

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1171

Introduced by

Government and Veterans Affairs Committee

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

1 A BILL for an Act to create and enact a new section to chapter 54-06 and a new section to
2 chapter 54-11 of the North Dakota Century Code, relating to expenses to collect funds owed
3 the state and the ability of the state treasurer to appoint agents for the receipt of public funds; to
4 amend and reenact sections 15-39.1-26, 34-15-07, 39-12-20, 54-44-04.6, 54-44.3-03,
5 54-44.3-12.2, 54-44.3-15, and 54-44.3-16 of the North Dakota Century Code, relating to the
6 disposition of public funds, membership and voting on the state personnel board, appeals from
7 agency grievance procedures, and certification of payroll by the central personnel division
8 director and agency personnel officers; to provide a continuing appropriation; and to declare an
9 emergency.

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

11 **SECTION 1. AMENDMENT.** Section 15-39.1-26 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **15-39.1-26. Investment of moneys in fund - Interest and earnings attributable to**
14 **fund.** Investment of the fund ~~shall be~~ is under the supervision of the state investment board in
15 accordance with chapter 21-10. ~~Such~~ The moneys must be placed for investment only with a
16 firm or firms whose endeavor is money management, and only after a trust agreement or
17 contract has been executed. Investment costs may be paid directly from the fund, and are
18 hereby appropriated for that purpose, in accordance with section 21-10-06.2. All interest and
19 earnings on funds administered by the board must be credited to the fund.

20 **SECTION 2. AMENDMENT.** Section 34-15-07 of the 1997 Supplement to the North
21 Dakota Century Code is amended and reenacted as follows:

22 **34-15-07. Disposition of civil money penalties.** A civil money penalty collected
23 under this chapter must be paid into the state treasury for deposit in the general fund ~~after the~~
24 ~~costs of recovering the civil money penalty are deducted therefrom.~~

1 **SECTION 3. AMENDMENT.** Section 39-12-20 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **39-12-20. Proceeds of sale - Continuing appropriation.** The proceeds of sale must
4 ~~be applied first to the payment of~~ deposited with the state treasurer. The state treasurer shall
5 deposit in the highway fund an amount equal to the amount of the charges assessed pursuant
6 to 39-12-17 after paying the costs to the county. An amount equal to the costs of the
7 proceedings, including attorneys and witness fees and costs, and next to the payment of the
8 charges assessed. Such charges must be remitted to the state treasurer to be credited to the
9 highways fund is appropriated on a continuing basis out of the funds collected to the county in
10 which the prosecution took place for the purpose of defraying the costs of prosecution. The
11 balance of the proceeds of any sale after the payment of costs and charges ~~must is~~
12 appropriated on a continuing basis out of the funds collected to be paid over by the sheriff to
13 the person entitled thereto as determined by the court or must be deposited with the clerk of
14 court for such payment.

15 **SECTION 4.** A new section to chapter 54-06 of the North Dakota Century Code is
16 created and enacted as follows:

17 **Expenses incurred to collect funds owed the state - Continuing appropriation.** If
18 a state agency enters a contract with a collection or credit agency to collect money due the
19 state, the fees for services, reimbursement, or other remuneration to the collection or credit
20 agency must be based on the amount of money actually collected. All funds collected on
21 behalf of a state agency by a collection or credit agency must be deposited with the state
22 treasurer. An amount equal to the amount of fees for services, reimbursement, or any other
23 remuneration to the collection or credit agency as set forth in the contract is appropriated from
24 the fund into which the money collected was deposited to the state agency for which the funds
25 were collected for the payment of fees due under the contract.

26 **SECTION 5.** A new section to chapter 54-11 of the North Dakota Century Code is
27 created and enacted as follows:

28 **Appointment of agents.** The treasurer may appoint agents for the purpose of
29 receiving public funds as required by section 12 of article X of the Constitution of North Dakota.
30 If appointed by the state treasurer, the Bank of North Dakota shall serve as an agent of the
31 state treasurer for the purpose of receiving public funds.

1 **SECTION 6. AMENDMENT.** Section 54-44-04.6 of the 1997 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **54-44-04.6. State surplus property - Department heads to inform director -**
4 **Disposition of property - Proceeds - Exchange of property.**

- 5 1. The person in charge of any department, agency, or institution of the state shall
6 inform the director of the office of management and budget or the director's
7 designee whenever that department, agency, or institution possesses property
8 surplus to its needs, whether originally obtained with state or other funds.
- 9 2. State surplus property must be transferred at fair market value to state agencies,
10 political subdivisions, and nonprofit organizations eligible to receive federal surplus
11 property under the Federal Property Administrative Services Act of 1949, as
12 amended. Eligible organizations must be notified of the availability of property on
13 a regular basis.
- 14 3. If not disposed of under subsection 2, then by sale on sealed bids or at public
15 auction to the highest and best bidder for property valued at more than three
16 thousand dollars, with no money deposit required prior to sale, or by sealed bids,
17 public auction, or negotiation at fair value for property valued at less than three
18 thousand dollars.
- 19 4. All proceeds received from the transfer or sale of state surplus property must be
20 deposited ~~into the fund from which the property was originally purchased, less~~
21 ~~administrative expenses~~ with the state treasurer for deposit in the surplus property
22 operating fund. For each piece of property, the office of management and budget
23 shall transfer to the agency from which the property was received an amount equal
24 to the proceeds of the sale less the administrative expenses of the sale. The
25 agency shall deposit the proceeds into the fund from which the property was
26 originally purchased.
- 27 5. No department, agency, or institution may exchange items as part of a purchase
28 price of new items until a detailed statement of the value of the items to be
29 exchanged and request for approval have been submitted to the director of the
30 office of management and budget. The director shall approve the exchange only if
31 the director has determined that the item has been valued at fair value.

1 **SECTION 7. AMENDMENT.** Section 54-44.3-03 of the 1997 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **54-44.3-03. State personnel board - Composition - Terms - Vacancies -**
4 **Qualifications.**

- 5 1. The state personnel board is composed of the director, who must be the chairman
6 of the board; ~~a member appointed by the board of higher education; one member~~
7 appointed by the governor; ~~and two members elected by employees classified~~
8 ~~under sections 54-44.3-19 and 54-44.3-20; and one member with a professional~~
9 ~~human resource background appointed by the governor.~~
- 10 2. The term of ~~the~~ each member of the board ~~appointed by the governor and the~~
11 ~~respective terms of the members of the board elected by classified employees,~~
12 ~~except the director, must be for six years. However, the member of the board~~
13 ~~appointed by the governor in 1995 shall serve for a period of six years. Thereafter,~~
14 ~~all appointments and elections to the personnel board must be for six years'~~
15 ~~duration. The director's term coincides with employment as director.~~
- 16 ~~3.~~ Any permanent vacancy in office must be filled for the unexpired term in the same
17 manner as the selection of the person vacating the office. ~~However, if a board~~
18 ~~member voluntarily withdraws from deliberation and voting on an appeal where~~
19 ~~there may be a possible conflict of interest, the vacancy will be filled temporarily in~~
20 ~~the same manner as the selection of the person vacating the office. When a~~
21 ~~temporary vacancy involves a member of the board elected by classified~~
22 ~~employees, the automatic substitute must be the candidate that received the~~
23 ~~second highest number of votes in the election that elected the board member.~~
24 ~~Temporary board members will be used only in situations when a permanent board~~
25 ~~member voluntarily vacates the position due to a possible conflict of interest.~~
- 26 4. ~~3.~~ Each member of the board ~~appointed by the governor~~ must be a resident of
27 the state for at least sixty days and must be known to be in sympathy with the
28 application of merit principles to public employment. ~~Each member of the board~~
29 ~~elected by classified employees must be a resident of the state for at least sixty~~
30 ~~days and must be known to be in sympathy with the application of merit principles~~
31 ~~to public employment. No member of the board appointed by the governor or~~

1 ~~elect~~~~ed by classified employees~~ may have held a position in a political party within
2 four years immediately preceding the member's appointment or election to the
3 board, and those members of the board elected by classified employees must be
4 full-time employees in good standing of the classified service.

5 **SECTION 8. AMENDMENT.** Section 54-44.3-12.2 of the 1997 Supplement to the
6 North Dakota Century Code is amended and reenacted as follows:

7 **54-44.3-12.2. Employee complaints - Cooperation in development and**
8 **implementation of basic agency grievance procedures and a statewide appeal**
9 **mechanism - Appeals.** It is the intent of the state of North Dakota to assure fair and equitable
10 treatment and promote harmony between and among all classified employees. To ensure this
11 the state desires to resolve bona fide employee complaints as quickly as possible. The division
12 shall cooperate with and assist the various departments, agencies, and institutions of the state
13 in the development and implementation of basic agency grievance procedures and a statewide
14 appeal mechanism. The division shall certify appeals from nonprobationary employees in the
15 classified service which are related to discrimination, merit system qualification, reprisals,
16 reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and
17 dismissal, and from applicants for positions in the classified service related to discrimination.
18 Upon receipt of an appeal, the division shall submit a written request to the director of the office
19 of administrative hearings to designate an administrative hearing officer for the division to
20 conduct the hearing and related proceedings, including receiving evidence and preparing
21 findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial
22 action bears the burden of proof in the appeal. An appeal to the district court from the
23 determination of the ~~office of administrative hearings~~ hearing officer must be filed according to
24 chapter 28-32, but neither the division nor the office of administrative hearings may be named
25 as a party to the appeal under chapter 23-32 unless an employee of one of those two agencies
26 is involved in the grievance.

27 **SECTION 9. AMENDMENT.** Section 54-44.3-15 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 ~~**54-44.3-15. Payrolls must be certified by director before payment can be made**~~
30 ~~**Payment disapproved by director.**~~ ~~No state disbursing or auditing officer~~ The director may
31 ~~make or approve or take any part in making or approving any~~ disapprove the payment for

1 personal service ~~to~~ for any person holding a position in the classified service, except a person
2 appointed to a position for the duration of an emergency, ~~unless if~~ if the director ~~or the director's~~
3 ~~authorized agent has certified~~ determines that the person named therein has not been
4 classified and is not imminently to receive classification in accordance with the provisions of
5 this chapter and the rules and orders thereunder ~~and~~ or that the rate of pay is ~~legal~~ not
6 authorized.

7 **SECTION 10. AMENDMENT.** Section 54-44.3-16 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **54-44.3-16. Agency personnel officers.** The elected or appointed chief officer of
10 each agency or department of the service shall designate a staff employee to serve as
11 personnel officer for that division of the service to assist ~~him~~ the chief officer in ~~his~~ that person's
12 duty to administer personnel responsibilities specified in this chapter and by the personnel rules
13 ~~and regulations~~. The designated personnel officer of each agency or department shall certify to
14 the agency elected or appointed chief officer that each person holding a position in the
15 classified service authorized for payment through payroll has been classified in accordance
16 with the provisions of this chapter and the rules and orders under this chapter and that the rate
17 of pay is within established current salary ranges or excepted from the ranges by written
18 authorization by the director.

19 **SECTION 11. EMERGENCY.** Sections 1 through 6 of this Act are declared to be an
20 emergency measure.