of state.

Approved March 21, 1995

Filed March 23, 1995

**CHAPTER 503****HOUSE BILL NO. 1129**

(Agriculture Committee)

(At the request of the Office of Management and Budget)

**CENTENNIAL TREES PROGRAM ADMINISTERED BY  
STATE FORESTER**

AN ACT to amend and reenact section 1 of chapter 573 of the 1991 Session Laws, relating to the centennial trees program and administration of the program by the state forester; and to provide for legislative intent.

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

**SECTION 1. AMENDMENT.** Section 1 of chapter 573 of the 1991 Session Laws is amended and reenacted as follows:

**SECTION 1. Centennial trees commission program.** There is hereby created the centennial trees commission which consists of the lieutenant governor and six additional members appointed by the governor for two year terms. The terms of three members expire on June thirtieth of each year or when successors are duly appointed and qualified. Vacancies must be filled by appointment of the governor.

**Duties of commission.** To work to achieve the goal of planting one hundred million trees during the decade of the 1990's; the commission may:

1. Expend funds within the limits of legislative appropriations; together with the interest therefrom; which are received from governmental and private entities; or granted for the centennial trees program;
2. Make grants to further the purpose of the program;
3. Select and appoint personnel; establish their salaries; and provide for their expenses; to carry out the policies and directives of the commission;
4. Create advisory committees for special purposes and reimburse the members for travel expenses in the same manner as allowed for state employees; and
5. Cooperate with federal, state, and local agencies and private organizations.

The centennial trees program is created for the public purpose of fostering the goal of planting one hundred million trees in North Dakota during the decade of the 1990s.

Centennial trees program trust fund. A special fund known as the centennial trees program trust fund is established in the state treasury. Income earned on moneys in the fund must be credited to the fund. The state forester shall deposit all funds received for the program from governmental and private sources in the trust fund. Moneys in the fund may be spent directly or by grants and contracts by the centennial trees commission state forester within the limits of legislative

appropriations for defraying the costs associated with execution of the centennial trees program.

Authority for local governments to participate. Any political subdivision of the state may provide financial aid or supportive services to the centennial trees program.

~~Commission to adopt rules. The centennial trees commission may adopt rules to implement the provisions of this chapter.~~

~~Biennial report to the legislative assembly. The centennial trees commission shall present a report each biennium to the legislative assembly which must include information on the activities and the revenues and expenses of the commission.~~

**SECTION 2. Legislative intent.** It is the intent of the legislative assembly that the governor appoint a seven-member advisory committee to work with the state forester to promote the centennial trees program.

Approved April 5, 1995

Filed April 5, 1995



## CHAPTER 504

## HOUSE BILL NO. 1439

(Representatives Carlson, Kelsch, Clayburgh)  
(Senators Nalewaja, W. Stenehjem, Traynor)

## ASSISTANT ATTORNEYS GENERAL EMPLOYED BY AGENCIES

AN ACT to amend and reenact sections 54-12-08 and 65-02-06 of the North Dakota Century Code, relating to assistant attorneys general employed by agencies.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>239</sup> SECTION 1. AMENDMENT. Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

54-12-08. Assistant and special assistant attorneys general - Appointment - Revocation - Compensation. ~~The attorney general also, when he deems it necessary, may after~~ After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general; and no to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel; in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. ~~The appointment must be in writing.~~ The workers compensation bureau, the department of transportation, the state tax commissioner, the public service commission, the commissioner of insurance, the board of higher education, and the securities commissioner may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. Good cause includes an inadequate level of experience, competence, or ethical standards. The powers conferred upon such special assistant attorneys general shall be are the same as are exercised by the regular assistant attorneys general, ~~when such~~ unless the powers are ~~not~~ limited specifically by the terms of such appointment. ~~Any such~~ An appointment is revocable at the pleasure of the attorney general. ~~It~~ The appointment may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, ~~it~~ the compensation must be paid out of the funds appropriated therefor. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required

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<sup>239</sup> Section 54-12-08 was also amended by section 2 of House Bill No. 1058, chapter 243.

payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health and consolidated laboratories, and the state hospital.

<sup>240</sup> **SECTION 2. AMENDMENT.** Section 65-02-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**65-02-06. Expenditures by bureau from fund - Employment of full-time special assistant ~~attorney~~ attorneys general authorized.** With prior approval of the emergency commission, the bureau may make necessary expenditures to implement reinsurance. The bureau may make necessary expenditures to obtain statistical and other information required for the proper enforcement of this title. The salaries and compensation of the director of the bureau and of all employees of the bureau, and all other authorized expenses thereof, including the premium on the bond required of the state treasurer under section 65-04-30, must be paid out of the fund. The bureau may employ ~~as its full-time attorney~~ a duly appointed special assistant ~~attorney~~ attorneys general and pay from the fund the entire salary of ~~the~~ each special assistant attorney general.

Approved April 11, 1995  
Filed April 12, 1995

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<sup>240</sup> Section 65-02-06 was also amended by section 1 of House Bill No. 1226, chapter 613.

## CHAPTER 505

### SENATE BILL NO. 2096

(Senators Nalewaja, Grindberg, Krebsbach, Redlin, Robinson)  
(Representative Kelsch)

## BLOCK HOUSE PROGRAM

AN ACT to provide for a block house program.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. Block house defined.** As used in this Act, "block house" means a house, designated by a sign bearing a recognized symbol, occupied by a responsible adult, where a child may seek help when the child faces an emergency such as being bullied, followed, threatened, or hurt while walking or playing in the neighborhood.

**SECTION 2. Block house program.** The attorney general, through the state bureau of criminal investigation, and in cooperation with local law enforcement agencies, shall:

1. Develop guidelines for the establishment and operation of block house programs.
2. Adopt standard symbols or signs to be used statewide by block house programs. The symbol or sign must be one that is not easily reproduced and is easily seen from a distance. The symbols or signs must be numbered.
3. Develop or adopt a model application form for designation of a home as a block house.
4. Make information available to nonprofit organizations, school districts, business entities, and local law enforcement agencies concerning the program.
5. Publicize the program in as many ways as is reasonably practical.
6. Assist in conducting background checks on a person who applies to have a home designated as a block house in a block house program.

Approved March 27, 1995

Filed March 28, 1995

**CHAPTER 506****HOUSE BILL NO. 1141**

(Government and Veterans Affairs Committee)  
(At the request of the Central Personnel Division)

**SEVERANCE PAY FOR STATE EMPLOYEES**

AN ACT to amend and reenact section 54-14-04.3 of the North Dakota Century Code, relating to state employee severance pay; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-14-04.3 of the North Dakota Century Code is amended and reenacted as follows:

**54-14-04.3. 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~~ Except as provided in subsection 3, no state employee or officer is 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 ~~may does 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.
3. A state agency may, within the limits of its legislative appropriations, provide financial incentives to encourage an employee to retire or resign if the resulting departure will increase agency efficiencies or reduce expenses.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 24, 1995  
Filed March 27, 1995

## CHAPTER 507

### SENATE BILL NO. 2032

(Legislative Council)

(Interim Budget Section)

(Senators Tallackson, G. Nelson, Mathern)

(Representatives Hausauer, Wald, Kaldor)

## EMERGENCY COMMISSION POWERS AND DUTIES

AN ACT to create and enact section 54-16-00.1 of the North Dakota Century Code, relating to definitions; and to amend and reenact sections 54-16-01, 54-16-02, 54-16-03, 54-16-04, 54-16-04.1, 54-16-04.2, 54-16-05, 54-16-08, 54-16-09, 54-16-10, 54-16-11, 54-16-11.1, and 54-16-12 of the North Dakota Century Code, relating to the powers and duties of the emergency commission.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 54-16-00.1 of the North Dakota Century Code is created and enacted as follows:

54-16-00.1. Definitions. As used in this chapter, unless the context otherwise requires:

1. "Emergency" means calamity or unforeseen happening subsequent to the time the appropriation was made and which was clearly not within the contemplation of the legislative assembly and the governor.
2. "State officer" means an elected or appointed officer, board, commission, director, or employee of the state having the authority to transfer or expend any money appropriated by the legislative assembly.

<sup>241</sup> SECTION 2. AMENDMENT. Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-01. Emergency commission - Members - Organization - Quorum - Meetings - Duties.** The emergency commission ~~shall consist~~ consists of the governor, the commissioner of agriculture, and the secretary of state; ~~except when the membership is expanded as herein provided. Whenever, during the biennium, an allocation or allocations out of~~ If a request is to be considered for a transfer of spending authority from the state contingency fund contingencies appropriation, a transfer of money or spending authority between funds ~~and~~ or line items, or ~~an~~ approval to spend federal funds in excess of ten thousand dollars ~~is to be made to any institution or department of government, the chairman~~ chairmen of the senate appropriations committee ~~and the chairman of the~~ and house of representatives appropriations committee ~~must be~~ committees are members of the commission. ~~The aggregate total of transfers from the state contingency fund, within the limits of legislative appropriations, can exceed five hundred thousand dollars only to the extent that requests for transfers from the state contingency fund have been~~

<sup>241</sup> Section 54-16-01 was also amended by section 1 of Senate Bill No. 2288, chapter 508.

approved by the budget section of the legislative council. If the chairman of either an appropriations committee should die or resign ceases to be a member of the legislative assembly, the vice chairman of that committee shall become a member of succeeds to that position on the commission. A An appropriations committee vice chairman may also serve in the place of the appropriations committee chairman as a member of the commission at the request of the committee chairman, if the committee chairman is unable to attend a particular commission meeting. Two members of the commission constitute a quorum, except when the membership is expanded, in which case four members constitute a quorum. The governor must be is the chairman of the commission, and the secretary of state must be is the secretary of the commission. The commission shall meet upon at the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.

SECTION 3. AMENDMENT. Section 54-16-02 of the North Dakota Century Code is amended and reenacted as follows:

54-16-02. Proceedings entered in record book - Orders not valid unless entered in minutes. The proceedings of the emergency commission must be entered in a record book, or a minute book. No order of the commission is are not valid unless so entered in the commission's minutes.

SECTION 4. AMENDMENT. Section 54-16-03 of the North Dakota Century Code is amended and reenacted as follows:

54-16-03. Unlawful to expend more than appropriated - May secure order approval from commission for use of other funds - Deficit void. No A state officer, or board, commissioners, directors, or other officers having the control or management of any public institution of the state, or any state activity or enterprise, or having the responsibility of disbursing or expending any money appropriated by the state, may not expend, or agree or contract to expend in connection therewith, any amount in excess of the sum appropriated therefor for that expenditure, or use and may not expend an amount appropriated for any specific purpose or fund or for any other purpose without first having secured from the emergency commission an order duly made and entered authorizing such use of the fund prior approval in the form of a transfer approval or expenditure authorization as provided in this chapter. The emergency commission shall receive information from the office of management and budget shall provide information to the emergency commission with respect to all emergency requests. Any debt or deficit created shall be absolutely by a state officer in violation of this section is void. The emergency commission may not approve an expenditure of institutional income, other than gifts or grants, in excess of the institutional income appropriated to the institution by the legislative assembly.

<sup>242</sup> SECTION 5. AMENDMENT. Section 54-16-04 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04. May order transfer of moneys between funds - Line item transfers - Order may draw from state treasury. Whenever it is made to appear A state officer may present to the emergency commission by an itemized, verified petition of any board, commission, or officer authorized to expend public funds, and after receiving

<sup>242</sup> Section 54-16-04 was also amended by section 40 of Senate Bill No. 2070, chapter 54, and section 2 of Senate Bill No. 2288, chapter 508.

requesting approval of a transfer of spending authority from the state contingencies appropriation, a transfer of money or spending authority between funds or line items, or expenditure of federal funds. The emergency commission shall request and receive information from the director of the office of management and budget; regarding the petition. If the emergency commission finds that an emergency exists, the emergency commission shall assume that an emergency exists and may order money or spending authority transferred from one fund or line item to another fund or line item belonging to or appropriated from for the same institution or board or the same state enterprise, may order a transfer of spending authority from the state contingencies appropriation, may authorize expenditure of federal funds, or in an extremity may authorize money to be drawn from the state treasury to meet the emergency until such time as the legislative assembly can make an appropriation available therefor. The term "emergency" is limited to calamities or unforeseen happenings subsequent to the time such appropriation was made and which were clearly not within the contemplation of the legislative assembly and the governor. Any transfer of spending authority from the state contingencies appropriation after the aggregate amount transferred from that appropriation during the biennium exceeds five hundred thousand dollars must be previously approved by the budget section of the legislative council. A transfer of moneys or spending authority may not be made which would eliminate or make impossible the accomplishment of a program or objective funded by the legislative assembly unless the transfer has been previously approved by the budget section of the legislative council.

<sup>243</sup> SECTION 6. AMENDMENT. Section 54-16-04.1 of the North Dakota Century Code is amended and reenacted as follows:

54-16-04.1. May authorize acceptance and disbursement of certain moneys federal funds. The emergency commission with the advice and counsel of the executive office of the budget may authorize the state treasurer to receive; between legislative sessions; any moneys for new programs or continuation of existing programs not appropriated by the legislative assembly that which are made available by the any federal government; or any agency thereof; and which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize pass-through federal funds from one state agency to another state agency. The emergency commission may authorize any state agency, department, board, or institution officer to expend such moneys from the date such moneys become available until July first June thirtieth following the next regular legislative session; provided such. The expenditures must be consistent with state law and with the terms of the grant; and provided, further, that the program may not commit the legislative assembly for matching funds for in the future bienniums unless the program has first been approved by the legislative assembly. No department, institution, or agency A state officer may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter.

<sup>244</sup> SECTION 7. AMENDMENT. Section 54-16-04.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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<sup>243</sup> Section 54-16-04.1 was also amended by section 3 of Senate Bill No. 2288, chapter 508.

<sup>244</sup> Section 54-16-04.2 was also amended by section 4 of Senate Bill No. 2288, chapter 508, and section 11 of Senate Bill No. 2015, chapter 37.

**54-16-04.2.** Commission may authorize acceptance and expenditure of moneys ~~between sessions.~~ The emergency commission, upon the advice of the office of management and budget and within the limits of legislative appropriation for approval under this section, may authorize a state agencies, institutions, or departments, between legislative sessions, officer to receive and accept moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state ~~agency, institution, or department~~ officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session.

**SECTION 8. AMENDMENT.** Section 54-16-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-05.** Penalty for expending more than appropriated. Any state ~~official, or member of any state board, or the head of any state institution or state department~~ officer who violates any of the provisions of section 54-16-03 is guilty of a class B misdemeanor.

**SECTION 9. AMENDMENT.** Section 54-16-08 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-08.** ~~State contingency fund contingencies appropriation. There must be maintained in the office of the state treasurer a fund to be known as the state contingency fund, consisting of such moneys as may be appropriated thereto by the legislative assembly. The legislative assembly may appropriate moneys to the office of management and budget shall prepare, and the state auditor shall sign, warrants upon such fund at the direction of the emergency commission for state contingencies as provided in this chapter.~~

**SECTION 10. AMENDMENT.** Section 54-16-09 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-09.** ~~Warrant on contingency fund - Requirements before drawn~~ Transfer of spending authority from state contingencies appropriation. ~~The state~~ If the emergency commission; ~~before directing the office of management and budget to prepare any warrants upon the state contingency fund; shall require the department or institution for whose benefit such warrant is issued to file with the commission and with the office of management and budget a written and itemized statement of the material, services, purposes, or other considerations for which the warrant is required and the necessity therefor orders a transfer of spending authority from the state contingencies appropriation, the amount ordered must be deducted from the state contingencies line item in the appropriation to the office of management and budget and added to the appropriate line item in the appropriation of the state officer who requested the transfer. The emergency commission shall certify that the material, services, or purposes; or other considerations therein named for which the authority was transferred are necessary and proper materials to be paid from such fund, expenditures and, if an appropriation for such that purpose was made by the legislative assembly, that the appropriation for such that purpose is insufficient. The office of management and budget and the emergency commission shall file such statement and the certificate as authority for issuing the warrant therein directed a transfer under this section.~~

**SECTION 11. AMENDMENT.** Section 54-16-10 of the North Dakota Century Code is amended and reenacted as follows:



54-16-10. Departmental emergency funds - Penalty. ~~No moneys~~ Moneys appropriated by the legislative assembly to be used for emergency purposes by any ~~state department, state officer, employee, board, commission, bureau, or institution, including the Bank of North Dakota, mill and elevator association, fire and tornado, and bonding departments, and the workers compensation bureau,~~ may not be expended until such moneys ~~so appropriated, or so much thereof as may be necessary for such appropriation,~~ have been transferred to the subdivision of the regular appropriation in which the emergency exists. ~~No such~~ A transfer of emergency funds; ~~hereinbefore referred to,~~ may not be made until an itemized, verified petition; ~~setting forth the facts by virtue of which such~~ establishing that an emergency exists and the necessity for ~~such expenditure~~ the transfer has been presented to the ~~state emergency commission;~~ by the ~~department, state officer, board, commission, bureau, or institution~~ desiring ~~such~~ the transfer, and has been approved in writing by a majority of ~~such~~ the commission. Any person who violates the ~~provisions of this section is guilty of a class A misdemeanor.~~

SECTION 12. AMENDMENT. Section 54-16-11 of the North Dakota Century Code is amended and reenacted as follows:

54-16-11. ~~Duty of emergency commission~~ Departmental emergency fund consideration. The state emergency commission, ~~upon as soon as possible after presentation of the verified petition provided for in~~ under section 54-16-10, ~~as soon thereafter as possible,~~ shall meet and determine the question of the existence of the emergency and the necessity for the transfer of ~~such~~ emergency funds, and shall promptly approve or reject ~~such applications~~ the petition.

SECTION 13. AMENDMENT. Section 54-16-11.1 of the North Dakota Century Code is amended and reenacted as follows:

54-16-11.1. Emergency commission may increase revenues and appropriation authority for intergovernmental service fund agencies. Upon presentation of the verified petition ~~provided for in~~ under 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 the information services division, central duplicating, surplus property, roughrider industries division of the department of corrections and rehabilitation, and or central microfilm.

SECTION 14. AMENDMENT. Section 54-16-12 of the North Dakota Century Code is amended and reenacted as follows:

54-16-12. ~~Grants to board~~ Board of higher education land acquisition approval. ~~Whenever it is made to appear to the satisfaction of the state emergency commission upon application by the board of higher education that real property is available in close proximity to one of the state institutions of higher education, the~~ The emergency commission may approve the acquisition of ~~such~~ property near one of the state institutions of higher education, and if requested and found necessary may make funds available from the state ~~contingency fund~~ contingencies appropriation to the board of higher education for the purpose of acquiring ~~such~~ the property if the ~~following shall appear~~ emergency commission finds that:

1. The property is needed for expansion in the foreseeable future;
2. The property in all probability will not again be offered for sale at a similar price in the foreseeable future; and

3. The legislative assembly has not previously rejected a similar request, and the time during which ~~such~~ the purchase must be consummated does not permit ~~the~~ obtaining of a legislative appropriation.

~~The provisions of this chapter govern the granting of funds under this section wherever consistent with this section, but a determination of~~ Determination that an existing emergency shall exists is not be a condition precedent to the approval of ~~such a purchase or the approval of a grant of funds from the contingency fund for the purchase of such real property except as is provided in~~ state contingencies appropriation under this section.

Approved March 1, 1995

Filed March 1, 1995

## CHAPTER 508

### SENATE BILL NO. 2288

(Senators Streibel, G. Nelson, Wogsland)  
(Representatives Dalrymple, Dorso, Kaldor)

## EMERGENCY COMMISSION MEMBERSHIP AND AUTHORITY

AN ACT to amend and reenact sections 54-16-01, 54-16-04, 54-16-04.1, and 54-16-04.2 of the North Dakota Century Code, relating to emergency commission membership and authority to authorize line item transfers and expenditures of gifts, grants, and federal funds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>245</sup> SECTION 1. AMENDMENT. Section 54-16-01 of the North Dakota Century Code is amended and reenacted as follows:

54-16-01. Emergency commission - Members - Organization - Quorum - Meetings - Duties. The emergency commission ~~shall consist~~ consists of the governor, the ~~commissioner of agriculture chairman~~ chairman of the legislative council, and the secretary of state, ~~except when the membership is expanded as herein provided. Whenever, during the biennium, an allocation or allocations out of the state contingency fund; a transfer of money between funds and line items; or an approval to spend federal funds in excess of ten thousand dollars is to be made to any institution or department of government; and the chairman chairmen of the senate appropriations committee and the chairman of the and house of representatives appropriations committee must be members of the commission committees. The aggregate total of transfers from the state contingency fund, within the limits of legislative appropriations, can exceed five hundred thousand dollars only to the extent that requests for transfers from the state contingency fund have been approved by the budget section of the legislative council. If the chairman of either an appropriations committee should die or resign ceases to be a member of the legislative assembly, the vice chairman of that committee shall become a member of succeeds to that position on the commission. A An appropriations committee vice chairman may also serve in the place of the appropriations committee chairman as a member of the commission at the request of the appropriate appropriations committee chairman, if the appropriations committee chairman is unable to attend a particular commission meeting. Two Four members of the commission constitute a quorum, except when the membership is expanded, in which case four members constitute a quorum. The governor must be is the chairman of the commission, and the secretary of state must be is the secretary of the commission. The commission shall meet upon at the call of the chairman. The commission shall exercise the powers and perform the duties imposed upon it by law.~~

<sup>245</sup> Section 54-16-01 was also amended by section 2 of Senate Bill No. 2032, chapter 507.

<sup>246</sup> **SECTION 2. AMENDMENT.** Section 54-16-04 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-04. May order transfer of moneys between funds - Line item transfers -** Order may draw from state treasury. Whenever it is made to appear A state officer may present to the emergency commission by an itemized, verified petition of any board, commission, or officer authorized to expend public funds; and after receiving requesting approval of a transfer of spending authority from the state contingencies appropriation, a transfer of money or spending authority between funds or line items, or expenditure of federal funds. The emergency commission shall request and receive information from the director of the office of management and budget; regarding the petition. If the emergency commission finds that an emergency exists, the emergency commission shall assume that an emergency exists and may order money or spending authority transferred from one fund or line item to another fund or line item belonging to or appropriated from for the same institution or board or the same state enterprise, may order a transfer of spending authority from the state contingencies appropriation, may authorize expenditure of federal funds, or in an extremity may authorize money to be drawn from the state treasury to meet the emergency until such time as the legislative assembly can make an appropriation available therefor. The term "emergency" is limited to calamities or unforeseen happenings subsequent to the time such appropriation was made and which were clearly not within the contemplation of the legislative assembly and the governor. The following transfers may not be authorized by the emergency commission without approval by the budget section of the legislative council.

1. A transfer of spending authority from the state contingencies appropriation after the aggregate amount transferred from that appropriation during the biennium exceeds five hundred thousand dollars.
2. A transfer of moneys or spending authority which would eliminate or make impossible the accomplishment of a program or objective funded by the legislative assembly.
3. A transfer exceeding fifty thousand dollars from one fund or line item to another fund or line item, unless the transfer is necessary to comply with a court order or to avoid:
  - a. An imminent threat to the safety of people or property due to a natural disaster or war crisis; or
  - b. An imminent financial loss to the state.

<sup>247</sup> **SECTION 3. AMENDMENT.** Section 54-16-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.1. May authorize acceptance and disbursement of certain moneys federal funds.** The emergency commission with the advice and counsel of the

<sup>246</sup> Section 54-16-04 was also amended by section 5 of Senate Bill No. 2032, chapter 507, and section 40 of Senate Bill No. 2070, chapter 54.

<sup>247</sup> Section 54-16-04.1 was also amended by section 6 of Senate Bill No. 2032, chapter 507.

executive office of the budget may authorize the state treasurer to receive, ~~between legislative sessions, any moneys for new programs or continuation of existing programs~~ not appropriated by the legislative assembly ~~that which~~ are made available by the any federal government, or any agency thereof, and which the legislative assembly has not indicated an intent to reject. The emergency commission may authorize pass-through federal funds from one state agency to another state agency. The emergency commission, with approval of the budget section of the legislative council, may authorize any state ~~agency, department, board, or institution~~ officer to expend ~~such federal~~ moneys from the date such moneys become available until July first June thirtieth following the next regular legislative session; provided such. The expenditures must be consistent with state law and with the terms of the grant; and ~~provided, further, that~~ the program may not commit the legislative assembly for matching funds ~~for in the future bienniums~~ unless the program has first been approved by the legislative assembly. ~~No department, institution, or agency~~ A state officer may not expend funds received from the federal government which have not been specifically appropriated by the legislative assembly except as provided in this chapter. A state officer shall submit an expenditure plan with a request for approval under this section of expenditure of federal funds combined with or as part of a block grant for a new or existing program.

<sup>248</sup> SECTION 4. AMENDMENT. Section 54-16-04.2 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-16-04.2.** Commission may authorize acceptance and expenditure of moneys ~~between sessions.~~ The emergency commission, upon the advice of the office of management and budget, with approval of the budget section of the legislative council, and within the limits of legislative appropriation for approval under this section, may authorize a state ~~agencies, institutions, or departments, between legislative sessions,~~ officer to receive ~~and accept~~ moneys from gifts, grants, donations, or other sources, not otherwise appropriated by the legislative assembly, for new or existing programs if the legislative assembly has not indicated an intent to reject the moneys or the program. The emergency commission may authorize the state ~~agency, institution, or department~~ officer to expend money received under this section from the date the money becomes available until June thirtieth following the next regular legislative session.

Approved April 11, 1995  
Filed April 12, 1995

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<sup>248</sup> Section 54-16-04.2 was also amended by section 7 of Senate Bill No. 2032, chapter 507, and section 11 of Senate Bill No. 2015, chapter 37.

## CHAPTER 509

### HOUSE BILL NO. 1078

(Political Subdivisions Committee)

(At the request of the State Housing Finance Agency)

## HOUSING FINANCE AGENCY PROGRAM AND BONDS

AN ACT to create and enact a new subsection to section 54-17-07.2 and a new section to chapter 54-17 of the North Dakota Century Code, relating to housing finance program definitions and pledges; to amend and reenact subsection 1 of section 54-17-07.3 and section 54-17-07.4, relating to home mortgage finance programs and housing revenue bonds; and to provide for retroactive application.

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

**SECTION 1.** A new subsection to section 54-17-07.2 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

"Single family residential dwelling unit" means any residential real property that:

- a. Is designed for occupancy by one to four individual households;
- b. Is an individual condominium or equity cooperative unit; or
- c. Is an individual nonrental dwelling unit the ownership of which includes rights of facilities in common.

**SECTION 2. AMENDMENT.** Subsection 1 of section 54-17-07.3 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Home mortgage finance program. A program or programs to provide financing or refinancing of loans made by lenders to persons or families of low and moderate income for the purchase or substantial rehabilitation of owner occupied, single family residential dwelling units, which includes mobile homes and manufactured housing.

**SECTION 3. AMENDMENT.** Section 54-17-07.4 of the North Dakota Century Code is amended and reenacted as follows:

**54-17-07.4. Housing revenue bonds.** In order to fund its housing finance programs, the industrial commission is authorized to issue and refund revenue bonds or evidences of debt and indebtedness of the state. The principal of and interest on such bonds are payable only from revenues generated under the applicable housing finance programs. The bonds may not constitute a debt of the state of North Dakota and must contain a statement to that effect on their face. The bonds may be sold at public or private sale, must mature not more than fifty years from their date or dates, and must contain such terms and provisions as the commission shall determine. The commission may capitalize from bond proceeds all expenses incidental to the issuance of the bonds or to the applicable housing finance program, including, without limitation, any reserves for the payment of the bonds. ~~All revenue~~

bonds issued by the commission to fund a housing finance program must be secured separately from revenue bonds issued to fund its other housing finance programs.

SECTION 4. A new section to chapter 54-17 of the North Dakota Century Code is created and enacted as follows:

Pledges. Any pledge made by the industrial commission acting in its capacity as the state housing finance agency is valid and binding from the time the pledge is made. The money and property pledged and received by the industrial commission acting in its capacity as the state housing finance agency, except for general agency money or property, is immediately subject to the lien of the pledge without any physical delivery thereof or further act, and the lien of any pledge is valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the industrial commission acting in its capacity as the state housing finance agency, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created is required to be recorded to constitute constructive notice of the existence of the pledge.

SECTION 5. RETROACTIVE APPLICATION. Section 4 of this Act applies retroactively to all pledges made by the industrial commission acting in its capacity as the state housing finance agency.

Approved March 6, 1995

Filed March 7, 1995

**CHAPTER 510****SENATE BILL NO. 2165**

(Natural Resources Committee)

(At the request of the North Dakota Geological Survey)

**GLOBAL POSITIONING SYSTEM**

AN ACT to create and enact a new subsection to section 54-17.4-02 and a new section to chapter 54-17.4 of the North Dakota Century Code, relating to the responsibilities of the state geologist and collection of fees from operation of the global positioning system; and to provide a continuing appropriation.

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

**SECTION 1.** A new subsection to section 54-17.4-02 of the North Dakota Century Code is created and enacted as follows:

Cooperate with other agencies in maintaining a global positioning system community-base station and make data gathered by the station available to the public.

**SECTION 2.** A new section to chapter 54-17.4 of the North Dakota Century Code is created and enacted as follows:

**State geologist - Collection of global positioning system data - Fee.** All moneys collected for the sale of global positioning system community-base station data must be deposited in the global positioning system community-base station fund. This fund must be maintained as a revolving fund and all moneys transferred into the fund are hereby appropriated and must be used and disbursed solely for the purpose of paying the state geologist's cost of collecting and distributing the data. This fund is not subject to section 54-44.1-11.

Approved March 1, 1995

Filed March 1, 1995



**CHAPTER 511****SENATE BILL NO. 2137**

(Senator Holmberg)

(At the request of the Department of Transportation)

**STATE MILL LAND TRANSFER**

AN ACT to authorize the North Dakota mill and elevator association to convey certain state-owned land to the department of transportation.

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

**SECTION 1.** Conveyance of land by the North Dakota mill and elevator association to the department of transportation authorized.

1. The North Dakota mill and elevator association may convey to the department of transportation land owned by the state under the jurisdiction of the North Dakota mill and elevator association and described as follows:

All that part of the north half of the southwest quarter of section thirty-three, township one hundred fifty-two north, of range fifty west in Grand Forks County, North Dakota, described as follows:

Lot two, block one, State Mill Second Addition to the city of Grand Forks, North Dakota.

2. The department of transportation shall purchase the North Dakota mill and elevator land at appraised value.
3. The conveyance authorized by this Act is not subject to sections 54-01-05.2 and 54-01-05.5.
4. The attorney general shall review and approve as to form and legality all legal documents, papers, and instruments required for the conveyance authorized by this Act.

Approved March 15, 1995

Filed March 15, 1995

## CHAPTER 512

## HOUSE BILL NO. 1423

(Representatives Grosz, Belter, Poolman)  
(Senators Freborg, Grindberg)

## APPOINTMENT OF CERTAIN EXECUTIVE BRANCH OFFICERS

AN ACT to amend and reenact sections 54-23.3-03, 54-44.1-02, 54-44.2-01, 54-44.3-11, and 54-44.5-02 of the North Dakota Century Code, relating to the appointment of the director of the department of corrections and rehabilitation, the executive budget analyst, the director of the information services division, the director of the central personnel division, and the director of the office of intergovernmental assistance.

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

**SECTION 1. AMENDMENT.** Section 54-23.3-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-23.3-03. Director - Appointment - Qualifications - Compensation.** The chief administrative officer of the department is the director of the department of corrections and rehabilitation, who must be appointed by the governor. The position of director is not a classified position and the director shall serve at the pleasure of the governor. The person appointed as director must hold at least a bachelor's degree from an accredited college or university and must have held a management position in correctional or related work for at least five years. The governor shall set the salary of the director ~~will be set by the governor~~ within the limits of legislative appropriations ~~and within the salary range of the classified position as established by the central personnel division for the position.~~

**SECTION 2. AMENDMENT.** Section 54-44.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-02. Office of the budget - Director - Employees - Powers.** The office of the budget is hereby established in the office of management and budget, for the purpose of promoting economy and efficiency in the fiscal management of the state government. The director of the office of management and budget is ex officio director of the budget.

The director of the budget shall appoint a budget analyst who ~~shall~~ must hold a baccalaureate degree from a recognized institution of higher learning and ~~such~~ the appointment must be based upon the qualifications of eligible persons; ~~without reference to partisan politics. Special consideration must be given to persons who hold a degree in law, political science, business administration, or a combination thereof and who are experienced in governmental processes.~~ The position of budget analyst is not a classified position and the budget analyst shall serve at the pleasure of the director of the budget. The budget director shall employ such other professional, technical, and clerical personnel as he may deem the director deems necessary to carry out the duties prescribed in this chapter and shall fix the salary of all employees within the office of the budget and within the limits of the legislative appropriations. All personnel within the office of the budget must be

allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

**SECTION 3. AMENDMENT.** Section 54-44.2-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.2-01. Information services division - Creation.** The information services division is established in the office of management and budget. The director of the office of management and budget shall appoint a director of the information services division. The director of the information services division shall supervise and regulate electronic data processing activities of all executive branch state agencies, institutions, departments, and boards, except the job service North Dakota and the office of the adjutant general. The division shall establish an electronic data processing center which must, unless excepted by the director, be used by all executive branch state agencies, departments, and institutions except the institutions under the control of the board of higher education, the job service North Dakota, and the office of the adjutant general. The division shall provide data processing services to the legislative and judicial branches of government. If the division is unable to fulfill a request for service from the legislative or judicial branch of government, the service may be procured by the legislative or judicial branch within the limits of legislative appropriations.

The director of the information services division must be appointed upon the basis of education, experience, and other qualifications in data processing and administration; ~~without reference to partisan politics, and.~~ The position of director is not a classified position and the director must serve at the pleasure of the director of the office of management and budget. The director of the information services division shall employ such other professional, technical, and clerical personnel as the director determines to be necessary to carry out the duties prescribed in this chapter and shall, within the limits of the legislative appropriation, fix the salaries of all employees within the division. All personnel within the division must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

**SECTION 4. AMENDMENT.** Section 54-44.3-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-11. Central personnel division - Director - Appointment - Removal.** There is ~~hereby~~ created a central personnel division within the office of management and budget under the supervision and control of a director who is responsible for the performance and exercise of the duties, functions, and powers imposed upon the division.

1. The director must be experienced in the field of personnel administration and shall hold considerable knowledge of merit principles, goals, and their methods of operation.
2. The director of the office of management and budget shall appoint the director ~~from among persons certified by the board as eligible for appointment in accordance with rules which the board shall make, promulgate, and from time to time amend.~~ The person appointed may hold no other public office or employment.
3. The position of director is not a classified position and the director shall serve at the pleasure of the director of the office of management and budget may remove the director for cause, but before taking such action;

the director of the office of management and budget shall first give to the director a statement in writing of the intention to effect the director's removal and the reason therefor. Not later than the fifth day after receipt of such statement in writing, the director may appeal in writing to the board for a hearing. Not later than the tenth day after the hearing, the board shall render its decision on the removal of the director, which is final.

**SECTION 5. AMENDMENT.** Section 54-44.5-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.5-02. Office of intergovernmental assistance - Creation.** The office of intergovernmental assistance is hereby established in the office of management and budget; ~~for the purpose of providing to provide~~ technical assistance to local governments, state agencies, and the executive branch in the area of community and rural planning and development, policy research and development, and grant program implementation. The director of the office of management and budget shall appoint a director of the office: ~~The director must be appointed~~ upon the basis of education and experience; ~~and. The position of director is not a classified position and the director~~ shall serve at the pleasure of the director of the office of management and budget. The director of the office may employ such other professional, technical, and clerical persons as may be necessary and may fix their compensation within the limits of legislative appropriation. All personnel within the office must be allowed their actual and necessary travel expenses at the same rate as for other employees of the state.

Approved April 11, 1995

Filed April 12, 1995

**CHAPTER 513****HOUSE BILL NO. 1109**

(Representative Wentz)

(Senator Nalewaja)

(At the request of the Department of Corrections and  
Rehabilitation)**CRIME VICTIMS COMPENSATION NAME CHANGE**

AN ACT to change crime victims reparations to crime victims compensation; and to amend and reenact section 54-23.4-05 of the North Dakota Century Code, relating to the restitution and gift fund.

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

**SECTION 1. AMENDMENT.** Section 54-23.4-05 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-23.4-05. ~~Gifts~~ Restitution funds, gifts, grants, and bequests - ~~Gift~~ Restitution and gift fund.** The division may accept on behalf of the state all restitution funds, gifts, grants, or bequests of property tendered to the state for any purpose pertaining to the activities of the division in implementing this chapter. The crime victims restitution and gift fund is established as a special fund in the state treasury. All restitution funds, gifts, grants, and bequests of property or money, and any interest occurring thereon, must be placed in the crime victims restitution and gift fund. Subject to legislative appropriation, the fund may be used and disbursed by the division in accordance with the terms of the payment or donation or, if there are no terms, for costs and expenses incurred by the division in the implementation of this chapter.

**SECTION 2. STATUTORY REFERENCES RELATING TO CRIME VICTIMS REPARATIONS.** The legislative council may insert appropriate references in chapter 54-23.4 to change the phrase "crime victims reparations" to "crime victims compensation". References inserted may be adjusted to suit the context and grammar of the sections and must be inserted so as to harmonize existing law with regard to changing crime victims reparations to crime victims compensation.

**SECTION 3. MEASURES ENACTED BY THE FIFTY-FOURTH LEGISLATIVE ASSEMBLY RELATING TO CRIME VICTIMS COMPENSATION.** The legislative council may insert appropriate references in any measure enacted by the fifty-fourth legislative assembly which refers to the phrase "crime victims reparations" consistent with usages contained in this Act. References inserted may be adjusted to suit context and grammar of the sections and must be inserted so as to harmonize the legislative measure with regard to the name change provided by this Act.

Approved March 7, 1995

Filed March 8, 1995

**CHAPTER 514****SENATE BILL NO. 2199**

(Finance and Taxation Committee)

(At the request of the State Treasurer)

**STATE TREASURER'S UNPAID CHECKS**

AN ACT to amend and reenact section 54-27-15.1 of the North Dakota Century Code, relating to unpaid state treasurer's checks.

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

**SECTION 1. AMENDMENT.** Section 54-27-15.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-27-15.1.** State treasurer's checks, warrants, and warrant-checks - Cancellation - Deposit to common schools trust fund - Subsequent payment - Continuing appropriation. The state treasurer, at the beginning of each fiscal year, shall prepare a list of the checks, warrants, and warrant-checks drawn on various depositories which are more than three years old which remain outstanding and unpaid and shall show the number, date, payee (with address of payee if available), amount, ~~bank on which drawn,~~ and fund (if available) against which said instrument was drawn. A copy of such list must then be used as an authority for writing a receipt of the total of such check or checks and shall credit such amount to the common schools trust fund pursuant to chapter 47-30.1. One copy of such receipt with list of instruments affected must be provided to the administrator of unclaimed properties. In the event such check, warrant, or warrant-check is at any subsequent time presented for payment, or a claim is made by any person for the amount of any such instrument, further proceedings must be conducted in accordance with chapter 47-30.1. These expenditures are hereby subject to a standing and continuing appropriation.

Approved March 2, 1995

Filed March 3, 1995

**CHAPTER 515****HOUSE BILL NO. 1054**

(Legislative Council)

(Interim Legislative Audit and Fiscal Review Committee)

(Representatives Dorso, Wald)

**LEASE DOCUMENTATION BY STATE AGENCIES**

AN ACT to require every state agency and institution to prepare a written analysis documenting the decision to acquire the use of any asset as the result of a lease; and to create and enact a new subsection to section 54-44.1-06 of the North Dakota Century Code, relating to the contents of budget data prepared by the director of the budget.

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

**SECTION 1. Documentation of asset acquisitions.** Any state agency or institution that acquires the use of an asset as the result of a lease arrangement shall prepare a written analysis documenting the decision to acquire the use of the asset. The agency or institution shall make the analysis available to the auditor for review during the audit for the fiscal period during which the decision was made.

**SECTION 2.** A new subsection to section 54-44.1-06 of the North Dakota Century Code is created and enacted as follows:

A list of every individual leased asset, excluding real estate, with a value of at least fifty thousand dollars and every group of leased assets comprising a single system with a combined value of at least fifty thousand dollars acquired through a capital or operating lease arrangement by a state agency or institution. The list must include leased assets acquired in the current biennium and anticipated leased assets in the next biennium.

Approved March 24, 1995

Filed March 27, 1995

**CHAPTER 516**

**SENATE BILL NO. 2139**

(Senator Wanzek)

(At the request of the Governor)

**GORDON AAMOTH INDIAN DEVELOPMENT FUND  
ELIMINATED**

AN ACT to repeal chapter 54-34.2 of the North Dakota Century Code, relating to the Gordon Aamoth Indian development fund.

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

**SECTION 1. REPEAL.** Chapter 54-34.2 of the North Dakota Century Code is repealed.

Approved March 7, 1995

Filed March 7, 1995



## CHAPTER 517

## HOUSE BILL NO. 1023

(Legislative Council)

(Interim Administrative Rules Committee)

(Representatives Freier, Gorman, Wilkie, Kretschmar)

(Senators Tennesos, Nalewaja)

## ADMINISTRATIVE RULES COMMITTEE DUTIES

AN ACT to amend and reenact section 54-35-02.6 of the North Dakota Century Code, relating to the duties of the administrative rules committee.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-35-02.6 of the North Dakota Century Code is amended and reenacted as follows:

54-35-02.6. Rules referred to interim reviewed by committee on administrative rules - 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, committee on administrative rules shall review administrative rules adopted under chapter 28-32. The committee shall consider oral and written complaints comments received concerning such administrative rules to the committee. The committee shall study and review assigned administrative rules and related statutes to determine whether:

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

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 statutes relating to administrative rules. The committee's failure to review proposed rules prior to publication in the North Dakota Administrative Code does not prevent rules from taking effect. Except for objections pursuant to section 28-32-03.3, the recommendations or opinions of the committee do not affect the legality of any rule as determined by the attorney general.

Approved March 14, 1995  
Filed March 14, 1995

**CHAPTER 518****SENATE BILL NO. 2260**

(Senators Mathern, G. Nelson, Mushik)  
(Representatives Rydell, Kelsch, Oban)

**LEGISLATIVE ETHICS COMMITTEE**

AN ACT to create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to the establishment of a legislative ethics committee.

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

**SECTION 1.** A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

**Legislative ethics committee.** The legislative council, during each biennium, shall appoint an ethics committee to consider or prepare a legislative code of ethics. The committee may recommend legislation relating to legislative ethics. The committee shall operate according to the laws and procedures governing the operation of other legislative council interim committees.

Approved March 7, 1995

Filed March 7, 1995

**CHAPTER 519****SENATE BILL NO. 2395**

(Senators W. Stenehjem, G. Nelson, Nething)  
(Representatives Dorso, Kretschmar)

**LEGISLATIVE BRANCH LEGAL COUNSEL**

AN ACT to create and enact a new section to chapter 54-35 of the North Dakota Century Code, relating to authority of the legislative council to appoint or retain legal counsel to protect the interests of the legislative branch in actions and proceedings.

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

<sup>249</sup> **SECTION 1.** A new section to chapter 54-35 of the North Dakota Century Code is created and enacted as follows:

**Retention of legal counsel.** When the legislative assembly is in session, either house by resolution may authorize, or both houses by concurrent resolution may direct, the legislative council to appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in any action, suit, matter, cause, or proceeding in any court or agency when deemed necessary or advisable to protect the official interests of the legislative branch. When the legislative assembly is not in session, the legislative council, by a two-thirds vote, may appoint or retain legal counsel to appear in, commence, prosecute, defend, or intervene in any action, suit, matter, cause, or proceeding in any court or agency when deemed necessary or advisable to protect the official interests of the legislative branch. Section 54-12-08 does not apply to a person appointed or retained under this section.

Approved March 27, 1995

Filed March 28, 1995

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<sup>249</sup> Section 1 of this Act was also amended by section 3 of House Bill No. 1001, chapter 1.

**CHAPTER 520****SENATE BILL NO. 2304**

(Senators Yockim, Kelsh, Krauter, LaFountain, O'Connell, Tomac)

**LEGISLATOR TELEPHONE RECORDS ACCESS STUDY**

AN ACT to provide for a legislative council study of access to certain telecommunications records.

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

**SECTION 1. LEGISLATIVE COUNCIL STUDY OF ACCESS TO TELECOMMUNICATIONS RECORDS.** The legislative council shall direct the legislative ethics committee to study during the 1995-96 interim access to telecommunications records of legislators and other public officials. The study must include consideration of the protection of constituent identities in sensitive communications and the public's right to have access to information concerning the activities of elected officials.

Approved March 24, 1995

Filed March 27, 1995

**CHAPTER 521****SENATE BILL NO. 2180**

(Appropriations Committee)

(At the request of the Office of Management and Budget)

**STUDENT LOAN DEFAULT REIMBURSEMENT**

AN ACT to create and enact a new section to chapter 54-44 of the North Dakota Century Code, relating to authority of the office of management and budget to seek reimbursement for assessments by the United States department of education for default costs on student loans from institutions of higher education.

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

**SECTION 1.** A new section to chapter 54-44 of the North Dakota Century Code is created and enacted as follows:

**Reimbursement from institutions of higher education for state's share of default costs.**

1. If the state is required to pay a fee to the United States secretary of education to offset the secretary's default costs relating to an institution of higher education located in North Dakota with a cohort default rate exceeding twenty percent for the most recent fiscal year for which rates are calculated, the director of the office of management and budget, or the director's designee, shall:
  - a. Provide notice by certified mail to each institution of higher education in this state that participates in the federal family education loan program or the federal direct student loan program, under title IV of the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1245; 20 U.S.C. 1070 et seq.] of any assessment necessary to reimburse the state for the institution's proportionate share of any fee charged to the state by the secretary of education under the Higher Education Act of 1965 [Pub. L. 89-329; 79 Stat. 1230; 20 U.S.C. 1001 et seq.].
  - b. The amount of reimbursement due from any institution must be based upon a fee structure approved by the United States secretary of education which has been provided to the director of the office of management and budget by the student loan guarantee agency. The student loan guarantee agency shall submit the fee structure to the director of the office of management and budget prior to implementation. The fee charged must be determined based upon the fee structure established by the student loan guarantee agency and must be based on the institution's cohort default rate and the state's risk of loss as provided by section 4201 of the Omnibus Budget Reconciliation Act of 1993 [Pub. L. 103-66; 107 Stat. 370; 20 U.S.C. 1078(n)].
2. The student loan guarantee agency may adopt rules to implement this section. The rules may provide for a process and standards to exempt

an institution from reimbursement or allow an adjustment of the required reimbursement if the institution demonstrates that exceptional mitigating circumstances contributed to the cohort default rate. Prior to implementing any exemption process and standards, the student loan guarantee agency shall obtain comments on the exemption process and standards from the director of the office of management and budget. Chapter 28-32 does not apply to rules adopted under this section.

3. If any institution fails to reimburse the office of management and budget within sixty days of receiving an assessment under subsection 1, the amount of the assessment plus interest on the assessment at the rate of nine percent from the date of receipt of the assessment and reasonable collection costs, including attorney's fees, constitutes a lien against all assets of the institution. The lien has priority over all other liens and encumbrances acquired after the date the institution was notified of the required reimbursement by the office of management and budget. The state may enforce any lien created under this subsection against real property in the manner provided in chapter 35-22, against personal property in the manner provided in chapter 32-20, or against the owner of any institution by garnishment in the manner provided in chapter 32-09.1, except that the restrictions of subsection 1 of section 32-09.1-03 do not apply to a garnishment commenced to collect an assessment established under this section.

Approved March 17, 1995

Filed March 20, 1995

**CHAPTER 522****SENATE BILL NO. 2373**

(Senator Mushik)  
(Representative Rydell)

**EXPENDITURE CONFORMITY WITH LEGISLATIVE  
INTENT**

AN ACT to create and enact a new section to chapter 54-44.1 of the North Dakota Century Code, relating to conformity of budget unit expenditures with legislative intent; and to amend and reenact section 54-44.1-12 of the North Dakota Century Code, relating to control over the rate of expenditures by the director of the budget.

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

**SECTION 1. AMENDMENT.** Section 54-44.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.1-12. Control over rate of expenditures.** The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues and budget estimates, and on the basis of these analyses and comparisons control the rate of expenditures through a system of allotments. The allotment must be made by specific fund and all departments and agencies that receive moneys from that fund must be allotted on a uniform percentage basis. Before an allotment is made which will reduce the amount of funds which can be disbursed pursuant to an appropriation or before an allotment disallowing a specific expenditure is made, the director shall find one or more of the following circumstances to exist:

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, ~~documents, or other reliable evidence available including:~~
  - a. Statements of legislative intent expressed in enacted appropriation measures or other measures enacted by the legislative assembly; and
  - b. Statements of purpose of amendment explaining amendments to enacted appropriation measures, as recorded in the journals of the legislative assembly.
4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of

the purpose of the appropriation at a lesser amount than that appropriated.

SECTION 2. A new section to chapter 54-44.1 of the North Dakota Century Code is created and enacted as follows:

Implementation of legislative intent - Legislative objection to execution of budget - Effect of objection.

1. The budget section of the legislative council may object to any allotment made under section 54-44.1-12, any expenditure of a budget unit, or any failure to make an allotment or expenditure if the budget section deems that the allotment or expenditure or the failure to make an allotment or expenditure is contrary to legislative intent as recorded in any reliable legislative records. The budget section shall file that objection in certified form in the office of the legislative council. The filed objection must contain a concise statement of the budget section's reasons for the objection.
2. The office of the legislative council shall attach to each objection a certification of the time and date of the filing of the objection and, as soon as possible, shall transmit a copy of the objection and the certification to the director of the budget and the affected budget unit. The office of the legislative council shall maintain a permanent register of all objections under this section.
3. Within fourteen days after the filing of an objection, the affected budget unit shall respond in writing to the budget section. After receipt of that response, the budget section may withdraw or modify its objection.
4. After the filing of an objection, the burden of persuasion is upon the budget unit in any action for judicial review of whether the allotment or expenditure or the failure to make an allotment or expenditure is contrary to law. If the budget unit fails to meet its burden of persuasion, the court shall render judgment against the budget unit for court costs. These court costs must include reasonable attorney's fees and must be payable from the appropriation of the budget unit.

Approved March 17, 1995

Filed March 17, 1995



**CHAPTER 523****SENATE BILL NO. 2391**

(Senators Tomac, St. Aubyn)

(Representatives Byerly, Sitz)

**STATE AGENCY COMPUTER DATA ACCESS**

AN ACT to create and enact a new section to chapter 54-44.2 of the North Dakota Century Code, relating to access to computer data maintained by state agencies; and to provide for the development of a plan to implement a uniform employer reporting system between the workers compensation bureau, job service North Dakota, and the state tax commissioner.

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

**SECTION 1.** A new section to chapter 54-44.2 of the North Dakota Century Code is created and enacted as follows:

**Access to electronically stored information - Coordination by information services division.** An entity of the state may establish procedures for providing access to any computer data base or electronically filed or stored information maintained by that entity. The procedures must address the measures that are necessary to maintain the confidentiality of information protected by federal or state law. The entity may charge a reasonable fee for providing that access. If the original information is keyed, entered, provided, compiled, or submitted by any political subdivision, the fees must be shared by the state and the political subdivision based on their proportional costs to make the data available. The information services division shall cooperate with each state entity providing access to any computer data base or electronically filed or stored information to assist in providing economical, efficient, and compatible access.

**SECTION 2. DEVELOPMENT OF A UNIFORM EMPLOYER REPORTING SYSTEM.** The workers compensation bureau, job service North Dakota, and the state tax commissioner shall develop a plan to implement an employer reporting system to provide a single form for the submission of employer information. The workers compensation bureau is the lead agency in charge of the development of the plan. The workers compensation bureau, job service North Dakota, and the state tax commissioner shall present any legislation necessary to implement this system to the fifty-fifth legislative assembly.

Approved April 12, 1995

Filed April 13, 1995

## CHAPTER 524

### HOUSE BILL NO. 1501

(Representatives Brown, Rennerfeldt)  
(Senators Andrist, Urlacher)

## STATE PERSONNEL BOARD COMPOSITION AND DUTIES

AN ACT to create and enact a new subsection to section 54-44.3-20 of the North Dakota Century Code, relating to exceptions from categories of positions in the state service; and to amend and reenact sections 54-44.3-03, 54-44.3-07, and 54-44.3-12.2 of the North Dakota Century Code, relating to the composition and duties of the state personnel board and appeal procedures for state employee complaints.

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

**SECTION 1. AMENDMENT.** Section 54-44.3-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **54-44.3-03. State personnel board - Composition - Terms - Vacancies - Qualifications.**

1. ~~Effective July 1, 1975, there is hereby created a five-member~~ The state personnel board. The board must be ~~is~~ composed of a constitutionally elected official the director, who must be the chairman of the board; a member appointed by the board of higher education; one member appointed by the governor; and two members elected by employees classified under sections 54-44.3-19 and 54-44.3-20. The constitutionally elected officials shall meet at the call of the governor within ten days after July 1, 1977, and thereafter at the expiration of the term of the constitutionally elected member and select by a majority vote the constitutionally elected official who shall serve on the board.
2. The term of the member of the board appointed by the governor and the respective terms of the members of the board elected by classified employees must be for six years. ~~The constitutionally elected official's term of office must be for four years or the remainder of the official's term of office, whichever is shorter. However, for the initial composition of the board, the following procedures apply:~~
  - a. ~~The member of the board first appointed by the governor in 1995 shall serve for a period of two~~ six years.
  - b. ~~One of the two members of the board elected by classified employees shall first serve a term of two years.~~
  - c. ~~One of the two members of the board elected by classified employees shall first serve a term of five years.~~

Thereafter, all appointments and elections to the personnel board ~~will~~ must be for six years' duration.

3. Any permanent vacancy in office must be filled for the unexpired term in the same manner as the selection of the person vacating the office. However, if a board member voluntarily withdraws from deliberation and voting on an appeal where there may be a possible conflict of interest, the vacancy will be filled temporarily in the same manner as the selection of the person vacating the office. When a temporary vacancy involves a member of the board elected by classified employees, the automatic substitute must be the candidate that received the second highest number of votes in the election that elected the board member. Temporary board members will be used only in situations when a permanent board member voluntarily vacates the position due to a possible conflict of interest.
4. The member of the board appointed by the governor must be a resident of the state for at least sixty days, and must be known to be in sympathy with the application of merit principles to public employment. Each member of the board elected by classified employees must be a resident of the state for at least sixty days, and must be known to be in sympathy with the application of merit principles to public employment. No member of the board appointed by the governor or elected by classified employees may have held a position in a political party within four years immediately preceding the member's appointment or election to the board, and those members of the board elected by classified employees must be full-time employees in good standing of the classified service.

<sup>250</sup> **SECTION 2. AMENDMENT.** Section 54-44.3-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-07. Duties of board.** The primary responsibility of the board is to foster and assure a system of personnel administration in the classified service of state government. In carrying out this function it shall:

1. Promulgate such rules and hold such hearings as are necessary to properly perform the duties, functions, and powers imposed on or vested in it by law. The promulgation of rules must be accomplished in accordance with ~~provisions of~~ chapter 28-32.
2. ~~Review and hear comments from any concerned individuals, departments, agencies, or their representatives, on any rules or modifications thereof adopted by the personnel division. Such a rule or modification will be effective upon implementation by the division; however, if the board finds that the rule constitutes poor administrative practice, is arbitrary, capricious, contrary to the spirit or intent of the personnel system, or otherwise contrary to law, it may disapprove the rule or modification on that basis, thus repealing the concerned rule or modification.~~
3. Hear, consider, and determine appeals by nonprobationary employees in the classified service ~~from agency grievance procedures under section 54-44.3-12.2~~ related to position classifications; and pay grade

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<sup>250</sup> Section 54-44.3-07 was also amended by section 50 of House Bill No. 1026, chapter 350.

assignments; merit system qualification; discrimination; reprisals; reduction in force; forced relocation; demotion with loss of pay; suspension without pay; and dismissal. The board may assign the initial hearing of an appeal to an administrative hearing officer for the receipt of evidence and the preparation of findings of fact, conclusions of law, and a recommended decision under chapter 28-32. The board's decision on an appeal shall resolve the issues presented between the employer and employee; and the board may order any needed remedy, including affirming, modifying, or reversing the employer's decision; vacating suspensions; directing back pay and adjustments to back pay; and reinstatement to the classified service.

- 4- 3. Submit a biennial report as prescribed by section 54-06-04 of its activities and the operation of this state's personnel system.
- 5- 4. Keep such minutes and maintain such records as are necessary to assure the equitable administration of this chapter.

**SECTION 3. AMENDMENT.** Section 54-44.3-12.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-12.2. Employee complaints - Cooperation in development and implementation of basic agency grievance procedures and a statewide appeal mechanism - Appeals.** 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 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. The division shall certify appeals from nonprobationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service related to discrimination. Upon receipt of an appeal, the division shall submit a written request to the director of the office of administrative hearings to designate an administrative hearing officer to conduct the hearing and related proceedings, including receiving evidence and preparing findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial action bears the burden of proof in the appeal. An appeal to the district court from the determination of the office of administrative hearings must be filed according to chapter 28-32.

<sup>251</sup> **SECTION 4.** A new subsection to section 54-44.3-20 of the North Dakota Century Code is created and enacted as follows:

Positions referred to under law as serving at the pleasure of or at the will of the appointing authority.

Approved April 17, 1995  
Filed April 18, 1995

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<sup>251</sup> Section 54-44.3-20 was also amended by section 9 of Senate Bill No. 2181, chapter 458; section 5 of Senate Bill No. 2211, chapter 199; and section 1 of House Bill No. 1250, chapter 525.

**CHAPTER 525****HOUSE BILL NO. 1250**

(Representatives Skarphol, Keiser, Byerly, Carlson)  
(Senators Andrist, Mutch)

**WORKERS COMPENSATION BUREAU PERSONNEL  
SYSTEM**

AN ACT to create and enact a new subsection to section 54-44.3-20 and a new section to chapter 65-02 of the North Dakota Century Code, relating to excepting officers and employees of the workers compensation bureau from the central personnel system and requiring the workers compensation bureau to establish a personnel system; to provide for approval of the system; and to provide an effective date.

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

<sup>252</sup> **SECTION 1.** A new subsection to section 54-44.3-20 of the North Dakota Century Code is created and enacted as follows:

Officers and employees of the workers compensation bureau.

**SECTION 2.** A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

**Bureau to establish personnel system.** The bureau shall establish a system of personnel administration for its employees based upon principles and methods to be determined by the bureau, and governing position classification, pay administration, transfer of employees, discipline of employees, and removal of employees.

**SECTION 3. APPROVAL OF INITIAL SYSTEM.** By November 1, 1995, the bureau shall submit its personnel system established under section 2 of this Act to the personnel system review committee. The personnel system review committee consists of two legislators, one appointed by the majority leaders of the senate and the house of representatives and one appointed by the minority leaders of the senate and the house of representatives and four persons appointed by the governor who are experienced in personnel administration in the public or private sector. The committee shall review the system and may require the bureau to make any revisions the committee determines appropriate. The bureau cannot implement the system until the system is approved by the committee. The committee shall approve or disapprove the system by January 1, 1996. Subsequent to implementation of this system by the original approval committee, any needed changes or amendments must be approved by the workers' compensation advisory council. The bureau shall reimburse members of the committee for mileage and expenses at the rates provided in sections 44-08-04 and 54-06-09.

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<sup>252</sup> Section 54-44.3-20 was also amended by section 9 of Senate Bill No. 2181, chapter 458; section 4 of House Bill No. 1501, chapter 524; and section 5 of Senate Bill No. 2211, chapter 199.

**SECTION 4. EFFECTIVE DATE.** Section 1 of this Act becomes effective January 1, 1996.

Approved April 7, 1995  
Filed April 7, 1995

**CHAPTER 526****SENATE BILL NO. 2257**

(Senators St. Aubyn, Grindberg)  
(Representatives Delmore, Nottestad)

**COLLEGE STUDENT GOVERNMENT INTERN  
PROGRAM**

AN ACT to create and enact a new section to chapter 54-44.3 of the North Dakota Century Code, relating to establishment of a college student cooperative education or intern program for executive and legislative branch agencies.

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

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

**College student cooperative education or intern program - Eligibility.** The director shall establish and administer within the executive and legislative branches of state government a program through which college students may receive stipends and academic credit for participating in a cooperative education or internship program. The program must be open to any student enrolled in a public or private educational institution in this state which has been accredited by an agency recognized by the United States department of education. The director shall establish classifications and develop uniform application procedures for the cooperative education or internship program.

Approved March 8, 1995  
Filed March 9, 1995

**CHAPTER 527****SENATE BILL NO. 2172**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

**PERS EARNINGS, DEFINITIONS, ENROLLMENT, AND CREDIT**

AN ACT to create and enact a new section to chapter 54-52 and three new subsections to section 54-52-04 of the North Dakota Century Code, relating to interest and earnings credited to funds administered by the retirement board and authority of the retirement board; and to amend and reenact section 54-52-01, subsection 1 of section 54-52-05, section 54-52-06, subsections 6 and 8 of section 54-52-17, and section 54-52-17.4 of the North Dakota Century Code, relating to definitions, enrollment of members, employer contributions, beneficiaries, and purchase of additional credit under the public employees retirement system.

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

<sup>253</sup> **SECTION 1. AMENDMENT.** Section 54-52-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-52-01. Definition of terms.** As used in this chapter, unless the context otherwise requires:

1. "Account balance" means the total contributions made by the employee, the vested portion of the vesting fund as of June 30, 1977, and interest credited thereon at the rate established by the board.
2. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
3. "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 includes 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 54-52-02.5 are eligible employees and shall participate in the public employees retirement system.
4. "Employee" means any person employed by a governmental unit, whose compensation is paid out of the governmental unit's funds, or funds controlled or administered by a governmental unit, or paid by the federal government through any of its executive or administrative officials; certified employees of a school district means those employees

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<sup>253</sup> Section 54-52-01 was also amended by section 1 of Senate Bill No. 2174, chapter 528, and section 1 of House Bill No. 1127, chapter 529.



eligible to participate in the teachers' fund for retirement who, except under subsection 2 of section 54-52-17.2, are not eligible employees under this chapter.

5. "Employer" means a governmental unit.
6. "Funding agent" or "agents" means an investment firm, trust bank, or other financial institution which the retirement board may select to hold and invest the employers' and members' contributions.
7. "Governmental unit" means the state of North Dakota or a county or city thereof, a school district, including the Fargo school district, or any combination thereof, a district health unit, and the Garrison Diversion Conservancy District.
8. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota air national guard and who is a member of the national guard; or
  - b. A firefighter employee of the North Dakota air national guard and who is a member of the national guard.
9. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
10. "Permanent employee" means a governmental unit employee whose services are not limited in duration and who is filling an approved and regularly funded position in an eligible governmental unit, and is employed twenty hours or more per week and at least five months each year.
11. "Prior service" means service or employment prior to July 1, 1966.
12. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
13. "Public employees retirement system" means the retirement plan and program established by this chapter.
14. "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.
15. "Retirement board" or "board" means the seven persons designated by this chapter as the governing authority for the retirement system created.
16. "Seasonal employee" means a participating member who does not work twelve months a year.
- ~~17.~~ 18. "Service" means employment on or after July 1, 1966.
- ~~17.~~ 18. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.

- ~~18.~~ 19. "Temporary employee" means a governmental unit employee who is not eligible to participate as a permanent employee, who is at least eighteen years old and not actively contributing to another employer sponsored pension fund, and, if employed by a school district, occupies a noncertified teacher's position.
19. 20. "Wages" and "salaries" means the actual dollar compensation excluding overtime paid to or for an employee for the employee's services member's earnings in eligible employment under this chapter reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 401(k), 403(b), 414(h), or 457. "Salary" does not include fringe benefits such as payments for unused sick leave, personal leave, vacation leave paid in a lump sum, overtime, housing allowances, transportation expenses, early retirement incentive pay, severance pay, medical insurance, workers' compensation benefits, disability insurance premiums or benefits, or salary received by a member in lieu of previously employer-provided fringe benefits under an agreement between the member and participating employer. Bonuses may be considered as salary under this section if reported and annualized pursuant to rules adopted by the board.

<sup>254</sup> SECTION 2. Three new subsections to section 54-52-04 of the 1993 Supplement to the North Dakota Century Code are created and enacted as follows:

The board may audit any books, papers, accounts, bills, vouchers, and other documents or property of any and all departments, boards, commissions, political subdivisions, financial institutions, contractors, health care organizations, and consultants relating to their participation in services provided to programs administered by the board.

The board shall fund the administrative expenses of chapter 54-52.2 from funds collected pursuant to chapters 54-52, 54-52.1, and 54-52.3, subject to appropriation by the legislative assembly.

Except as provided by section 54-52-17.7, the board may adjust service and make any correction of member, retiree, or beneficiary records and benefits after an error or inequity has been determined.

<sup>255</sup> SECTION 3. AMENDMENT. Subsection 1 of section 54-52-05 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. 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 are participating members. An employee who was not enrolled in the retirement system when eligible to participate must be enrolled immediately upon notice of the employee's eligibility,

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<sup>254</sup> Section 54-52-04 was also amended by section 1 of House Bill No. 1126, chapter 533.

<sup>255</sup> Section 54-52-05 was also amended by section 4 of Senate Bill No. 2174, chapter 528.

unless the employee waives in writing the employee's right to participate for the previous time of eligibility, to avoid contributing to the fund for past service.

**SECTION 4. AMENDMENT.** Section 54-52-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-52-06. Employer's contribution to retirement plan.** Each governmental unit shall contribute an amount equal to four and twelve-hundredths percent of the monthly salary or wage of a participating member. For those members who elect to exercise their rights under subsection 3 5 of section 54-52-17.4, the employing governmental unit, or in the case of a member not presently under covered employment the most recent employing governmental unit, shall pay the associated employer contribution. If the employee's contribution is paid by the governmental unit under subsection 3 of section 54-52-05, the employer unit shall contribute, in addition, an amount equal to the required employee's contribution. Each governmental unit shall pay the contribution monthly, or in the case of an election made pursuant to subsection 3 5 of section 54-52-17.4 a lump sum, into the retirement fund from its funds appropriated for payroll and salary or any other funds available for these purposes. Any governmental unit failing to pay the contributions monthly, or in the case of an election made pursuant to subsection 3 5 of section 54-52-17.4 a lump sum, is subject to a civil penalty of fifty dollars and, as interest, one percent of the amount due for each month of delay or fraction thereof after the payment became due. In lieu of assessing a civil penalty or one percent per month, or both, interest at the actuarial rate of return may be assessed for each month the contributions are delinquent. If contributions are paid within ninety days of the date they became due, penalty and interest to be paid on delinquent contributions may be waived. An employer is required to submit contributions for any past eligible employee who was employed after July 1, 1977, for which contributions were not made if the employee would have been eligible to become vested had the employee participated and if the employee elects to join the public employees retirement system. Employer contributions may not be assessed for eligible service that an employee has waived pursuant to subsection 1 of section 54-52-05. The board shall report to each session of the legislative assembly the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

<sup>256</sup> **SECTION 5. AMENDMENT.** Subsections 6 and 8 of section 54-52-17 of the 1993 Supplement to the North Dakota Century Code are amended and reenacted as follows:

6. If before retiring a member dies after completing five years of eligible employment, the board shall pay the member's account balance to ~~any beneficiary, other than the member's surviving spouse, designated by the member with the written consent of the member's spouse, if any.~~ However, if there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing, the board shall pay the member's account balance to the member's beneficiary or, if there is no named beneficiary, to the member's estate. If the member has not designated ~~any an alternate beneficiary, other than the member's~~

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<sup>256</sup> Section 54-52-17 was also amended by sections 1 and 2 of Senate Bill No. 2171, chapter 531, and section 1 of House Bill No. 1128, chapter 532.

~~surviving spouse under this section~~; the surviving spouse of the member may select one of the following optional forms of payment:

- a. A lump sum payment of the member's retirement account as of the date of death.
  - b. Payments for sixty months as calculated for the deceased member as if the member was age sixty-five at the date of death.
  - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
8. The surviving spouse of a member receiving retirement benefits must be the member's primary beneficiary unless there is no surviving spouse or the surviving spouse designates an alternate beneficiary in writing. If a member who is receiving retirement benefits or the member's surviving spouse who is receiving retirement benefits dies before the total amount of benefits paid to either or both equals the amount of the member's account balance at retirement, the difference must be paid to such spouse, the member's surviving the named beneficiary; if any, or the member's estate of the recipient or, if there is no named beneficiary, to the recipient's estate.

<sup>257</sup> SECTION 6. AMENDMENT. Section 54-52-17.4 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-52-17.4. Purchase of additional credit.**

1. A ~~participating~~ member may elect to purchase credit for years of service and prior service for which the ~~participating~~ member is not presently receiving credit. A member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
  - a. Active employment in the armed forces of the United States, except as provided in subsection ~~3~~ 5, for up to four years of credit.
  - b. Employment as a permanent employee by a governmental unit that does not participate in the public employees retirement system under this chapter.
  - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
  - d. Service the participating member did not elect to repurchase upon reemployment under section 54-52-02.6.

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<sup>257</sup> Section 54-52-17.4 was also amended by section 42 of Senate Bill No. 2070, chapter 54.

- e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
  - f. Employment as a permanent employee of a governmental unit not located in North Dakota; ~~except that any such years of out-of-state employment are not eligible for credit in North Dakota if the years claimed also qualify for retirement benefits from an out-of-state retirement system.~~
  - g. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:
- a. Employer-approved leave of absence or,
  - b. Months away from work while participating as a seasonal employee.
3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
- a. Except as provided in subsection 4 5, for up to four years of credit for active employment in the armed forces of the United States.
  - b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
  - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges retirement system.
- 3+ 4. The ~~participating~~ member may purchase credit under this section by paying to the board an amount equal to the actuarial cost to the fund of providing the credit. The ~~participating~~ member shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The board shall adopt rules governing the purchase of additional credit under this section.
- 4+ 5. A participating member, or a member not presently under covered employment, may request credit for qualified military service pursuant to the Veterans' Reemployment Rights Act [Pub. L. 93-508; 88 Stat. 1594; 38 U.S.C. 2021 et seq.]. The member shall submit a qualified application with proof of eligible military service to the board in order to receive credit for military service. For credit on and after July 1, 1966, the member must pay four percent times the member's most recent monthly salary, times the number of months of credit being purchased, plus interest at a rate determined by the board. In addition, the governmental unit, or in the case of a member not under covered employment the last employing governmental unit, shall pay to the retiree health benefits fund established under section 54-52.1-03 one percent times the member's present monthly salary times the member's

months of credit being purchased. For credit before July 1, 1966, no contribution is required.

**SECTION 7.** A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Interest and earnings attributable to administered funds. All interest and earnings on funds administered by the retirement board established under chapters 39-03.1, 54-52, 54-52.1, 54-52.2, and 54-52.3 must be credited to the respective fund.

Approved March 15, 1995

Filed March 15, 1995

## CHAPTER 528

## SENATE BILL NO. 2174

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

## PERS PARTICIPATION BY POLITICAL SUBDIVISIONS

AN ACT to amend and reenact subsection 7 of section 54-52-01, sections 54-52-02.1, 54-52-02.2, subsection 1 of section 54-52-05, sections 54-52-07, and 54-52.1-03.1 of the North Dakota Century Code, relating to the definition of governmental unit for purposes of the public employees retirement system, participation in the public employees retirement system, and participation in the uniform group insurance program.

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

<sup>258</sup> SECTION 1. AMENDMENT. Subsection 7 of section 54-52-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7. "Governmental unit" means the state of North Dakota or a ~~county or city~~ political subdivision thereof; ~~a school district; including the Fargo school district; or any combination thereof; a district health unit; and the Garrison Diversion Conservancy District.~~

SECTION 2. AMENDMENT. Section 54-52-02.1 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.1. County, city, and noncertified school district employees Political subdivisions** authorized to join public employees retirement system.

1. ~~The boards of county commissioners of the several counties; the governing body of any city; a school district; a city health department providing health services in a county and city health district formed under section 23-14-01.1; or any combination thereof~~ A political subdivision may, on behalf of its permanent employees, and permanent noncertified employees only in the case of school districts, enter into agreements with the retirement board for the purpose of extending the benefits of the public employees retirement system, as provided in this chapter, to those employees. The agreement may, in accordance with this chapter, contain provisions relating to benefits, contributions, effective date, modification, administration, and other appropriate provisions as the retirement board and the ~~board of county commissioners; the governing body of a city; a school district; a city health department; or any combination thereof~~ political subdivision agree upon, but the agreement must provide that:

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<sup>258</sup> Section 54-52-01 was also amended by section 1 of Senate Bill No. 2172, chapter 527, and section 1 of House Bill No. 1127, chapter 529.

- a. ~~The county, city, school district, city health department, or any combination thereof~~ political subdivision will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06.
  - b. A portion of the moneys, paid by the ~~counties, cities, school districts, city health departments, or any combination thereof~~ political subdivision may be used to pay administrative expenses of the retirement board.
2. Notwithstanding any other provision of this chapter, no political subdivision of this state not participating in the public employees retirement system on June 30, 1977, may thereafter become a participant in the retirement 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 the 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 the political subdivision as determined on the basis of rules adopted by the board.

**SECTION 3. AMENDMENT.** Section 54-52-02.2 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-02.2. Employee referendum - Authorization and supervision.** On their own motion or upon petition by twenty percent of the permanent ~~county or city~~ political subdivision employees or the permanent noncertified employees of any school district, the ~~board of county commissioners or the governing body of the city or school district~~ political subdivision shall authorize and supervise a referendum of the permanent employees employed by that ~~county or city or of the noncertified permanent employees employed by that school district or the employees of any other~~ political subdivision authorized to participate in the system political subdivision on the question whether ~~such~~ the employees elect to participate in the retirement system. If the majority of ~~such~~ the employees vote in favor of participation in the retirement system, the ~~board of county commissioners or the governing body of a city, school district, or other~~ political subdivision, notwithstanding anything to the contrary in chapter 40-46, may in its discretion enter into the agreement provided for in section 54-52-02.1. Notwithstanding provisions to the contrary in chapters 18-05, 18-11, and 40-45, the police department of any city, the fire department of any city, or both, may hold referendums among their employees on the question of whether their department should join the remaining city employees in participation in the retirement system established by this chapter. If a majority of the city police or city firemen, or both, vote in favor of such participation, the governing body of the city ~~shall~~ must include ~~such~~ the policemen and firemen within any agreement entered into pursuant to section 54-52-02.1, and ~~shall~~ must arrange for discontinuance of any existing policemen's or firemen's pension fund as provided by law.



<sup>259</sup> SECTION 4. AMENDMENT. Subsection 1 of section 54-52-05 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Every eligible ~~permanent state, county, city, or noncertified school district governmental unit~~ employee concurring in the plan ~~shall~~ must so state in writing and all future eligible employees are participating members.

SECTION 5. AMENDMENT. Section 54-52-07 of the North Dakota Century Code is amended and reenacted as follows:

**54-52-07. Agency, county, city, or school district Governmental unit** contribution is retirement contribution. The ~~agency, county, city, or school district governmental unit~~ contribution to a retirement plan must be considered a retirement contribution and not an additional compensation. This applies specifically to elected and appointed officials whose maximum annual compensation is set by the statute or by state, county, city, or school district governing bodies, boards, or commissions. The retirement contribution may not be considered by the employee as income in computing his the employee's net income for purposes of state income tax until ~~such time as~~ the moneys come under the control of the employee.

SECTION 6. AMENDMENT. Section 54-52.1-03.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**54-52.1-03.1. Certain political subdivisions authorized to join uniform group insurance program - Employer contribution.** ~~The board of county commissioners of any county, the governing body of any city or school district, a district health unit, or any combination thereof, A political subdivision~~ may extend the benefits of the uniform group insurance program under this chapter to its permanent employees, subject to minimum requirements established by the board and a minimum period of participation of sixty months. If the ~~board of county commissioners of a participating county, the governing body of any participating city or school district, a district health unit, or any combination thereof,~~ political subdivision withdraws from participation in the uniform group insurance program, before completing sixty months of participation, ~~that entity~~ the political subdivision shall make payment to the board in an amount equal to any expenses incurred in the uniform group insurance program that exceed income received on behalf of the ~~entity's~~ political subdivision's employees as determined under rules adopted by the board. ~~The boards of county commissioners of participating counties and the governing bodies of participating cities or school districts, district health units, or any combinations thereof~~ political subdivision may determine the amount of the employer's monthly contribution toward the total monthly premium amount required of each eligible participating employee.

Approved March 15, 1995  
Filed March 15, 1995

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<sup>259</sup> Section 54-52-05 was also amended by section 3 of Senate Bill No. 2172, chapter 527.

**CHAPTER 529****HOUSE BILL NO. 1127**

(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

**NATIONAL GUARD EMPLOYEE PERS DEFINITION**

AN ACT to amend and reenact subsection 8 of section 54-52-01 of the North Dakota Century Code, relating to definitions for purposes of the public employees retirement system.

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

<sup>260</sup> **SECTION 1. AMENDMENT.** Subsection 8 of section 54-52-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

8. "National guard security officer or firefighter" means a participating member who is:
  - a. A security police employee of the North Dakota ~~air~~ national guard ~~and who is a member of the national guard~~; or
  - b. A firefighter employee of the North Dakota ~~air~~ national guard ~~and who is a member of the national guard~~.

Approved March 7, 1995

Filed March 7, 1995

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<sup>260</sup> Section 54-52-01 was also amended by section 1 of Senate Bill No. 2172, chapter 527, and section 1 of Senate Bill No. 2174, chapter 528.

**CHAPTER 530****HOUSE BILL NO. 1500**

(Representatives Wardner, Sabby, Kunkel)  
(Senator C. Nelson)

**INVESTMENT OF PUBLIC EMPLOYEE RETIREMENT  
FUNDS**

AN ACT to provide for the use and investment of public employee retirement funds.

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

**SECTION 1. Public employee retirement funds - Use and investment.** Any provision of law relating to the use and investment of public employee retirement funds must be deemed a part of the employment contracts of the employees participating in any public employee retirement system. All moneys from any source paid into any public employee retirement system fund created by the laws of this state must be used and invested only for the exclusive benefit of the members, retirees, and beneficiaries of that system, including the payment of system administrative costs.

Approved April 7, 1995

Filed April 7, 1995

**CHAPTER 531****SENATE BILL NO. 2171**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

**PERS SERVICE CREDIT, UNUSED SICK LEAVE, AND SPOUSE BENEFITS**

AN ACT to create and enact a new section to chapter 54-52 and a new subdivision to subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to purchase of service credit and conversion of unused sick leave under the public employees retirement system; and to amend and reenact subsection 6 of section 54-52-17 of the North Dakota Century Code, relating to calculation of benefits for surviving spouses under the public employees retirement system.

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

<sup>261</sup> **SECTION 1.** A new subdivision to subsection 4 of section 54-52-17 of the 1993 Supplement to the North Dakota Century Code is created and enacted as follows:

A participating member who is a vested permanent employee is entitled to purchase additional years of service credit to enable the member to qualify for the normal retirement date defined by subdivision a of subsection 3 of this section. The years of service purchased must be added to the years of service employment under paragraph 1 of subdivision a of this subsection for calculating the service benefit.

**SECTION 2. AMENDMENT.** Subsection 6 of section 54-52-17 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. If before retiring a member dies after completing five years of eligible employment, the board shall pay the member's account balance to any beneficiary, other than the member's surviving spouse, designated by the member with the written consent of the member's spouse, if any. If the member has not designated any beneficiary, other than the member's surviving spouse under this section, the surviving spouse of the member may select one of the following optional forms of payment:
  - a. A lump sum payment of the member's retirement account as of the date of death.

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<sup>261</sup> Section 54-52-17 was also amended by section 5 of Senate Bill No. 2172, chapter 527, and section 1 of House Bill No. 1128, chapter 532.

- b. Payments for sixty months as calculated for the deceased member as if the member ~~was~~ were of normal retirement age ~~sixty-five~~ at the date of death.
- c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued single life retirement benefits until the spouse dies.
- d. If the member dies on or after the member's normal retirement date, the payment of a monthly retirement benefit equal to an amount that would have been paid to the surviving spouse if the member had retired on the day of the member's death and had selected a one hundred percent joint and survivor annuity. A surviving spouse who received a benefit under this subsection as of July 31, 1995, is entitled to the higher of that person's existing benefit or the equivalent of the accrued benefit available under the one hundred percent joint and survivor provision as if the deceased member were of normal retirement age, with the increase payable beginning August 1, 1995.

SECTION 3. A new section to chapter 54-52 of the North Dakota Century Code is created and enacted as follows:

Conversion of sick leave. At termination of eligible employment a member is entitled to credit in the retirement system for each month of unused sick leave, as certified by the member's employer, if the member pays an amount equal to the member's final average salary, times the number of months of sick leave converted, times the percent of employer and employee contributions to the retirement program of the member, plus one percent for the retiree health benefits program. Hours of sick leave equal to a fraction of a month are deemed to be a full month for purposes of conversion to service credit. A member may convert all of the member's certified sick leave or a part of the member's certified sick leave. All conversion payments must be made within sixty days of termination and before the member receives a retirement annuity.

Approved March 15, 1995  
Filed March 15, 1995

**CHAPTER 532****HOUSE BILL NO. 1128**

(Government and Veterans Affairs Committee)

(At the request of the Public Employees Retirement System)

**JUDGES' RETIREMENT BENEFITS**

AN ACT to amend and reenact subdivision b of subsection 4 of section 54-52-17 of the North Dakota Century Code, relating to the computation of benefits for participants in the judges' system under the public employees retirement system.

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

<sup>262</sup> **SECTION 1. AMENDMENT.** Subdivision b of subsection 4 of section 54-52-17 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- b. Single life benefits for all supreme and district court judges under the public employees retirement system reaching normal retirement date equal an annual amount, payable monthly, comprised of a benefit as defined in this chapter, which must be determined as follows:
  - (1) Benefits must be calculated from the time of appointment or election to the bench and must equal three and one-half percent of final average salary multiplied by the first ten years of judicial service, two and ~~one-fourth~~ eighty hundredths percent of final average salary multiplied by the second ten years of judicial service, and one and one-fourth percent of final average salary multiplied by the number of years of judicial service exceeding twenty years.
  - (2) Service benefits must include, in addition, an amount equal to the percent specified in subdivision a of final average salary multiplied by the number of years of nonjudicial employee service and employment.
  - (3) A participant who retired before August 1, 1995, is entitled to benefits calculated at two and eighty hundredths percent multiplied by the second ten years of judicial service, with the increased benefits payable beginning August 1, 1995.

Approved March 7, 1995

Filed March 7, 1995

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<sup>262</sup> Section 54-52-17 was also amended by section 5 of Senate Bill No. 2172, chapter 527, and sections 1 and 2 of Senate Bill No. 2171, chapter 531.

**CHAPTER 533****HOUSE BILL NO. 1126**

(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

**UNIFORM GROUP INSURANCE BENEFITS**

AN ACT to create and enact three new sections to chapter 54-52.1 and four new subsections to section 54-52.1-02 of the North Dakota Century Code, relating to dental, vision, long-term care, and employee assistance benefits coverage under the uniform group insurance program; and to amend and reenact subsection 6 of section 54-52-04 of the North Dakota Century Code, relating to the authority of the retirement board.

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

<sup>263</sup> **SECTION 1. AMENDMENT.** Subsection 6 of section 54-52-04 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

6. The funds necessary for paying prior service and service benefits, consultant fees, and making withdrawal payments and refunds are hereby appropriated from the retirement fund for those purposes. The amount necessary to pay the consulting fees and ~~health~~ insurance benefits related to the uniform group insurance program is hereby appropriated from the insurance premiums received by the board.

**SECTION 2.** Four new subsections to section 54-52.1-02 of the North Dakota Century Code are created and enacted as follows:

Dental benefits coverage.

Vision benefits coverage.

Long-term care benefits coverage.

Employee assistance benefits coverage.

**SECTION 3.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Uniform group insurance program - Vision and dental plans. The board may establish a dental plan, a vision plan, or both, for eligible employees. The board shall receive bids for the plan or plans pursuant to section 54-52.1-04. The board may reject any or all bids and provide a plan of self-insurance. Premiums for this coverage must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

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<sup>263</sup> Section 54-52-04 was also amended by section 2 of Senate Bill No. 2172, chapter 527.

**SECTION 4.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Uniform group insurance program - Long-term care plan. The board may establish a long-term care plan for eligible employees. The board shall receive bids for the plan pursuant to section 54-52.1-04. The board may reject any or all bids and provide a plan of self-insurance. Premiums for this plan must be paid by the eligible employee. Any refund, rebate, dividend, experience rating allowance, discount, or other reduction of premium must be credited as provided by section 54-52.1-06.

**SECTION 5.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

Uniform group insurance program - Employee assistance program. The board may establish an employee assistance program available to persons in the medical and hospital benefits coverage group. The premium for this coverage must be paid as provided by section 54-52.1-06. The board shall receive bids for this program pursuant to section 54-52.1-04.

Approved March 7, 1995

Filed March 7, 1995



**CHAPTER 534****SENATE BILL NO. 2175**

(Government and Veterans Affairs Committee)  
(At the request of the Public Employees Retirement System)

**UNIFORM GROUP INSURANCE PROGRAM FEDERAL COMPLIANCE**

AN ACT to create and enact a new section to chapter 54-52.1 of the North Dakota Century Code, relating to compliance of the uniform group insurance program with federal requirements and group purchasing arrangements.

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

**SECTION 1.** A new section to chapter 54-52.1 of the North Dakota Century Code is created and enacted as follows:

**Uniform group insurance program - Compliance with federal requirements - Group purchasing arrangements.** If the board determines that any section or the phraseology of any section of this chapter does not comply with applicable federal statutes or rules, the board shall adopt appropriate terminology with respect to that section to comply with the federal statutes or rules, subject to the approval of the legislative council's employee benefits programs committee. The board may assume responsibility for group purchasing arrangements as provided by federal law. Any plan modifications made by the board under this section are effective until the effective date of any measure enacted by the legislative assembly providing the necessary amendments to this chapter to ensure compliance with the federal statutes or rules.

Approved March 8, 1995

Filed March 9, 1995

## CHAPTER 535

## SENATE BILL NO. 2492

(Senators Christmann, Sand, Wanzek)  
(Representatives Belter, Carlson, Kempenich)

## COUNCIL ON THE ARTS MEMBERSHIP

AN ACT to provide for the expiration of terms of members of the North Dakota council on the arts; and to amend and reenact sections 54-54-02 and 54-54-03 of the North Dakota Century Code, relating to the members of the North Dakota council on the arts.

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

**SECTION 1. AMENDMENT.** Section 54-54-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-54-02. Council - Members - Appointment.** ~~There is hereby created and established a state council, to be known as the "The North Dakota council on the arts", which must consist~~ consists of fifteen nine members, broadly representative of all fields of the performing and fine arts, who are to be appointed by the governor as provided in this chapter, from among the citizens of ~~North Dakota the state~~ who are widely known for their competence and experience in connection with the performing and fine arts. In making ~~such these~~ appointments, due consideration must 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.

**SECTION 2. AMENDMENT.** Section 54-54-03 of the North Dakota Century Code is amended and reenacted as follows:

**54-54-03. Term of office - Filling vacancies - Chairman - Vice chairman - Expenses.** The term of office of each member is five years; provided, however, that of the members first appointed after the effective date of this Act, five three must be appointed for terms of ~~one year~~ two years, five three for terms of three years, and five three for terms of five years. ~~The governor shall make the initial appointments to the council within thirty days of July 1, 1967.~~ If a vacancy to be filled occurs otherwise than by the expiration of the term of office of a member of the council, the appointment must be made for the balance of the term only. Other than the chairman, no member of the council who serves a full five-year term is eligible for reappointment during a one-year period following the expiration of ~~his~~ the term. The governor shall designate a chairman and a vice chairman from the members of the council who shall serve at the pleasure of the governor. The chairman is the chief executive officer of the council. The members of the council may not receive any compensation for their services, but must be reimbursed for their travel expenses in the same manner and at the same rates as provided by law for other state officials for necessary travel in the performance of their duties as members of the council.

**SECTION 3. EXPIRATION DATE OF CURRENT MEMBERS' TERMS.**

The terms of the current members of the North Dakota council on the arts expire as of the effective date of this Act. Within thirty days after the effective date of this Act, the governor shall appoint three of the five council members whose terms would have expired in 1997 for the remainder of their original terms, three of the five council members whose terms would have expired in 1998 for the remainder of their original terms, and three new members to terms of five years.

Approved March 27, 1995

Filed March 28, 1995

**CHAPTER 536****SENATE BILL NO. 2267**

(Senators W. Stenehjem, Traynor)  
(Representative Kretschmar)

**UNIFORM LAWS COMMISSION MEMBERSHIP**

AN ACT to amend and reenact section 54-55-01 of the North Dakota Century Code, relating to membership on the commission on uniform state laws; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 54-55-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-55-01. Commission on uniform state laws - Membership.** The commission on uniform state laws ~~shall consist~~ consists of an individual engaged in the practice of law in this state, the dean or a full-time member of the faculty of the law school of the university of North Dakota, a law-trained judge of a court of record in this state, a member of the house of representatives and a member of the senate of the legislative assembly, and a member of the legislative council staff. The commission ~~shall also consist~~ consists of any residents of this state who, because of long service in the cause of uniformity of state legislation, have been elected life members of the national conference of commissioners on uniform state laws, and may also consist of any residents of this state who have been previously appointed to at least five years of service on the commission. Commissioners, except the ~~member members~~ of the legislative assembly, the member of the legislative council staff, and life members, must be appointed by the governor for terms of four years each, commencing on the first day of September following each presidential election, and shall serve until their respective successors are appointed. The ~~member members~~ of the legislative assembly on the commission must be appointed by the legislative council for a term not to exceed four years as prescribed by the legislative council, and the member of the legislative council staff must be appointed by the chairman of the legislative council.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 24, 1995  
Filed March 27, 1995