

SENATE BILL NO. 2249

Introduced by

Senators J. Lee, Cook, Polovitz

Representatives DeKrey, Porter, Warner

1 A BILL for an Act to create and enact a new section to chapter 55-02 of the North Dakota
2 Century Code, relating to protection of historical sites; to amend and reenact section 55-02-07
3 and subsection 2 of section 55-10-08 of the North Dakota Century Code, relating to the powers
4 of the state historical board; and to declare an emergency.

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

6 **SECTION 1. AMENDMENT.** Section 55-02-07 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **55-02-07. Protection of historical or archaeological artifacts or sites.** Any
9 historical or archaeological artifact or site that is found or located upon any land owned by the
10 state or its political subdivisions or otherwise comes into its custody or possession and which is,
11 in the opinion of the director of the state historical society, significant in understanding and
12 interpreting the history and prehistory of the state, may not be destroyed, defaced, altered,
13 removed, or otherwise disposed of in any manner without the approval of the state historical
14 board, unless section 2 of this Act applies to the site. Notification of the director's opinion of
15 significance must be communicated to the appropriate governing official. The state historical
16 board through the director ~~shall~~, within sixty days of written notification to it by the appropriate
17 governing official of the state or political subdivision's desire, need, or intent to destroy, alter,
18 remove, or otherwise dispose of a significant artifact or site, shall provide the governing official
19 written direction for the care, protection, excavation, storage, destruction, or other disposition of
20 the significant artifact or site. The state and its political subdivisions shall cooperate with the
21 director in identifying and implementing any reasonable alternative to destruction or alteration of
22 any historical or archaeological artifact or site significant in understanding and interpreting the
23 history and prehistory of the state before the state historical board may approve the demolition
24 or alteration.

1 **SECTION 2.** A new section to chapter 55-02 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Protection of public health and safety on sites having a public function.**

4 Notwithstanding any other provision of law, if the state or a political subdivision has a property
5 interest in real property and that property has an existing public function in addition to any
6 historical site registration or historical significance determination, the governing body of the
7 agency or political subdivision owning the property interest may improve, alter, modify, or
8 destroy that property if the agency or governing body determines that action is necessary to
9 protect public health or safety, to provide access for disabled persons, or to ensure structural
10 integrity. Before any action may be taken by an agency or governing body under this section,
11 the director of the state historical society shall be given a reasonable opportunity to provide
12 alternatives to the proposed action. After having considered the director's comments, if any,
13 the agency or governing body may take the action affecting the property the agency or
14 governing body determines necessary. If the action of a governing body of a political
15 subdivision involves completely removing or demolishing a building, a petition for a public vote
16 on the governing body's action containing the names of at least ten percent of the qualified
17 electors from that governing body's jurisdiction who voted in the last preceding general election
18 may be filed with the county auditor within sixty days of the governing body's final action. If a
19 petition is filed, the matter must be submitted for a vote of the qualified electors at the next
20 special, primary, or general election held in that jurisdiction. If the political subdivision is a
21 home rule jurisdiction with its own referendum procedures, however, the home rule referendum
22 procedures apply to the action of the governing body.

23 **SECTION 3. AMENDMENT.** Subsection 2 of section 55-10-08 of the North Dakota
24 Century Code is amended and reenacted as follows:

25 2. The state or a political subdivision may not demolish or cause to alter the physical
26 features or historic character of any site listed in the state historic sites registry as a
27 state historic site without first obtaining the prior approval from the director of the
28 state historical society upon authorization of the state historical board, unless
29 section 2 of this Act applies to the site. The state and political subdivisions shall
30 cooperate with the director of the state historical society in identifying and

- 1 implementing any reasonable alternative to demolition or alteration of any state
- 2 historic site before the board approves the demolition or alteration.
- 3 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.