

HEALTH AND SAFETY

CHAPTER 218

HOUSE BILL NO. 1119
(Committee on Social Welfare)
(At the request of the Health Department)

COMPENSATION OF HEALTH COUNCIL MEMBERS

AN ACT to amend and reenact section 23-01-02 of the North Dakota Century Code, relating to the compensation, mileage and travel expenses for members of the health council.

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

SECTION 1. AMENDMENT.) Section 23-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-01-02. HEALTH COUNCIL - MEMBERS, TERMS OF OFFICE, VACANCIES, COMPENSATION, OFFICERS, MEETINGS.) The health council shall consist of eleven members appointed by the governor in the following manner: Two persons shall be appointed from a list of four submitted by the state hospital association, two persons shall be appointed from a list of four submitted by the state medical association, one shall be appointed from a list of two submitted by the state dental association, one shall be appointed from a list of two submitted by the state optometric association, one shall be appointed from a list of two submitted by the state nurses association, one shall be appointed from a list of two submitted by the state pharmaceutical association, and there shall be appointed three lay persons with broad civic interests representing varied segments of the population. On the expiration of the term of any member, the governor, in the manner hereinbefore provided, shall appoint for a term of three years, persons to take the place of members whose terms on said council are about to expire. The officers of said council shall be elected annually. The following persons shall serve in an advisory capacity to the health council: the state health officer, the attorney general, the director of institutions, the state fire marshal, the executive secretary of the state board of nurse examiners, the executive director of the state social service board, and such other persons as the governor may designate. The council shall meet at least twice each year and at such other times as the council or its chairman may direct. The council shall have as standing committees a health committee and a hospital committee and such other committees as said council may find necessary. The health committee shall consist of one of the representatives of the state medical association, one of the representatives of the state hospital association, the representative of the state dental association,

the representative of the state optometric association, the representative of the state nurses association, and two of the representatives of civic interests. The hospital committee shall consist of the representatives of the state hospital association, one of the representatives of the state medical association, the representative of the state nurses association, and two of the representatives of civic interests. The members of these committees shall be selected by the chairman of the health council from its own membership. The chairman shall have the responsibility of assigning to the special committees problems relating to the respective fields. The members of the council shall receive the same compensation per day as provided in section 54-35-10 for members of the legislative council and their necessary mileage and travel expenses as provided in sections 54-06-09 and 44-08-04 while attending council meetings, or in the performance of such special duties as the council may direct. Such per diem and expenses shall be audited and paid in the manner in which the expenses of state officers are audited and paid. The compensation provided for in this section shall not be paid to any member of the council who received salary or other compensation as a regular employee of the state, or any of its political subdivisions, or any institution or industry operated by the state.

Approved March 5, 1977

CHAPTER 219

SENATE BILL NO. 2132
(Committee on Social Welfare & Veterans' Affairs)
(At the request of the Health Department)

PUBLIC HEALTH LABORATORY ANALYSIS FEES

AN ACT to create and enact a new subsection to section 23-01-09 of the North Dakota Century Code, relating to the duties of the director of the public health laboratories division of the state department of health.

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

SECTION 1.) A new subsection to section 23-01-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

Be empowered to establish by regulation a schedule of reasonable fees which it may charge for laboratory analysis. No charge shall, however, be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.

Approved March 17, 1977

CHAPTER 220

SENATE BILL NO. 2501
(Reiten)

BURIAL OF DECEASED PERSONS

AN ACT to amend and reenact section 23-06-03 of the North Dakota Century Code, relating to the duty of burial.

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

SECTION 1. AMENDMENT.) Section 23-06-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-06-03. DUTY OF BURIAL.) The duty of burying the body of a deceased person devolves upon the following persons:

1. If the deceased was married, upon the surviving husband or wife.
2. If the deceased was not married but left kindred, upon the person or persons in the same degree, of adult age, nearest of kin to the deceased living within the state and possessed of sufficient means to defray the necessary expenses.
3. In case the person upon whom the duty of burial is cast by the foregoing provisions omits to make such burial within the time required by this chapter, upon the person next specified. If all omit to act, upon the tenant, or if there is no tenant, upon the owner of the premises in which the death occurs or the body is found.
4. If the deceased left no husband, wife, or kindred answering the foregoing description and did not leave means sufficiently to defray his funeral expenses, including the cost of a casket, the county welfare board of the county in which the deceased had residence for poor relief purposes or if such residence cannot be established, then the county welfare board of the county in which the death occurs, shall employ some person to arrange for and supervise the burial. The cost of such burial shall be paid by the county welfare board, subject to the following:

- a. The sum of four hundred dollars shall be allowed for personal property and burial services furnished by a funeral director or funeral home.
- b. The reasonable costs of transporting the body to the place of burial, but not exceeding one hundred dollars.
- c. The cost of the grave box or vault, not to exceed the sum of one hundred twenty dollars, provided that a grave box or vault is required by the cemetery before a burial may be made.
- d. The cost of a grave space, not to exceed the sum of fifty dollars.
- e. Any grave opening and closing expenses, not to exceed the sum of seventy-five dollars.

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

Approved March 31, 1977

CHAPTER 221

HOUSE BILL NO. 1349
(Nicholas, Weber, Tinjum, Olson)

ABANDONED CEMETERY MAINTENANCE

AN ACT to create and enact section 57-15-27.2 of the North Dakota Century Code, relating to authorizing a mill levy by counties for the maintenance of abandoned cemeteries; and to amend and reenact section 23-06-30 of the North Dakota Century Code, relating to the duty of counties to maintain abandoned cemeteries.

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

SECTION 1. AMENDMENT.) Section 23-06-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-06-30. ABANDONED CEMETERIES TO BE MAINTAINED BY COUNTIES.) The board of county commissioners of each county shall provide for the general maintenance and upkeep of each abandoned cemetery located within such county. The board shall, at least once each year, proceed to have the weeds and grass cut, restore gravestones to their original placement, and perform any other general maintenance necessary to maintain the dignity and appearance of the grounds. For the purposes of this section, a cemetery means any tract of land used as a burial plot and which is filed with the register of deeds of the county as a public burying place.

SECTION 2.) Section 57-15-27.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

57-15-27.2. ABANDONED CEMETERY TAX LEVIES.) The governing body of any county may levy a tax, not exceeding one-tenth of one mill on the dollar of the net assessed taxable valuations of the county, in addition to all levies now authorized by law, for the purpose of defraying the expenses incurred in the maintenance of abandoned cemeteries as provided by section 23-06-30.

Approved March 23, 1977

CHAPTER 222

SENATE BILL NO. 2544
(Committee on Delayed Bills)
(At the request of Senator Orange)

SMOKE DETECTION DEVICES

AN ACT to create and enact a new section to chapter 23-09 of the North Dakota Century Code, relating to smoke detection devices or other approved alarm systems in hotels, motels, and lodgings; to amend and reenact subsection 1 of section 23-09-01 of the North Dakota Century Code, relating to the definition of a motel; and providing a date of compliance.

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

SECTION 1.) A new section to chapter 23-09 of the North Dakota Century Code is hereby created and enacted to read as follows:

SMOKE DETECTION DEVICES OR OTHER APPROVED ALARM SYSTEMS.) Each hotel, motel, and lodginghouse, as those terms are defined in section 23-09-01, shall install smoke detection devices or other approved alarm systems of a type and in the number approved by the state laboratories department, in cooperation with the state fire marshal. The laboratories department, in cooperation with the state fire marshal, shall adopt and promulgate reasonable rules and regulations governing the spacing and minimum specifications for approved smoke detection devices or other approved alarm systems. The laboratories department and state fire marshal shall provide all reasonable assistance required in complying with the provisions of this section.

SECTION 2. AMENDMENT.) Subsection 1 of section 23-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Hotel" or "motel" includes every building or structure, or any part thereof, kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public for periods of less than one week, whether such accommodations are furnished with or without meals;

SECTION 3. DATE OF COMPLIANCE.) No hotel, motel, or lodginghouse shall be required to comply with the provisions of this Act prior to July 1, 1979.

CHAPTER 223

HOUSE BILL NO. 1041
(Legislative Council)
(Interim Committee on Industry, Business & Labor "A")

MOBILE HOME PARK REGULATION

AN ACT to create and enact sections 23-10-02.1 and 23-10-07.1 of the North Dakota Century Code, relating to local enforcement and inspection and to service fees of mobile home parks, trailer parks, and campgrounds, and to amend and reenact sections 23-10-01, 23-10-02, 23-10-03, 23-10-04, 23-10-05, 23-10-06, 23-10-07, 23-10-09, 23-10-10, 23-10-11, and 23-10-12 of the North Dakota Century Code, relating to definitions, state laboratories department authority to promulgate regulations, issue licenses, and conduct inspections concerning mobile home parks, trailer parks, and campgrounds, license fees, sanitation and safety requirements, guest records, distribution and posting of regulations, ejection from premises, revocation of licenses, and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 23-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-01. DEFINITIONS.) In this chapter, unless the context or subject matter otherwise requires:

1. "Campground" means any parcel of land containing three or more lots intended for occupancy by travel trailers or tents.
2. "Department" means the state laboratories department.
3. "Lot" means any piece of land of required size intended for occupancy by a mobile home, travel trailer, or tent.
4. "Mobile home" means any relocatable structure or unit which is designed to be used as living quarters.
5. "Mobile home park" means any parcel of land containing three or more lots intended for occupancy by mobile homes.
6. "Person" means any individual, firm, trust, partnership, public or private association, or corporation.

7. "Trailer park" means any parcel of land containing three or more lots intended for occupancy by travel trailers.
8. "Travel trailer" means any portable unit designed to be used as a temporary dwelling for travel or recreational purposes. The term travel trailer includes the following:
 - a. An independent travel trailer, which is a travel trailer containing toilet and lavatory facilities.
 - b. A dependent travel trailer, which is a travel trailer containing either toilet or lavatory facilities or having neither facility.

SECTION 2. AMENDMENT.) Section 23-10-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-02. DEPARTMENT TO MAKE REGULATIONS - COMPLIANCE.) The department shall have general supervision over the health, safety, sanitary condition, and legal compliance as outlined in this chapter of all mobile home parks, trailer parks, and campgrounds in this state and may promulgate and enforce appropriate rules and regulations in accordance with chapter 28-32. All mobile home parks, trailer parks, and campgrounds constructed after July 1, 1977, shall be constructed in accordance with the requirements of this chapter and the rules and regulations promulgated at the time of construction. All mobile home parks, trailer parks, and campgrounds constructed before July 1, 1977, shall meet the requirements of this chapter by July 1, 1985. All mobile home parks, trailer parks, and campgrounds shall meet rules and regulations duly promulgated after construction of the park or campground within eight years after the effective date of the rule or regulation.

SECTION 3.) Section 23-10-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-10-02.1. DEPARTMENT AUTHORIZED TO ACCEPT LOCAL ENFORCEMENT AND INSPECTION.) The department shall accept city or county enforcement of local sanitation, safety, zoning, and inspection requirements in lieu of the enforcement of sanitation, safety, and inspection requirements of the department under this chapter if the department shall determine that the city or county requirements meet or exceed the requirements of this chapter and any rules and regulations promulgated under this chapter. Prior to accepting city or county enforcement of local requirements, the department shall determine that the city or county requirements meet or exceed the requirements of this chapter and any rules and regulations promulgated under this chapter.

SECTION 4. AMENDMENT.) Section 23-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-03. LICENSE REQUIRED - APPLICATION.) No person shall establish, maintain, or enlarge a mobile home park, trailer park,

or campground in this state without first obtaining a license from the department. The application for the license shall be made in writing to the department and shall state the location and type of the mobile home park, trailer park, or campground, the proposed water supply, the proposed method of sewerage and garbage disposal, and such other information as may be required by the department. Application forms shall be prepared by the department and distributed upon request.

SECTION 5. AMENDMENT.) Section 23-10-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-04. INSPECTION.) The department shall inspect the premises as soon as practical after receiving an application for a mobile home park, trailer park, or campground license. If the department is satisfied from the application and inspection that the mobile home park, trailer park, or campground will not be a source of danger to the health and safety of the occupants or the general public, it shall notify the applicant of its approval of the application and of the amount of the license fee. The department shall have access to and may inspect mobile home parks, trailer parks, and campgrounds at reasonable times. The department shall inspect each mobile home park, trailer park, and campground at least once a year.

SECTION 6. AMENDMENT.) Section 23-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-05. LICENSE FEES.) The following fees shall be charged for licenses to operate mobile home parks, trailer parks, or campgrounds in this state:

1. For a mobile home park containing at least three but not more than ten lots, twenty dollars.
2. For a mobile home park containing at least eleven but not more than twenty-five lots, thirty-five dollars.
3. For a mobile home park containing at least twenty-six but not more than fifty lots, fifty dollars.
4. For a mobile home park containing more than fifty lots, one dollar for each lot up to a maximum of sixty-five dollars.
5. For a trailer park or campground containing at least three but not more than ten lots, fifteen dollars.
6. For a trailer park or campground containing at least eleven but not more than twenty-five lots, thirty dollars.
7. For a trailer park or campground containing at least twenty-six but not more than fifty lots, forty-five dollars.

8. For a trailer park or campground containing more than fifty lots, sixty-five dollars.
9. The license fee shall be waived for any mobile home park, trailer park, or campground owned by the state, a municipality, or a nonprofit organization. The department shall waive all or a portion of the license fee for any mobile home park, trailer park, or campground which is subject to local sanitation, safety, and inspection requirements accepted by the department under section 23-10-02.1.

SECTION 7. AMENDMENT.) Section 23-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-06. LICENSE ISSUANCE - TRANSFERABILITY.) The department shall issue a license to the applicant upon approving the application and receiving the license fee. The license shall be upon a form prescribed by the department, shall be for a term of one year from January first to December thirty-first, and shall be renewable upon the same basis as that upon which it was originally issued. The license shall be transferable without charge if the proposed new owner applies in writing for a transfer of the license and certifies that the mobile home park, trailer park, or campground will be operated in accordance with this chapter.

SECTION 8. AMENDMENT.) Section 23-10-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-07. SANITATION AND SAFETY.) Every mobile home park, trailer park, and campground shall be operated with strict regard for the health, safety, and comfort of its occupants. The following sanitary and safety regulations shall be followed:

1. Location: Every mobile home park shall be established and maintained upon dry, well-drained ground. Any natural sinkholes or collection or pool of water shall be artificially drained and filled. Trailer park and campground lots shall be established and maintained upon dry, well-drained spaces.
2. Drinking water supply: An adequate supply of potable and safe drinking water shall be provided. Water from other than a municipal supply shall not be used until inspected, tested, and certified by the department.
3. Towels: The placing of roller cloth towels for public use in any washroom or place within a mobile home park, trailer park, or campground is prohibited. Individual cloth towels, cloth towels provided in mechanical dispensers, individual paper towels, or roller paper towels shall be placed for use.
4. Toilets: Modern sanitary flush toilets shall be pro-

vided where a sewer connection is available. If a sewer connection is not available, sanitary fly-proof privies shall be maintained. All toilets and privies shall be kept in a clean, sanitary condition. Separate toilets and privies shall be provided for each sex. No privy or cesspool shall be located less than one hundred feet from any well, kitchen, or sleeping quarters.

5. Garbage: All garbage and refuse shall be stored in metal fly-proof containers, and the contents removed and disposed of on a regular basis. All buildings within the mobile home park, trailer park, or campground shall be screened against flies and kept in a clean and sanitary condition.
6. Plumbing installations: All plumbing installations in a mobile home park, trailer park, or campground shall be made in accordance with the state plumbing code.
7. Electrical installations: All electrical installations in a mobile home park, trailer park, or campground shall be made in accordance with the state electrical code.
8. Streets and roadways: Each mobile home park, trailer park, and campground shall have roadways or streets wide enough to facilitate the movement of traffic within the park or campground.
9. Lighting: Each mobile home park shall be well-lighted.
10. Fire protection: Each mobile home park shall have adequate fire protection.
11. Playgrounds: Each mobile home park containing twenty-five or more lots shall provide playground space equivalent to one lot for every twenty-five lots in the park.
12. Multiple-story parks: A multiple-story mobile home park or trailer park shall not be constructed in this state.

SECTION 9.) Section 23-10-07.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-10-07.1. SERVICE FEES.) Service fees that reasonably reflect the cost of the service provided in a mobile home park, trailer park, or campground may be charged. Fees may not be charged unless a service is actually provided.

SECTION 10. AMENDMENT.) Section 23-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-09. OCCUPANCY RECORD.) The owner or manager of a mobile home park, trailer park, or campground shall maintain a current record of the names of the occupants of the park or campground.

SECTION 11. AMENDMENT.) Section 23-10-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-10. POSTING RULES AND REGULATIONS.) The owner or manager of a licensed mobile home park shall distribute a copy of this chapter and the relevant rules and regulations to each tenant in the park. The owner or manager of a trailer park or campground shall conspicuously post a copy of this chapter and the relevant rules and regulations in the trailer park or campground. Material required to be distributed or posted under this section shall be provided by the department free of charge.

SECTION 12. AMENDMENT.) Section 23-10-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-11. EJECTION FROM PREMISES.) The owner or manager of a mobile home park, trailer park, or campground may eject any person from the premises for nonpayment of charges or fees for accommodations, for a violation of law, for disorderly conduct, for a violation of any regulation of the department, or for a violation of any reasonable rule of the mobile home park, trailer park, or campground which is publicly posted within the park or campground.

SECTION 13. AMENDMENT.) Section 23-10-12 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-12. REVOCATION OF LICENSE - PENALTY FOR OPERATING WITHOUT LICENSE.) The department may revoke any license issued under this chapter upon the failure of the licensee to comply with this chapter or with any of the rules and regulations promulgated by the department. Before any license may be revoked, the department shall notify the licensee in writing of the reason revocation is being considered and shall provide a reasonable amount of time for correction to be made. Action taken under the authority granted in this section shall comply with chapter 28-32. Any person who shall maintain or operate a mobile home park, trailer park, or campground without first obtaining a license, or who shall operate the same after revocation of the license, shall be guilty of an infraction.

Approved April 21, 1977

CHAPTER 224

SENATE BILL NO. 2328

(Lee, Thane, Hoffner, Orange, Wenstrom)

SMOKING RESTRICTED IN PUBLIC AREAS

AN ACT to provide for the regulation of smoking in certain places of public assembly; to repeal sections 48-05-07 and 48-05-08 of the North Dakota Century Code, relating to designated areas for smoking or nonsmoking in publicly owned buildings; and to provide a penalty.

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

SECTION 1. DEFINITIONS.) As used in this section, "place of public assembly" means:

1. Enclosed theaters, except the lobby; auditoriums; elevators; rooms in which persons are confined as a matter of health care, including but not limited to the waiting room, restroom, lobby, or hallway of a hospital, nursing home, rest home, or other health care institution or facility, except the room in a health care facility serving as the residence of the person living in such facility.
2. All buildings and other enclosed structures owned by the state, its agencies, or political subdivisions, including but not limited to hospitals and state institutions for the mentally retarded and the mentally ill; all public education buildings, except rooms within those buildings used primarily as the residences of students or other persons affiliated with the university or college; office buildings; libraries; and vehicles used in public transportation.
3. Each portion of a building or enclosed structure that is not included in subsection 1 or 2 of this section is a place of public assembly if it has the seating capacity for fifty or more persons and is available to the public, including but not limited to restaurants, food service establishments, dining rooms, cafes, cafeterias, or other rooms used primarily for the service of food.

SECTION 2. NONSMOKING AREAS DESIGNATED.) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of the persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no-smoking area. The designation shall be made by the person with general supervisory responsibility over the place of public assembly before the place of public assembly is next or first made available to the public after the effective date of this Act.

SECTION 3. PENALTY.) Any person who shall smoke in an area designated for nonsmoking as provided in this Act, or who has general supervisory responsibility and fails to designate a non-smoking area, shall be subject to a fine not to exceed one hundred dollars.

SECTION 4. REPEAL.) Sections 48-05-07 and 48-05-08 of the 1975 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 31, 1977

CHAPTER 225

HOUSE BILL NO. 1216
(A. Hausauer)

HOUSING FOR VETERANS

AN ACT to amend and reenact sections 23-11-31, 23-11-32, 23-11-33, 23-11-34, and subsection 8 of section 23-11-35 of the North Dakota Century Code, relating to housing for veterans.

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

SECTION 1. AMENDMENT.) Section 23-11-31 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-31. HOUSES FOR WORKERS IN NATIONAL DEFENSE AND VETERANS.) Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities who, as determined by the housing authority, would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof. In the ownership, development, or administration of such projects, a housing authority shall have all the rights, powers, privileges, and immunities that such authority has under any provisions of law relating to the ownership, development, or administration of slum clearance and housing projects for persons of low income. The authority shall exercise such rights, powers, and privileges as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this section. Housing projects developed or administered hereunder shall constitute housing projects under the provisions of this chapter. When a housing authority finds that within its area of operation or any part thereof there is an acute shortage of safe and sanitary dwellings which impedes the national defense program or the general welfare of veterans and that necessary and safe and sanitary dwellings would not otherwise be provided when needed for such persons, any project developed or administered by such housing authority or by any housing authority cooperating with such authority pursuant to this section, with the financial aid of the federal government or as agent for the federal government as hereinafter provided, shall not be subject to the limitations provided in sections 23-11-13

and 23-11-14. Any such finding shall be conclusive in any suit, action, or other proceeding. A housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges, or improvements furnished for or in connection with any such projects. After the national defense period any such projects owned and administered by a housing authority shall be administered in accordance with the preceding sections of this chapter except veterans shall not be subject to the limitations in section 23-11-14.

SECTION 2. AMENDMENT.) Section 23-11-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-32. COOPERATION WITH FEDERAL GOVERNMENT.) A housing authority may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the federal government in the development or administration of projects by the federal government to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities or veterans and may undertake the development or administration of any such projects for the federal government. In order to assure the availability of safe and sanitary housing for persons engaged in national defense activities or for veterans, a housing authority may sell, in whole or in part, to the federal government any housing project developed for such persons but not yet occupied by such persons. Such sale shall be at a price and upon those terms the housing authority shall prescribe and shall include provision for the satisfaction of all debts and liabilities of the authority relating to the project.

SECTION 3. AMENDMENT.) Section 23-11-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-33. MUNICIPALITIES MAY COOPERATE.) Any city, county, or other public body may cooperate with housing authorities, or with the federal government, with respect to the development or administration of projects, and necessary slum clearance, to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and for veterans.

SECTION 4. AMENDMENT.) Section 23-11-34 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-11-34. POWERS OF HOUSING AUTHORITY.) This chapter shall constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and for veterans as provided in this chapter and for a housing authority to cooperate

with, or act as agent for, the federal government in the development or administration of similar projects by the federal government. In acting under this authorization, a housing authority shall not be subject to any limitations, restrictions, or requirements of other laws, except those relating to land acquisition, prescribing the procedure or action to be taken in the development or administration of any public works, including slum clearance and housing projects for such persons or undertakings or projects of municipal or public corporations or political subdivisions or agencies of the state. A housing authority may do any and all things necessary or desirable to cooperate with, or act as agent for, the federal government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities and for veterans and to effectuate the purposes of this chapter.

SECTION 5. AMENDMENT.) Subsection 8 of section 23-11-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Veteran" means a person, as defined by section 37-01-40, who may be eligible under the terms of this Act for aid or assistance.

Approved March 12, 1977

CHAPTER 226

HOUSE BILL NO. 1096
(Wagner, Mund)

SELF-SERVICE MOTOR FUEL STATIONS

AN ACT to create and enact sections 23-13-02.1 through 23-13-02.7 of the North Dakota Century Code, relating to regulation of the operation of self-service motor fuel dispensing devices; and to amend and reenact sections 23-13-02 and 23-13-03 of the North Dakota Century Code, relating to the operation of self-service motor fuel dispensing devices and providing a penalty.

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

SECTION 1. AMENDMENT.) Section 23-13-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-13-02. SALE OF MOTOR FUELS - REGULATIONS FOR HANDLING AND DISPENSING.) No person other than the owner or operator of a filling station or a regular bona fide employee or authorized attendant of such owner or operator shall fill, wholly or partly, with gasoline or other inflammable liquid at a filling station, any fuel tank of a motor vehicle or any barrel, drum, or other vessel or container, nor shall any such person use, handle, or manipulate any hose, pump, pipe, or other contrivance for conveying, measuring, or handling of such liquid. Provided, however, this section shall not apply to the operation of self-service motor fuel dispensing devices, provided such operation is in accordance with sections 23-13-02.1 through 23-13-02.7.

SECTION 2.) Section 23-13-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-13-02.1. DEFINITIONS.) As used in this Act, unless the context requires otherwise:

1. "Fire marshal" means the fire marshal of the state of North Dakota.
2. "Person" means any individual, corporation, company, firm, association, trust, or beneficiary thereof, but does not include any private or fraternal club or association.

3. "Self-service motor fuel dispensing facility" means any business establishment which offers for sale at retail prices motor fuels which are dispensed from self-service motor fuel dispensing units.
4. "Self-service motor fuel dispensing unit" means any system, device, or pump for dispensing motor fuels into the fuel tanks of motor vehicles which is intended to be operated by the purchaser of such motor fuel, except that such term does not include any system, device, or pump which is coin-operated, currency-operated, or card-operated.

SECTION 3.) Section 23-13-02.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-13-02.2. OPERATION OF SELF-SERVICE MOTOR FUEL DISPENSING UNIT.) It shall be lawful for any person to own, operate, or engage in the business of operating self-service motor fuel dispensing units or self-service motor fuel dispensing facilities in this state, provided such operation is in accordance with the provisions of this Act.

SECTION 4.) Section 23-13-02.3 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-13-02.3. REQUIREMENTS FOR THE OPERATION OF SELF-SERVICE MOTOR FUEL DISPENSING FACILITIES.) All self-service motor fuel dispensing facilities shall be maintained and operated in accordance with the following:

1. All laws, ordinances, rules, or regulations now applicable for sale and dispensing of motor fuels shall, to the extent applicable, apply to the operation of self-service motor fuel dispensing facilities.
2. At all times during the operation of a self-service motor fuel dispensing facility the owner, operator, or his or its employee or authorized attendant shall be on the premises and shall supervise the operation thereof and such attendant shall refuse service to anyone who appears for any reason to be unable to dispense such motor fuel safely.
3. Persons dispensing motor fuel from self-service motor fuel dispensing units shall be a qualified operator of a motor vehicle under North Dakota law. Permanent signs shall be posted on all self-service motor fuel dispensing units prohibiting their operation except by a qualified operator of a motor vehicle under North Dakota law.
4. Operating instructions for the use of self-service motor fuel dispensing units shall be conspicuously posted in the dispensing area.

SECTION 5.) Section 23-13-02.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-13-02.4. SELF-SERVICE UNITS TO BE EQUIPPED WITH EMERGENCY POWER CUTOFF.) All self-service motor fuel dispensing units shall be so constructed that their electrical pumping systems shall have an accessible switch or circuit breaker provided at a location remote from the dispensing device, including remote pumping systems, and accessible to the supervising attendant, to shut off electrical power to the dispensing devices in the event of an emergency.

SECTION 6.) Section 23-13-02.5 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-13-02.5. SELF-SERVICE MOTOR FUEL DISPENSING UNITS TO BE IN VIEW OF ATTENDANT.) All self-service motor fuel dispensing facilities shall, at all times, be in clear view of the attendant who shall be able to communicate, by voice, with persons in the dispensing area.

SECTION 7.) Section 23-13-02.6 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-13-02.6. PROHIBITED ACTIVITIES.) With respect to any self-service dispensing facility it is unlawful to:

1. Use, operate, or install any coin-operated, currency-operated, or card-operated dispensing device in any self-service motor fuel dispensing facility.
2. Provide for or use living or residential facilities or accommodations for the benefit of any owner, operator, or employee of the self-service motor fuel dispensing facilities on the premises of such facility.
3. Permit smoking of any nature, so as to constitute a hazard within the vicinity of any self-service motor fuel dispensing unit.
4. Permit the dispensing of any gasoline through self-service gasoline dispensing units to motor vehicles while the motor vehicle's engine is in operation.

SECTION 8.) Section 23-13-02.7 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-13-02.7. PLANS AND SPECIFICATIONS.) Plans and specifications for any new self-service dispensing facility shall be submitted to the North Dakota state fire marshal for approval. This does not include conversion of existing facilities for dispensing of motor fuel to self-service dispensing facilities.

SECTION 9. AMENDMENT.) Section 23-13-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-13-03. PENALTY.) Any person who violates any provision of sections 23-13-02 through 23-13-02.7, or any rule or regulation of the fire marshal made pursuant thereto, or who, if an owner or operator of a filling station, permits such violation, shall be guilty of a class B misdemeanor.

Approved April 6, 1977

CHAPTER 227

SENATE BILL NO. 2369
(Jones, Melland, Rait)

HEALTH CARE FACILITY EXPANSION

AN ACT to amend and reenact subsection 1 of section 23-17.2-01, sections 23-17.2-02, 23-17.2-03, 23-17.2-05, 23-17.2-09, 23-17.2-11, 23-17.2-13, 23-17.2-14 of the North Dakota Century Code, relating to certification of need for expansion of hospital facilities; and to repeal sections 23-17.2-06, 23-17.2-07, 23-17.2-08, and 23-17.2-10 of the North Dakota Century Code, relating to certification of need for expansion of hospital facilities.

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

SECTION 1. AMENDMENT.) Subsection 1 of section 23-17.2-01 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. That the construction and expansion of health care facilities and the institution of additional health care services shall be accomplished in a manner which is orderly, economical, and consistent with the effective development of necessary and adequate means of providing for the health care of the people of North Dakota, and to avoid a wasting of health care dollars.

SECTION 2. AMENDMENT.) Section 23-17.2-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.2-02. DEFINITIONS.) As used in this chapter, unless otherwise indicated by the context:

1. "Appearance" shall mean a notice in writing filed by any interested person notifying the state health council of his interest in any application pending under this chapter.
2. "Bed capacity" means space as defined by the state department of health pursuant to R 23-16-01.
3. "Construction" means:

- a. The proposed construction of any facility or proposed program which would expand service or increase of bed capacity.
 - b. Addition of any health service not previously provided by a health care facility or health care service. However, construction shall not include the temporary increase of bed count by reason of an emergency not to exceed sixty days, or by changes required by state or federal health and safety regulatory bodies.
4. "Health systems agency" means a conditionally or fully designated health systems agency designated pursuant to section 1515 of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641) and Title 42, Code of Federal Regulations, and which is recognized by the state department of health for review and comment on application for certificate of need as provided by this chapter.
 5. "Health council" means the state health council of the North Dakota state department of health.
 6. "Health care facility and health care service" mean any program, institution, place, building, or agency, or portion thereof, private or public, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care to any person or persons which are licensed or certified by the North Dakota state department of health, or certified pursuant to the Federal Social Security Act as amended.
 7. "Statewide health coordinating council" means the body established pursuant to section 1524 of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641) to advise the state department of health with regard to provisions of that Act.
 8. "Patient" means a person who is suffering from mental illness, acute or chronic illness or injury, or convalescent and who is in need of medical and nursing care on a continuing basis, or who is in need of obstetrical or other medical or nursing care.
 9. "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency as stated herein.

10. "Public body" means the state of North Dakota, and any county or municipal corporation.
11. "Public funds" shall include all funds derived from taxation, fees, penalties, sale of bonds, or from any other source which belong to and are the property of a public corporation or of the state, and all sinking funds of such public corporations and for whatever purpose to be expended of which a public corporation or the state shall have legal custody. They shall include the funds of which any board, bureau, commission, or individual, created or authorized by public and state law, is authorized to have control as the legal custodian for any purpose whatsoever, whether such funds were derived from general or special taxation or the assessment of persons or corporations for a specific purpose.
12. "Public institution" means any hospital or related medical facility under the establishment and control of any public body.
13. "State health plan" means the document prepared and reviewed and revised as necessary (but at least annually) by the statewide health coordinating council pursuant to section 1524 of the National Health Planning and Resources Development Act of 1974 (P.L. 93-641).
14. "Department" means the North Dakota state department of health.
15. "Commencement of construction" means the signing of contracts for construction or engaging construction crews without contract for the purpose of construction or the signing of a purchase order in the case of equipment ordered to institute a new service.

SECTION 3. AMENDMENT.) Section 23-17.2-03 of the 1975 Supplement to the North Century Code is hereby amended and reenacted to read as follows:

23-17.2-03. FACILITIES INCLUDED.) Health care facilities and health care services included for the purpose of this chapter shall include health care facilities and health care services as defined in subsection 6 of section 23-17.2-02.

SECTION 4. AMENDMENT.) Section 23-17.2-05 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.2-05. DEPARTMENT TO PROMULGATE RULES AND REGULATIONS - FACILITIES SUBMIT APPLICATION - CRITERIA FOR CERTIFICATION - CONTENT OF APPLICATION.) The state health council is hereby empowered to promote and execute the purposes contemplated by this chapter

including but not limited to the following activities:

1. The development of an application form.
2. The promulgation of such rules and regulations as may be required for P.L. 93-641 purposes.
3. The establishment of criteria.
4. The establishment of roles of the state department of health, state health coordinating council, and health system agencies in the administration of the certification program.
5. The establishment of dollar minimum as to inclusion or exclusion of a proposal.
6. The establishment of time frames and limitations in review of proposals by review bodies.

Health care facilities to be certified shall submit an application to the state department of health. Applicants shall comply with criteria of rules and regulations as set forth therein. The state health council shall consider the application and determine from its findings whether such application qualifies the applicant for certification of need under criteria as set forth in the rules and regulations. The determination shall be made after receipt of recommendations from the health system agency in which the applicant is located and the determination shall be communicated to the facility or its owners or operators, the respective health system agency, and all persons filing an appearance immediately after being made.

SECTION 5. AMENDMENT.) Section 23-17.2-09 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.2-09. APPLICATION FOR CERTIFICATE OF NEED.) Applicants for certificate of need shall file applications under oath with the state department of health upon forms prescribed by the health council. Applications shall be signed by the owner, or in the case of a corporation by two of its officers, or in the case of a public institution by the head of such governmental unit or agency having jurisdiction over it. Applications shall set forth the full name and address of the owner of the institution for which certificate of need is sought, the names of the persons in control thereof, and such additional information as the state health council may require including affirmative evidence of ability to comply with licensing requirements when constructed.

SECTION 6. AMENDMENT.) Section 23-17.2-11 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.2-11. AUTHORITY TO ISSUE OR DENY CERTIFICATE OF NEED.)
The state health council:

1. Shall issue certificates of need for the construction or expansion of health care facilities or health care services subject to this chapter which are found to comply with the provisions of this chapter and such regulations as are lawfully promulgated by the health council. Notice of determination by the state health council granting, denying, or revoking the certification of need, or deferring the application for further information, shall be communicated to the applicant, the health system agency, and other persons who have filed an appearance.
2. May deny the issuance of a certificate of need hereunder on any of the following grounds:
 - a. Violation of any of the provisions of this chapter or the rules and regulations promulgated pursuant thereto.
 - b. Conduct or practices detrimental to the health or safety of patients and employees of said existing or proposed health care facilities or services.
 - c. The issuance of a certification of need is not warranted.

Within thirty days from date of mailing the determination, the applicant, any recognized health system agency, or any person who has filed an appearance may petition the state health council for a public hearing for a reconsideration of a department's determination in the case of either a certification approval, denial, or revocation. The public hearing shall be held before the health council in accordance with the provisions of chapter 28-32 pursuant to written notice to persons who have filed an appearance, served by registered or certified mail, which shall concisely state the grounds for such approval, denial, or revocation and shall fix the time and place of hearing which shall not be less than thirty days after the date of the mailing of such notice. After such hearing, the council shall make an order denying or granting the application for certification, or revoking the certification previously granted. The council shall send a copy of its order to all persons who have filed an appearance by registered or certified mail, which shall contain its findings and conclusions, and such order shall become final thirty days after the date of mailing unless an appeal is taken therefrom in the manner provided by section 23-17.2-13.

SECTION 7. AMENDMENT.) Section 23-17.2-13 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.2-13. APPEAL.) An appeal may be taken to the district

court from any order of the state health council denying, approving, or delaying a determination on an application for certificate of need or the revocation of a certificate of need previously granted. Any such appeal shall be taken in the manner provided in chapter 28-32.

SECTION 8. AMENDMENT.) Section 23-17.2-14 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-17.2-14. LICENSING PROHIBITED.) Any person or public body establishing, conducting, managing, or operating any institution within the meaning of this chapter without first obtaining a certificate of need therefor as herein provided, or who shall violate any of the provisions of this chapter shall not be eligible for licensure and all licensing agencies are prohibited from issuing a license to operate in violation hereof, or any person or public body establishing, conducting, managing, or operating any institution within the meaning of this chapter without first obtaining a certificate of need therefor as herein provided, or who shall violate any of the provisions of this chapter shall be subject to a civil penalty not to exceed two hundred and fifty dollars per day and each day's continuance of the violation gives rise to a new penalty.

SECTION 9. REPEAL.) Sections 23-17.2-06, 23-17.2-07, 23-17.2-08, and 23-17.2-10 of the 1975 Supplement to the North Dakota Century Code are hereby repealed.

Approved April 9, 1977

CHAPTER 228

SENATE BILL NO. 2408
(Lips)

PERPETUAL CARE FUND DEPOSITS

AN ACT to amend and reenact section 23-21.1-03 of the North Dakota Century Code, relating to the deposit and the perpetual care fund for maintenance of mausoleums.

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

SECTION 1. AMENDMENT.) Section 23-21.1-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-21.1-03. CREATION OF PERPETUAL CARE FUND.) Any organization subject to the provisions of this chapter which is organized or commences business in the state of North Dakota and desires to operate as a perpetual care cemetery shall, before selling or disposing of any interment space or lots, establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash, except that the minimum perpetual care and maintenance guarantee fund for organizations in operation on the effective date of this chapter shall be five thousand dollars. The perpetual care and maintenance guarantee fund shall be permanently set aside in trust to be administered under the jurisdiction of the district court of the county wherein the cemetery is located. The district court shall have jurisdiction over the approval of trustees, reports and accounting of trustees, amount of surety bond required, and investment of funds as provided by chapter 59-04 as amended relating to the administration of trust estates. Only the income from such fund shall be used for the care and maintenance of the cemetery for which it was established. All such organizations shall submit at least annually, to the district court, such reports as are required. The clerks of each of the district courts shall transmit copies of all reports, and rules and regulations enacted by the organization, to the state department of health and the state bank examiner.

To continue to operate as a perpetual care cemetery, any such organization shall set aside and deposit in the perpetual care fund not less than the following amounts for lots of interment space thereafter sold or disposed of:

1. A minimum of twenty percent of the gross selling price with a minimum of twenty dollars for each adult space, whichever is the greater.
2. A minimum of twenty percent of the gross selling price for each child's space with a minimum of five dollars for each space up to forty-two inches in length or ten dollars for each space up to sixty inches in length, whichever is the greater.
3. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars for each space or crypt in a mausoleum, whichever is the greater, except a mausoleum located in a cemetery covered by a perpetual care fund which consists of at least twenty percent of the proceeds received by the cemetery from the sale of cemetery lots, in which event, the perpetual care fund for the public or community mausoleum itself shall contain a minimum of twenty percent of the cost of the construction of such public or community mausoleum.
4. A minimum of twenty percent of the gross selling price with a minimum of ten dollars for each inurnment niche in a columbarium, except a columbarium located in a cemetery covered by a perpetual care fund which consists of at least twenty percent of the proceeds received by the cemetery from the sale of cemetery lots, in which event, the perpetual care fund for the public or community columbarium itself shall contain a minimum of twenty percent of the cost of the construction of such public or community columbarium.
5. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars, whichever is the greater, for each interment space in crypt gardens or any other structure or device by whatever name, established or constructed wholly or partially above the natural surface of the ground, for the interment of any dead human body.

There is no required perpetual care fund deposit on spaces provided without charge for paupers and infants.

The initial perpetual care fund established for any perpetual care cemetery shall remain in an irrevocable trust fund until such time as this fund has reached fifty thousand dollars. When the perpetual irrevocable trust fund equals fifty thousand dollars, an additional special trust fund shall be established into which fifty percent of the deposits required to be made into the irrevocable trust fund shall be made until the amount deposited into such special trust fund shall equal twenty-five thousand dollars. Thereafter, one hundred percent of the required deposit shall again be deposited in the perpetual irrevocable trust fund.

The funds in the special trust fund may be used for the purpose of repaying or recouping the initial twenty-five thousand dollar deposit, if such deposit were made. The administration of, and payments out of, the special trust fund shall be under the jurisdiction of the district court. Under special, unusual, or compelling circumstances and upon proper application to a district court, said court may in its discretion order withdrawals to be used only for permanent improvements.

Approved April 20, 1977

CHAPTER 229

SENATE BILL NO. 2214
(Farrington, Vosper, Jones)

LIMITED LIABILITY OF AMBULANCE
PERSONNEL

AN ACT to relieve the officers, employees, and agents of ambulance service from liability for treatment rendered at the scene of an emergency; and declaring an emergency.

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

SECTION 1. EMERGENCY TREATMENT RENDERED BY OFFICERS, EMPLOYEES, OR AGENTS OF AMBULANCE SERVICE.) No officer, employee, or agent of any ambulance service licensed to operate in this state who, in good faith and in the exercise of reasonable and ordinary care, renders emergency care at the scene of an accident, disaster, or other emergency, shall be liable for any civil damages resulting from any acts or omissions by the person in rendering the emergency care provided such person is properly trained according to law. The provisions of this section shall not be construed to relieve the person rendering emergency care from liability to the person receiving the emergency care for damages resulting from the intoxication, willful misconduct, or gross negligence of the person rendering the emergency care.

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

Approved April 19, 1977