

STATE GOVERNMENT

CHAPTER 474

HOUSE BILL NO. 1443
(McGauvran, Olson, Meyer, Nicholas)

ABM SITE ACCEPTANCE AUTHORIZED

AN ACT to permit the state of North Dakota to accept transfer from the federal government of the Nekoma ABM site and to empower the budget section to reconvey the site to the federal government.

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

SECTION 1. ABM SITE - ACCEPTANCE - RECONVEYANCE.) The state of North Dakota is hereby empowered to accept transfer from the federal government of the antiballistic missile site at Nekoma, subject to the approval of the legislative assembly if it is in session, or of the budget section of the legislative council in the event the legislative assembly is not in session. If at any time during the 1977-1979 biennium, the budget section of the legislative council determines that the interests of the citizens of North Dakota would be best served by the private ownership of the Nekoma ABM site, and if there are private interests willing and able to purchase the site, the budget section may cause the reconveyance of the site to the federal government with the recommendation that it be sold to private interests.

Approved April 20, 1977

CHAPTER 475

SENATE BILL NO. 2444
(Morgan, Albers, Barth)

STATE GRASS

AN ACT to designate an official state grass.

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

SECTION 1. OFFICIAL STATE GRASS - DESIGNATION.)
Western wheatgrass (*agropyron smithii*) shall be the official
grass of the state of North Dakota.

Approved March 31, 1977

CHAPTER 476

SENATE BILL NO. 2201

(Committee on State and Federal Government)

(At the request of the Legislative Compensation Commission)

LEGISLATIVE EXPENSE ALLOWANCES

AN ACT to amend and reenact sections 54-03-20 and 54-03-20.3 of the North Dakota Century Code, relating to the allowance for living and other expenses of members of the legislative assembly and the expenses of the legislative compensation commission.

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

SECTION 1. AMENDMENT.) Section 54-03-20 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

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

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

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

SECTION 2. AMENDMENT.) Section 54-03-20.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20.3. MEETINGS - POWERS AND DUTIES - EXPENSES.) The commission shall meet at the call of the chairman as often as may be necessary, but shall meet at least once during each biennium. The commission shall determine a proper level of legislative interim compensation, expense, and per diem paid for service upon interim committees, and a proper expense allowance to be paid during legislative sessions. In making such recommendations it shall review expense and compensation allowances for legislative service in other states, and comparable compensation and allowances in other areas of state and federal service as well as private industry, and shall determine rates of compensation and reimbursements that shall permit citizens to hold legislative office without undue financial sacrifice or disadvantage. It shall report its findings and recommendations to the legislative assembly within ten days after the convening of the regular legislative session. Members of the legislative compensation commission shall be compensated for time spent in attendance at meetings of the commission and for other travel as approved by the chairman of the legislative council at the rate of thirty-five dollars per day and shall be reimbursed for their actual and necessary expenses incurred in the same manner as other state officials. Such expense allowance shall be paid from appropriations then in effect for the legislative assembly. The commission may solicit the assistance of the staff of the legislative council to provide information, aid, and assistance in carrying out its duties.

Approved April 19, 1977

CHAPTER 477

HOUSE BILL NO. 1273
(Kloubec)

MILEAGE REIMBURSEMENT FOR LEGISLATORS

AN ACT to amend and reenact section 54-03-20.1 of the North Dakota Century Code, relating to compensation for attending legislators; and declaring an emergency.

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

SECTION 1. AMENDMENT.) Section 54-03-20.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20.1. COMPENSATION FOR ATTENDING LEGISLATORS.) Each member of the legislative assembly shall receive as compensation for his services at any organizational, special, or regular session, five dollars per day and ten cents for every mile of necessary travel in going to and returning from the place of the meeting of the legislative assembly by the most usual route. Each member of the legislative assembly shall be reimbursed in the manner provided by law for their travel from their residence to and from the place of meeting of the legislative assembly, but no more than one such reimbursement for each calendar week, or portion thereof, the legislative assembly is in session. The provisions of this section shall be retroactive to January 1, 1977.

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

Approved March 31, 1977

CHAPTER 478

HOUSE BILL NO. 1462
(Strinden)

EXEMPTION FROM LOBBYIST REGULATION

AN ACT to amend and reenact section 54-05.1-02 of the North Dakota Century Code, relating to persons subject to legislative lobbyist regulation.

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

SECTION 1. AMENDMENT.) Section 54-05.1-02 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-05.1-02. APPLICABILITY - MEANING OF LOBBYIST.)

1. This chapter shall apply to any person who, in any manner whatsoever, directly or indirectly, performs any of the following activities:
 - a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly or the approval or veto of any legislation by the governor of the state.
 - b. Attempts to influence decisions made by the legislative council or by an interim committee of the legislative council.
2. This chapter shall not apply to any person who is:
 - a. A legislator.
 - b. A private citizen appearing on his own behalf.
 - c. An employee of the state or its political subdivisions who is acting in the employee's official capacity.
 - d. Invited by the chairman of the legislative council or by the chairman of an interim committee of the legislative council to appear before the council or interim committee for the purpose of providing information.
3. For the purposes of this chapter, persons required to register under this chapter because of the performance of the activities described in subsection 1 shall be known as "lobbyists".

Approved March 31, 1977

CHAPTER 479

SENATE BILL NO. 2290
(Holmberg)

**METRIC CONVERSION BY EXECUTIVE
BRANCH**

AN ACT to provide for the office of the governor to coordinate and plan executive branch conversion to the metric system.

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

SECTION 1. GOVERNOR TO COORDINATE CONVERSION TO METRIC SYSTEM BY EXECUTIVE BRANCH.) The office of the governor may coordinate and plan for conversion to the metric system by all agencies, boards, commissions, and departments within the executive branch of state government in conformance with the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007, 15 U.S.C. 205a et seq.). The governor may direct such agencies, departments, boards, and commissions to comply with any guidelines established by the United States metric board to meet the desired deadline for converting to general use of the metric system.

Approved March 31, 1977

CHAPTER 480

SENATE BILL NO. 2449
(Melland)

SALARIES OF STATE OFFICIALS

AN ACT to amend and reenact sections 4-01-21, 15-21-02, 26-01-03, 49-01-05, 54-07-04, 54-08-03, 54-09-05, 54-10-10, 54-11-13, 54-12-11, and 57-01-04 of the North Dakota Century Code as amended by chapter 417 of the 1973 Session Laws of North Dakota, relating to salaries of elected state officials; to amend and reenact section 34-05-01.2 of the North Dakota Century Code, relating to the salary of the labor commissioner; and providing an effective date.

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

SECTION 1. AMENDMENT.) Section 4-01-21 of the North Dakota Century Code as amended by section 1 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

4-01-21. SALARY OF COMMISSIONER OF AGRICULTURE.) The commissioner of agriculture shall receive an annual salary of thirty-three thousand five hundred dollars.

SECTION 2. AMENDMENT.) Section 15-21-02 of the North Dakota Century Code as amended by section 2 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

15-21-02. SALARY AND TRAVELING EXPENSES.) The superintendent of public instruction shall receive an annual salary of thirty-four thousand dollars. He shall be allowed in addition thereto his expenses incurred in the discharge of his official duties, such expenses to be paid monthly on a warrant prepared by the department of accounts and purchases and signed by the state auditor, upon the filing of an itemized and verified statement of expenses.

SECTION 3. AMENDMENT.) Section 26-01-03 of the North Dakota Century Code as amended by section 3 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

26-01-03. SALARY OF COMMISSIONER OF INSURANCE.) The annual salary of the commissioner of insurance shall be thirty-three thousand five hundred dollars.

SECTION 4. AMENDMENT.) Section 34-05-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

SECTION 5. AMENDMENT.) Section 49-01-05 of the North Dakota Century Code as amended by section 4 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

* * 49-01-05. SALARY OF COMMISSIONERS.) The salary of each commissioner shall be thirty-three thousand five hundred dollars per annum which shall be full compensation for all official services. All fees received or charged by any such commissioner for any act or service rendered in any official capacity, shall be accounted for and paid over by him monthly to the state treasurer and shall be credited to the general fund of the state.

SECTION 6. AMENDMENT.) Section 54-07-04 of the North Dakota Century Code as amended by section 5 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-07-04. SALARY OF GOVERNOR.) The governor shall receive an annual salary of forty-seven thousand dollars for all services performed by him.

SECTION 7. AMENDMENT.) Section 54-08-03 of the North Dakota Century Code as amended by section 6 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-08-03. SALARY OF LIEUTENANT GOVERNOR.) The lieutenant governor shall receive an annual salary of eight thousand dollars for all services performed by him.

*NOTE: Section 34-05-01.2 was also amended by section 1 of Senate Bill No. 2450, chapter 481.

* *NOTE: Section 49-01-05 was also amended by section 4 of Senate Bill No. 2450, chapter 481.

SECTION 8. AMENDMENT.) Section 54-09-05 of the North Dakota Century Code as amended by section 7 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-09-05. SALARY OF SECRETARY OF STATE.) The secretary of state shall receive an annual salary of thirty-three thousand five hundred dollars.

SECTION 9. AMENDMENT.) Section 54-10-10 of the North Dakota Century Code as amended by section 8 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-10-10. SALARY OF STATE AUDITOR.) The state auditor shall receive an annual salary of thirty-three thousand five hundred dollars.

SECTION 10. AMENDMENT.) Section 54-11-13 of the North Dakota Century Code as amended by section 9 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-11-13. SALARY OF STATE TREASURER.) The state treasurer shall receive an annual salary of thirty-three thousand five hundred dollars.

SECTION 11. AMENDMENT.) Section 54-12-11 of the North Dakota Century Code as amended by section 10 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

54-12-11. SALARY OF ATTORNEY GENERAL.) The attorney general shall receive an annual salary of thirty-eight thousand dollars.

SECTION 12. AMENDMENT.) Section 57-01-04 of the North Dakota Century Code as amended by section 11 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

57-01-04. SALARY.) The annual salary of the state tax commissioner shall be thirty-three thousand five hundred dollars.

SECTION 13. EFFECTIVE DATE.) Consistent with the provisions of section 84 of the Constitution, the provisions of this Act shall not become effective until January 1, 1981, and shall thereafter apply to salaries of officials, except the labor commissioner, whose terms of office commence on or after such date.

Approved March 23, 1977

CHAPTER 481

SENATE BILL NO. 2450
(Melland)

SALARIES OF LABOR COMMISSIONER AND PUBLIC SERVICE COMMISSIONERS

AN ACT to provide for the salary of the public service commissioner elected to the term of office commencing on January 1, 1979; to amend and reenact section 34-05-01.2 of the North Dakota Century Code, relating to the salary of the labor commissioner, and to amend and reenact section 49-01-05 of the North Dakota Century Code as amended by section 4 of chapter 417 of the 1973 Session Laws of North Dakota, relating to the salaries of the public service commissioners; and to provide effective dates.

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

SECTION 1. AMENDMENT.) Section 34-05-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* 34-05-01.2. DEPARTMENT OF LABOR TO BE ADMINISTERED BY COMMISSIONER OF LABOR.) The department of labor shall be administered by a commissioner of labor who shall be elected for a four-year term on a no-party ballot in the year 1966 and every four years thereafter in the same manner as provided for no-party candidates pursuant to chapter 16-08. Following his election, the term of the commissioner of labor shall commence on the same day as the terms for other elected state officials. The commissioner of labor shall possess the same qualifications for office as the commissioner of agriculture and labor and he shall receive an annual salary of thirty thousand dollars.

SECTION 2. SALARY OF PUBLIC SERVICE COMMISSIONER ELECTED TO TERM OF OFFICE COMMENCING ON JANUARY 1, 1979.) The public service commissioner elected to the term of office commencing on January 1, 1979, shall receive an annual salary of thirty thousand dollars.

SECTION 3. EFFECTIVE DATE.) The provisions of sections 1 and 2 of this Act shall not become effective until January 1, 1979.

SECTION 4. AMENDMENT.) Section 49-01-05 of the North Dakota Century Code as amended by section 4 of chapter 417 of the 1973 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

*NOTE: Section 34-05-01.2 was also amended by section 4 of Senate Bill No. 2449, chapter 480.

* 49-01-05. SALARY OF COMMISSIONERS.) The salary of each commissioner, except as provided in section 2 of this Act, shall be thirty-three thousand five hundred dollars per annum which shall be full compensation for all official services. All fees received or charged by any such commissioner for any act or service rendered in any official capacity, shall be accounted for and paid over by him monthly to the state treasurer and shall be credited to the general fund of the state.

SECTION 5. EFFECTIVE DATE.) Consistent with the provisions of section 84 of the Constitution, the provisions of section 4 of this Act shall not become effective until January 1, 1981, and shall thereafter apply to the salaries of the public service commissioners whose terms of office commence on or after such date.

*NOTE: Section 49-01-05 was also amended by section 5 of Senate Bill No. 2449, chapter 480.

Approved March 23, 1977

CHAPTER 482

SENATE BILL NO. 2200
(Committee on State and Federal Government)
(At the request of the Attorney General)

REPEAL OF EXTRADITION WARRANT FEE

AN ACT to repeal subsection 4 of section 54-09-04 of the North Dakota Century Code, relating to the fee of five dollars charged by the secretary of state for issuance of each extradition warrant.

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

SECTION 1. REPEAL.) Subsection 4 of section 54-09-04 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1977

CHAPTER 483

SENATE BILL NO. 2019
(Legislative Council)
(Interim Committee on Budget "A")

REVIEW OF EMERGENCY COMMISSION ACTION

AN ACT to provide for the state auditor's review of emergency action; and to repeal section 54-16-06 of the North Dakota Century Code, relating to quarterly reporting requirements for agencies authorized by the emergency commission to make extraordinary expenditures, or to make use of funds transferred or made available through an order of the emergency commission.

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

SECTION 1. STATE AUDITOR TO AUDIT EMERGENCY COMMISSION ACTION.) The state auditor's office, in the course of its audits of state agencies, departments, and institutions, shall review the expenditure of funds transferred or made available by the emergency commission to such state agencies, departments, and institutions, and shall have incorporated in the financial statements of such governmental units expenditures arising from emergency commission action.

SECTION 2. REPEAL.) Section 54-16-06 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1977

CHAPTER 484

SENATE BILL NO. 2020
(Legislative Council)
(Interim Committee on Budget "A")

AUDITS OF POLITICAL SUBDIVISIONS

AN ACT to amend and reenact sections 54-10-13 and 54-10-14 of the North Dakota Century Code, relating to audits by the state auditor.

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

SECTION 1. AMENDMENT.) Section 54-10-13 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-13. COUNTY AGENCIES - AUDITS - FEES.) The state auditor by his duly appointed deputy auditors or other authorized person or persons shall audit at least once every two years, or at more frequent intervals if the state auditor, in his discretion, deems it advisable, the official financial records, accounts, and proceedings of boards of county commissioners, county auditors, county treasurers, clerks of district court, county judges, registers of deeds, county superintendents of schools, sheriffs, public administrators, governing boards of irrigation districts and flood irrigation districts, clerks or secretaries of said boards, and treasurers of said districts. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to the county agencies in making and otherwise preparing the reports of examinations herein provided for. The fees herein provided shall be paid by the counties and districts examined to the state treasurer, and by him credited to the general fund of the state. Provided, further, that the board of county commissioners may provide for an annual audit by a certified public accountant or licensed public accountant for any or all of the offices and boards set forth in this section, and such audit report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. The number of copies as requested by the state auditor of such audit reports shall be filed with the state auditor by the certified public accountant or licensed public accountant making such audit at the same time that the report is delivered to the officer or board audited, and the board of county commissioners shall not

pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of such officers or boards disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures, or illegal actions are corrected, and fees for such audits, so resumed, shall be paid in accordance with this section.

SECTION 2. AMENDMENT.) Section 54-10-14 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-14. POLITICAL SUBDIVISIONS - AUDITS - FEES - ALTERNATIVE AUDITS AND REPORTS.) The state auditor, by his duly appointed deputy auditors or other authorized agents, shall audit, at least once every four years, except as provided in this section or otherwise by law, the official financial records, accounts, and proceedings of the following governing bodies and officials of the following political subdivisions:

1. City councils and commissions;
2. City auditors;
3. Park district clerks and treasurers;
4. School boards and board of education;
5. School district clerks;
6. Trustees and officials of the firemen's relief association;
7. Airport authorities; and
8. Libraries operated by cities, counties, school districts or combinations thereof.

Audits may be conducted at more frequent intervals if the state auditor, in his discretion, deems it advisable. The state auditor may in lieu of conducting an audit every four years require annual reports from school districts with less than one hundred enrolled students, municipalities with less than two hundred population based on the latest federal census, and other political subdivisions subject to the provisions of this section, or otherwise provided by law, with less than fifty thousand dollars of annual receipts. The reports shall contain such financial information as the state auditor may request. The state auditor may also make such additional examination or audit as he deems necessary in addition to such report. When a report is required in lieu of an audit, the state auditor upon receiving a petition containing the signatures of not less than ten percent of the electors of the

political subdivision voting for the office of governor at the preceding general election, shall conduct an audit of such political subdivision's books, records, and financial accounts.

The governing board of any political subdivision may provide for an audit annually by a certified public accountant or licensed public accountant, and such report shall be in such form and contain such information as the state auditor may require in addition to other information, and in such case the state auditor shall not be required to make the examination heretofore provided for in this section. The number of copies as requested by the state auditor of such audit reports shall be filed with the state auditor by the certified public accountant or licensed public accountant making such audit at the time that the report of audit is delivered to said political subdivisions, and the governing board of such subdivision shall not pay the fee for such audit until evidence of such filing is furnished. The state auditor may require the correction of any irregularities, objectionable accounting procedures, or illegal actions on the part of the governing boards and officers of such subdivisions disclosed by such audit reports, and failure to make such corrections shall result in audits being resumed by the state auditor until such irregularities, procedures, or illegal actions are corrected and fees for such audits, so resumed, shall be paid in accordance with this section. The state auditor shall charge an amount equal to the fair value of the audit and other services rendered plus actual costs incurred by the state auditor to the political subdivisions in making and otherwise preparing the reports of audits herein provided for. All fees for the audits herein provided shall be paid by the subdivision audited to the state treasurer and by him credited to the general fund of the state.

Approved March 23, 1977

CHAPTER 485

SENATE BILL NO. 2281
(Thane)

STATE AUDITOR'S ACCESS TO INFORMATION

AN ACT to create and enact a new section to chapter 54-10 of the North Dakota Century Code, granting authority to the state auditor to examine information relating to operations of governmental units subject to audit.

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

SECTION 1.) A new section to chapter 54-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

STATE AUDITOR'S ACCESS TO INFORMATION RELATING TO OPERATIONS OF GOVERNMENTAL ENTITIES SUBJECT TO AUDIT.) Notwithstanding any other specific sections of law, the state auditor and persons employed by him, when necessary in conducting an audit, shall have access to all information relating to operations of all governmental units subject to audit. The state auditor and persons employed by him examining any information which is confidential by law, shall guard the secrecy of such information except when otherwise directed by judicial order, or as is otherwise provided by law.

Approved March 23, 1977

CHAPTER 486

SENATE BILL NO. 2509
(Nelson)

AUDIT OF TAX COMMISSIONER'S CONFIDENTIAL RECORDS

AN ACT to amend and reenact sections 54-10-24 and 54-10-25 of the North Dakota Century Code, relating to audit and examination by the state auditor of confidential records of the tax commissioner.

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

SECTION 1. AMENDMENT.) Section 54-10-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-24. THE STATE AUDITOR SHALL HAVE ACCESS TO TAX RETURNS AND OTHER RECORDS FILED WITH THE TAX COMMISSIONER.) The state auditor and persons employed by him, when necessary in conducting an audit and examination of the books and records of the tax commissioner as authorized by law, may examine any return, report, or other information filed with the tax commissioner, and confirm the authenticity of such return, report, or other information with the taxpayer who filed it.

The audit report of the state auditor shall not identify any return, report, or other document examined whose secrecy is guarded by law and which is examined pursuant to this chapter by the state auditor or his representatives, but the state auditor or his representatives shall make a listing of each return, report, or other document examined whose secrecy is guarded by law, which listing shall include the name and address of the taxpayer or other person who filed the return, report, or other document or to whom it relates, and the tax department file identification number for it; such listing shall also identify all summaries and schedules examined which are compiled and kept by the tax commissioner and which identify taxpayers and taxpayer information to which the secrecy requirements apply; the listing shall also show the name or names of the individuals representing the state auditor who examined each such return, report, summary, schedule, or other document. A copy of the listing shall be filed by the state auditor with the tax commissioner. Such listing and all copies thereof shall be subject to the same secrecy or confidentiality requirements that apply to the information described in the listing.

SECTION 2. AMENDMENT.) Section 54-10-25 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-25. DIVULGING OF CERTAIN SECRET INFORMATION PROHIBITED.) The state auditor and his employees, including any person employed by him to perform the examination of any return, report, or other information filed and in the possession of the tax commissioner which is made confidential by law, shall not divulge the contents of any return, report, or other information examined or any listing made therefrom by the state auditor or his employees except when otherwise directed by judicial order, or as is otherwise provided by law.

Approved April 20, 1977

CHAPTER 487

HOUSE BILL NO. 1187
(Committee on State and Federal Government)
(At the request of the State Treasurer)

RECORDS OF THE STATE TREASURER

AN ACT to amend and reenact subsection 3 of section 54-11-01 and sections 54-11-04 and 54-11-05 of the North Dakota Century Code, relating to the numbering, retention, and storage of certain documents by the state treasurer.

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

SECTION 1. AMENDMENT.) Subsection 3 of section 54-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Deliver to each person paying money into the treasury and to the department of accounts and purchases, a duplicate receipt showing the amount, the source from which the money accrued, and the funds into which it is paid, such receipts to be numbered in order;

SECTION 2. AMENDMENT.) Section 54-11-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-11-04. RECORDS OF STATE TREASURER.) The state treasurer shall keep the following records:

1. A cash book in which shall be entered the amount of all moneys received or paid out, showing from whom received or to whom paid and on what account or fund;
2. A ledger in which shall be kept an account with each fund;
3. A daily balance book in which shall be shown the amount in state depositories and the amount in cash on hand; and
4. Such other books as the state auditor shall prescribe.

These records shall be disposed of in accordance with the procedures established pursuant to chapter 54-46.

SECTION 3. AMENDMENT.) Section 54-11-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-11-05. BOOKS AND BLANKS FURNISHED BY STATE TO TREASURER - KEPT AS STATE RECORDS.) All checks and drafts, deposit slips, bankbooks, and other books and blanks used in the transactions of the state treasurer for state business, shall be furnished by the state and shall be kept on record by the treasurer. They shall be disposed of in accordance with the procedures established pursuant to chapter 54-46.

Approved March 11, 1977

CHAPTER 488

HOUSE BILL NO. 1411
(Herslip)

STATE MILL MARKETING ACTIVITIES EXEMPT
FROM SECURITIES REGULATION

AN ACT to create and enact a new section to chapter 54-18 of the North Dakota Century Code, exempting the North Dakota mill and elevator association from the securities act when it acts in the performance of its marketing functions.

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

SECTION 1.) A new section to chapter 54-18 of the North Dakota Century Code is hereby created and enacted to read as follows:

MARKETING FUNCTIONS EXEMPT FROM SECURITIES ACT.) The North Dakota mill and elevator association shall be exempt from the provisions of chapter 10-04 when in the performance of its authorized marketing functions. The exemption provided under this section shall also apply to any agency or instrumentality of the association and to any agent or employee of the association or any agency or instrumentality thereof.

Approved March 31, 1977

CHAPTER 489

SENATE BILL NO. 2152
(Lips)

SALE OF PENITENTIARY LAND

AN ACT to authorize the director of institutions to sell and convey three tracts of land owned by the state of North Dakota and used by the state penitentiary.

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

SECTION 1.) The director of institutions is authorized to sell and convey in one or more transactions the following tracts of land at not less than the appraised value obtained from a duly qualified appraiser:

1. Tract one. That portion of the north half of the northwest quarter of section twelve, township one hundred thirty-eight north, range eighty west, lying south of the Soo Line railroad right-of-way and containing six-tenths of one acre without including the section line right-of-way.
2. Tract two. That portion of the north half of the northwest quarter of section twelve, township one hundred thirty-eight north, range eighty west, lying southerly of the Burlington Northern Incorporated right-of-way, easterly of the Soo Line railroad right-of-way, and westerly of a line located a distance of one thousand five hundred twelve and twelve one-hundredths feet east of the west line of the north half of the northwest quarter and containing four and twelve one-hundredths acres. Excepted from any sale and conveyance of tract two shall be the western eighty feet bordering the eastern boundary of the Soo Line railroad right-of-way, which shall be dedicated for public street purposes.
3. Tract three. That portion of the north half of the northwest quarter of section twelve, township one hundred thirty-eight north, range eighty west, lying southerly of the Burlington Northern Incorporated right-of-way and easterly of a line located a distance of one thousand five hundred twelve and twelve one-

hundredths feet east of the west line of the north half of the northwest quarter and containing one acre.

SECTION 2.) The tracts of land described in section 1 shall be sold as prescribed by sections 38-09-01, 54-01-05.1, and 54-01-05.2. However, the director of institutions may negotiate the sale of that land described as tract one notwithstanding section 54-01-05.2. Any proceeds received from the sale of such tracts shall be deposited in the general fund in the state treasury.

SECTION 3.) The state shall not be responsible for the payment of any special assessments levied and assessed by any taxing district against property subject to sale and conveyance pursuant to this Act.

Approved March 23, 1977

CHAPTER 490

HOUSE BILL NO. 1346
(Metzger, Winkjer)

ENERGY CONSERVATION CONSTRUCTION CODE

AN ACT to allow the construction superintendent to adopt a uniform standards code for energy conservation in new building construction.

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

SECTION 1. INTENT.) It is the intent of the legislature that building envelopes be designed with adequate thermal resistance and low air leakage and that mechanical, electrical service, and illumination systems and equipment be designed and selected to enable the effective use of energy in new buildings and structures. It is not the intent of the legislature to prevent the use of any material, method of construction, design, or insulating system approved pursuant to this Act.

SECTION 2. SCOPE.)

1. The powers and authority granted by this Act shall be in addition to other local building or zoning requirements, and political subdivisions may adopt more stringent or additional requirements. This Act shall apply to all new public and private buildings except as provided by this section. Additions to existing buildings or structures may be made without making the entire building or structure comply, but additions must comply with the standards adopted pursuant to this Act. No change in the character of occupancy or the use of any building or structure which requires an increase in either fossil fuels or electrical energy to heat or cool such building or structure shall be permitted unless the building or structure is brought into compliance with standards adopted pursuant to this Act.
2. The following buildings shall be exempt from the applicability of this Act:
 - a. Buildings which are neither heated nor cooled.
 - b. Buildings or portions thereof used whose peak

design rate of energy usage is less than one watt per square foot or three and four-tenths British thermal units an hour per square foot of floor area.

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

SECTION 3. RULEMAKING POWER.)

1. The construction superintendent employed by the secretary of state pursuant to section 54-21-17 shall prepare a uniform standards code for energy conservation in new building construction, containing standards for thermal design conditions and criteria for buildings, and for adequate thermal resistance in regard to the design and selection of mechanical, electrical service, and illumination systems and equipment which will enable the effective use of energy in new buildings.
2. Upon the effective date of this Act, the construction superintendent shall adopt published standards which shall be at least equal to the energy conservation code based on the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standard 90-75 as the uniform standards code for energy conservation and new building construction. Following the effective date of this Act, the construction superintendent may adopt any amendments or additions thereto which meet the minimum requirements of ASHRAE Standard 90-75 or such other requirements as he may deem to be necessary for the purposes of this Act.
3. All rules and regulations adopted pursuant to this section shall be adopted in the manner prescribed by chapter 28-32 and shall have the force and effect of law.

SECTION 4. INSPECTIONS.) All construction or work for which a permit is required pursuant to section 11-33-18, subsection 6 of section 40-05-02, or other similar grant of authority shall be subject to inspection by the local building inspector. Each political subdivision of the state shall enforce the provisions of this Act. No construction shall be covered without inspection approval, and there shall be a final inspection on all buildings when completed and ready for occupancy. The building inspector may cause any structure to be reinspected.

CHAPTER 491

HOUSE BILL NO. 1156
(Mund)

LAW ENFORCEMENT RADIO PERMIT

AN ACT to amend and reenact section 54-23A-06 of the North Dakota Century Code, relating to law enforcement radio equipment prohibited in private automobiles without permit.

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

SECTION 1. AMENDMENT.) Section 54-23A-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-23A-06. LAW ENFORCEMENT RADIO EQUIPMENT ON PRIVATE AUTOMOBILES PROHIBITED WITHOUT PERMIT.) No person shall equip or use in an automobile or any other motor vehicle a two-way radio equipped for transmitting and receiving on any frequency authorized for law enforcement use by the state of North Dakota within its boundaries, without first securing a permit so to do from the director of institutions upon such application as the director may prescribe. This section shall not apply to the use of a two-way citizens' band radio, a two-way business radio, or a two-way amateur radio in an automobile or any other motor vehicle.

Approved April 21, 1977

CHAPTER 492

HOUSE BILL NO. 1171
(Committee on State and Federal Government)
(At the request of the State Library)

DISTRIBUTION OF STATE PUBLICATIONS

AN ACT to amend and reenact section 54-24-09 of the North Dakota Century Code, relating to the distribution of state publications.

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

SECTION 1. AMENDMENT.) Section 54-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

use two copies of every state document received and transmit the remaining copies to the depository libraries. These shall be the libraries of the state historical society, the university of North Dakota, North Dakota state university, the Library of Congress, and two others to be designated by the state library commission. All non-depository North Dakota academic, public, and special libraries shall have the opportunity to receive state documents under an optional selection program developed by the state library commission. The state library commission shall catalog state publications and arrange for their conversion to microform and shall make available for distribution the same to the designated depository libraries.

Approved March 12, 1977

CHAPTER 493

HOUSE BILL NO. 1152
(Committee on State & Federal Government)
(At the request of the State Auditor)

FIXED ASSET MINIMUM REPORTING VALUE EXEMPTION

AN ACT to amend and reenact section 54-27-21 of the North Dakota Century Code, relating to the minimum fixed assets reporting value for financial statements for state agencies.

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

SECTION 1. AMENDMENT.) Section 54-27-21 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-27-21. FIXED ASSET MINIMUM REPORTING VALUE.) All state departments, agencies, and institutions shall include all fixed assets under their control in their financial statements, except those having a value of one hundred dollars or less. The state auditor is authorized to provide for the written exemption of specific fixed assets having a value of more than one hundred dollars when such exemption is justified upon generally accepted accounting principles.

Approved March 11, 1977

CHAPTER 494

SENATE BILL NO. 2061
(Legislative Council)

(Interim Committee on Legislative Procedure and Arrangements)

COMMITTEE ON PUBLIC EMPLOYEES RETIREMENT PROGRAMS

AN ACT to create a continuing interim committee of the legislative council to study and report on measures and proposals affecting retirement systems and funds which exist for the benefit of public employees; and to declare an emergency.

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

SECTION 1. COMMITTEE ON PUBLIC EMPLOYEES RETIREMENT PROGRAMS - APPOINTMENT - QUORUM - SELECTION OF CHAIRMAN.) The legislative council shall, during each biennium, appoint a committee on public employees retirement programs in the same manner as the council appoints other interim committees. The membership of the committee shall consist of four members of the house of representatives and three members of the senate. The chairman of the committee shall be designated by the legislative council. Four members of the committee shall constitute a quorum, and the committee shall operate according to the statutes and procedure governing the operation of other legislative council interim committees.

SECTION 2. COMMITTEE ON PUBLIC EMPLOYEES RETIREMENT PROGRAMS - POWERS AND DUTIES.)

1. The committee on public employees retirement programs shall consider legislative measures and proposals which affect, actuarially or otherwise, the retirement programs of state employees or employees of any political subdivision. The committee shall make a thorough review of any measure or proposal which it takes under its jurisdiction, including an actuarial review. The committee shall report its findings and recommendations, along with any necessary legislation, to the legislative council and to the legislative assembly.
2. To carry out its responsibilities, the committee, or its designee, is authorized to enter into contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. The committee may also call on personnel from state agencies or political subdivisions to furnish such

information and render such assistance as the committee may from time to time request.

3. The committee shall solicit draft measures and proposals from interested persons during the interim between legislative sessions, and may also study measures and proposals referred to it by the legislative assembly or the legislative council.
4. A copy of the committee's report concerning any legislative measure shall, if that measure is introduced for consideration by a legislative assembly, be appended to the copy of that measure which is referred to a standing committee.
5. A legislative measure affecting a public employees retirement program shall not be introduced in either house unless it is accompanied by a report from the committee.

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

Approved March 12, 1977

CHAPTER 495

SENATE BILL NO. 2126
(Wenstrom)

REGIONAL PLANNING COUNCILS

AN ACT to provide for state and regional planning, the creation, organization, powers, and duties of regional planning councils, supervision of the activities of regional planning councils, to repeal sections 54-34.1-10, 54-34.1-11, 54-34.1-12, 54-34.1-13, and 54-34.1-14 of the North Dakota Century Code, relating to regional or metropolitan planning commissions.

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

SECTION 1. LEGISLATIVE FINDINGS AND PURPOSE.) The legislative assembly finds that the citizens of the state have a fundamental interest in the orderly development of the state and its resources. This finding recognizes the fact that the mobility of the population within and without the state presents problems which cannot always be met by individual counties or cities and that local government planning can be strengthened when aided by studies and planning of both a statewide and regional character.

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

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

SECTION 2. DEFINITIONS.) In this Act, unless the context or subject matter otherwise requires:

1. "City" means any city incorporated under the laws of this state.
2. "Division" means the state planning division.
3. "Executive officer" means the mayor in council cities or modern council cities and the president of the board of city commissioners in commission cities.
4. "Governing body" means the city council or the board of city commissioners or the board of county commissioners.
5. "Industry" includes agriculture and business.
6. "Member-at-large" means a person who represents the general citizenry of the county.
7. "Minority group" means any identifiable group of people, regardless of numerical size, whose members are denied or limited in employment, education, or training opportunities because of sex, race, creed, color, religion, national origin, or low income.
8. "Region" means the area delineated by executive order of the governor.
9. "Regional comprehensive plan" means a long-range guide for the economic, physical, and social development of a region which identifies regional goals, objectives, and opportunities and embodies the policies of the regional council.
10. "Regional council" means the council for comprehensive planning and development established in each region pursuant to section 54-40-08 of the North Dakota Century Code.
11. "Units of general local government" means cities, counties, and organized townships.

SECTION 3. REGIONAL COUNCIL - MEMBERSHIP.)

1. Total membership on a regional council shall be determined by the participating units of general local government, subject to the following minimum criteria of membership:
 - a. At least two-thirds of the full regional council membership shall be comprised of existing elected city officials and county commissioners. Selection of these members shall be by their respective governing bodies.

- b. One member of the regional council may represent identifiable and organized minority groups existing in the region. Selection of the member may be made by the minority groups upon invitation from the regional council.
 - c. One soil conservation district supervisor from each county shall be appointed to the regional council to represent the interests of the resource conservation and development program or any other related programs of the United States department of agriculture. The appointment of the soil conservation district supervisor shall be made by the respective boards of soil conservation districts. If any county should contain more than one soil conservation district, either in whole or in part, the concerned boards shall meet and jointly agree upon a single appointment to the regional council.
 - d. One member of the regional council may be selected to represent industry. Selection of this member shall be made by the regional council upon recommendations from industry.
 - e. An alternate shall be selected for each regular member of the regional council in the same manner as the regular member is selected. The alternate member is to serve on the regional council when the regular member is absent and shall enjoy the same responsibilities and privileges as a regular member enjoys.
2. The term of office of each member of the regional council shall be as determined by the regional council and specified in its agreements, rules, or procedures. However, if a person is a member of the regional council as the result of being a member of the governing body of a city or a county, that person's term on the regional council shall expire at the same time his term of public office expires and another person shall be appointed to the regional council in the same manner as the selection was made for the member whose term expires.
 3. Special or standing committees may be appointed to assist and advise the regional council. Members of special or standing committees shall be appointed by the regional council. Membership on special or standing committees is not limited to the members of the regional council.
 4. The regional council may elect an executive board from the members of the regional council. The executive board shall perform the administrative duties prescribed in the agreements, rules, or procedures of the regional council.

5. The regional council shall determine the rate at which expenses of regional council members and members of any special or standing committees shall be paid for expenses incurred in attending meetings of the regional council and the committees and in the performance of their official duties, but the amounts shall not exceed the amounts provided by law for state officers.

SECTION 4. REGIONAL COUNCIL - POWERS AND DUTIES.) A regional council shall:

1. Adopt agreements, rules, or procedures as may be necessary to effectuate planning in the region.
2. Coordinate planning and development within the region for all matters of regional concern as determined by the regional council, including land use, social and economic planning, transportation, health, environmental quality, water and sewerage, solid waste, flood relief, parks and open spaces, hospitals, and public buildings.
3. Participate with other public agencies and private organizations in regard to research for planning activities relevant to the region.
4. For the purpose of coordination, work with state departments, agencies, and institutions in reviewing and commenting on all plans and federal aid applications as to their impact on the region.
5. Develop guidelines for the coordination of land use plans and ordinances within the region.
6. Prepare a regional comprehensive plan and upon the preparation of such a plan or any phase, amendment, revision, extension, addition, functional part, or part thereof, file such plan, phase, functional part, amendment, revision, extension, addition, or part thereof with the division, all local planning agencies within the region, and other planning agencies in adjoining areas.
7. Develop an annual budget for operations during a fiscal year and submit the budget to participating units of general local government for approval.
8. Receive and expend federal, state, and local funds, and contract for services with units of general local government and private individuals and organizations, consistent with the scope and objectives of a planning function.
9. Upon availability of funds, hire an executive director who shall be given full control over the staff of the regional council. The executive director shall act as a liaison between the regional council and the staff of the regional council and shall advise and assist the regional council in the selection of staff.

SECTION 5. REPORTS.) Each regional council shall prepare an annual report within sixty days after the end of each fiscal year. Copies of the report shall be submitted to the participating units of general local government, to the governor or his designee, and to members of the legislature in each region. To the extent practicable, the report shall include projects completed or in progress and sources of funding.

SECTION 6. DISSOLUTION OF REGIONAL COUNCIL.) A regional council may be dissolved as prescribed in the agreements, rules, or procedures of the regional council. Upon dissolution, all properties of the regional council will be converted to cash and divided among participating units of general local government in proportion to the amount of their financial participation.

SECTION 7. REPEAL.) Sections 54-34.1-10, 54-34.1-11, 54-34.1-12, 54-34.1-13, and 54-34.1-14 of the North Dakota Century Code are hereby repealed.

Approved April 21, 1977

CHAPTER 496

SENATE BILL NO. 2391
(Freed, Sands)

APPROPRIATION PAYMENTS PURSUANT TO LAW

AN ACT to amend and reenact section 54-44.1-10 of the North Dakota Century Code, relating to payments made pursuant to law.

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

SECTION 1. AMENDMENT.) Section 54-44.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.1-10. PAYMENTS MADE PURSUANT TO LAW ONLY.) No payment shall be made and no obligation shall be incurred against any appropriation unless such payment or obligation has been authorized as provided by law. Every official authorizing payments in violation of this chapter shall be subject to the penalties and provisions of chapter 12.1-23.

Approved April 6, 1977

CHAPTER 497

SENATE BILL NO. 2021
(Legislative Council)
(Interim Committee on Budget "C")

SELECTION OF ELECTED OFFICIAL FOR
PERSONNEL BOARD

AN ACT to amend and reenact section 54-44.3-03 of the North Dakota Century Code, relating to selection of the constitutionally elected official to the state personnel board.

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

SECTION 1. AMENDMENT.) Section 54-44.3-03 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-44.3-03. STATE PERSONNEL BOARD - QUALIFICATIONS OF MEMBERS.) Effective July 1, 1975, there is hereby created a five-member state personnel board composed of a constitutionally elected official, who shall 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 the state employees. The constitutionally elected officials shall meet at the call of the governor within ten days after the effective date of this Act 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. The term of the member of the board appointed by the governor and the respective terms of the members of the board elected by the state employees shall be for six years. The constitutionally elected official's term of office shall be for four years or the remainder of his term of office, whichever is shorter. However, for the initial composition of the board, the following procedures shall apply:

1. The member of the board first appointed by the governor shall serve for a period of two years.
2. One of the two members of the board elected by the state employees shall first serve a term of two years.
3. One of the two members of the board elected by the state employees shall first serve a term of five years.

Thereafter, all appointments and elections to the personnel board will be for six years' duration. Any vacancy in office shall be filled for the unexpired term in the same manner as the selection of the person vacating the office. The member of the board appointed

by the governor shall be a resident of the state for at least sixty days, known to be in sympathy with the application of merit principles to public employment. Each member of the board elected by the state employees shall be a resident of the state for at least sixty days, 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 the state employees shall have held a position in a political party within four years immediately preceding his appointment or election to the board, and those members of the board elected by the state employees shall be full-time employees in good standing of the classified service.

Approved March 4, 1977

CHAPTER 498

HOUSE BILL NO. 1555
(Swiontek)

CIVIL AIR PATROL ADMINISTRATIVE EXPENSES

AN ACT to amend and reenact section 54-45-03 of the North Dakota Century Code, relating to administrative expenses of the civil air patrol.

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

SECTION 1. AMENDMENT.) Section 54-45-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-45-03. EXPENDITURE OF FUNDS - LIMITATION.) The commanding officer, North Dakota wing, civil air patrol, may issue vouchers covering all expenditures of funds of the department, and the state auditor shall issue his warrant therefor in the same manner as other state funds are expended. There shall be expended from the moneys appropriated to the department only such sums as shall be needed to purchase adequate communications systems, the upkeep of said communications systems, maintenance of aircraft and vehicles owned by civil air patrol and provided that only such sums shall be expended for procurement of equipment or replacement not otherwise obtainable by grant or gift from any other source. No funds shall be expended for uniforms or personal equipment of any member of the civil air patrol or for the purchase of aircraft or motor vehicles, nor shall any money be paid out of appropriated funds for any salaries, except that the commanding officer is authorized to apply for and accept federal funds for use in funding secretarial or administrative support personnel.

Approved March 19, 1977

CHAPTER 499

SENATE BILL NO. 2068
(Legislative Council)

(Interim Committee on State and Federal Government)

PUBLIC EMPLOYEES RETIREMENT SYSTEM

AN ACT to create and enact sections 54-52-02.4, 54-52-10.1, 54-52-17.1, and 54-52-19.1 of the North Dakota Century Code, relating to the public employees retirement system; to amend and reenact sections 54-52-01, 54-52-02.1, 54-52-02.2, 54-52-02.3, subsection 6 of section 54-52-03, subsections 1 and 4 of section 54-52-04, and sections 54-52-05, 54-52-06, 54-52-06.1, 54-52-10, 54-52-17, and 54-52-21 of the North Dakota Century Code, relating to certain terms, participants, methods of joining, governance, fees, contributions, funds, rights, and benefits of the public employees retirement system; and to repeal sections 54-52-11, 54-52-18, 54-52-19, and 54-52-20 of the North Dakota Century Code, relating to vesting apportionment of benefits and prior service benefits in the public employees retirement system.

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

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

54-52-01. DEFINITION OF TERMS.) As used in this chapter, unless the context otherwise requires:

1. "Beneficiary" means any person in receipt of a benefit provided by this plan or any person designated by a participating member to receive benefits.
2. "Eligible employee" means all permanent employees who meet all of the eligibility requirements set by this chapter and who are eighteen years or more of age, and shall include appointive and elective officials at their sole election, provided that judges of the supreme and district courts eligible under section 54-52-02.3 shall be eligible employees and shall participate in the public employees retirement system.
3. "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 eligible to participate in the teachers' fund for retirement who shall not be eligible employees under this chapter.

4. "Employer" means a governmental unit.
5. "Funding agent" or "agents" means the insurance company, trust bank, or other financial institution whom the retirement board selects to hold and invest the employers' and members' contributions and pay certain benefits.
6. "Governmental unit" means the state of North Dakota or a county or city thereof, a school district, including the Fargo school district, a district health unit, and the Garrison conservancy district.
7. "Participating member" means all eligible employees who through payment into the plan have established a claim against the plan.
8. "Permanent employee" means a governmental unit employee who has been employed by an eligible governmental unit for five continuous months, and is employed for more than twenty hours per week and more than five months each year.
9. "Prior service" means service or employment prior to July 1, 1966.
10. "Prior service credit" means such credit toward a retirement benefit as the retirement board may determine under the provisions of this chapter.
11. "Public employees retirement system" means the retirement plan and program established by this chapter.
12. "Retirement" means the acceptance of a retirement allowance under this chapter upon termination of employment.
13. "Retirement board" or "board" means the five persons designated by this chapter as the governing authority for the retirement system created.
14. "Service" means employment on or after July 1, 1966.
15. "Service benefit" means the credit toward retirement benefits as determined by the retirement board under the provisions of this chapter.
16. "Wages" and "salaries" means the actual dollar compensation excluding overtime paid to or for an employee for his services.

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

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

1. The county, city, or school district will contribute on behalf of each eligible employee an amount equal to that provided in section 54-52-06.
2. A portion of the moneys, paid by the counties, cities, or school districts may be used to pay administrative expenses of the retirement board.

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

SECTION 3. AMENDMENT.) Section 54-52-02.2 of the North Dakota Century Code is hereby amended and reenacted to read 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 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 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 on the question whether such employees elect to participate in the retirement system. If the majority of such 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 include such policemen and firemen within any agreement entered into pursuant to section 54-52-02.1, and shall arrange for discontinuance of any existing policemen's or firemen's pension fund as provided by law.

SECTION 4. AMENDMENT.) Section 54-52-02.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02.3. NEWLY ELECTED SUPREME AND DISTRICT COURT JUDGES.) After July 1, 1973, any person elected or appointed to the office of judge of the supreme court, or judge of the district court for the first time shall, from and after the date he qualifies and takes office, be a participating member of the public employees retirement system. Any person so elected or appointed shall not be eligible for membership in or for receipt of benefits from the retirement program provided by chapter 27-17. As used in this section, the phrase "for the first time" means a person elected or appointed, who, after July 1, 1973, does not hold office as a judge of the supreme court or the district court at the time of his election or appointment.

SECTION 5.) Section 54-52-02.4 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-52-02.4. PARTICIPATION BY CERTAIN EMPLOYEES - REQUIREMENTS.) Each employee of a governmental unit who was not a participant in the retirement plan provided by this chapter during the time period from July 1, 1966, to June 30, 1977, may receive credit for service during such years; however, such person must pay to the fund the amount he or she would have paid during such years had he or she participated in the plan, together with the amount the governmental unit would have paid to the fund during that period of time, plus five percent annual interest compounded on the total amount. An employee may choose to pay such required amount to the fund in installments of ten percent per year plus five percent annual interest. If an employee retires before paying the entire amount, the employee's benefit shall be correspondingly reduced. An employee may become eligible for service credit under this section only if he or she enters into an agreement to do so with the board prior to October 1,

1977, or at the time the governmental unit from which such service was earned elects to participate in the retirement system as provided in section 54-52-02 if later.

SECTION 6. AMENDMENT.) Subsection 6 of section 54-52-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The state auditor, the state health officer, and the commissioner of banking and financial institutions shall be ex officio, nonvoting, and advisory members of the board.

SECTION 7. AMENDMENT.) Subsections 1 and 4 of section 54-52-04 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

1. The board shall have the power and duty to adopt such rules and regulations as may be necessary to implement the provisions of this chapter, and to manage the system, subject to the limitations of this chapter. It shall have the powers and privileges of a corporation, including the right to sue and be sued in its own name as such board. The venue of all actions in which the board is a party shall be Burleigh County, North Dakota.
4. The board shall arrange for actuarial and medical advisers for the system. It shall cause a qualified, competent actuary to be retained on a consulting basis. The actuary shall make a biennial valuation of the liabilities and reserves of the system and a determination of the contributions required by the system to discharge its liabilities and pay the administrative costs under this Act, and to recommend to the board rates of employer and employee contributions required, based upon the entry age normal cost method, to maintain the system on an actuarial reserve basis; and as soon after the effective date as practicable and once every even-numbered year thereafter, make a general investigation of the actuarial experience under the system including mortality, retirement, employment turnover, and other items required by the board, and recommend actuarial tables for use in valuations and in calculating actuarial equivalent values based on such investigation; and perform such other duties as may be assigned by the board.

SECTION 8. AMENDMENT.) Section 54-52-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-05. MEMBERSHIP AND ASSESSMENTS.) Every eligible permanent state, county, city, or noncertified school district employee concurring in the plan shall so state in writing and all future eligible employees shall be participating members. An eligible employee shall be a permanent employee who has been employed by the state, county, city, or school district for five consecutive months, has reached age eighteen, and is employed for more than twenty hours

per week for more than five months each year. Each member shall be assessed and required to pay monthly four percent of the monthly salary or wage paid to him, and such assessment shall be deducted and retained out of such salary in equal monthly installments.

SECTION 9. AMENDMENT.) Section 54-52-06 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-06. EMPLOYER'S CONTRIBUTION TO RETIREMENT PLAN.) Each governmental unit shall contribute an amount equal to five and twelve-hundredths percent of the monthly salary or wage of a participating member. Each governmental unit shall pay monthly such contribution into the retirement fund from its funds appropriated for payroll and salary or any other funds available for such purposes. Any governmental unit failing to pay such contributions monthly shall be 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 such payment became due. The board shall report to each session of the legislative assembly, or such committee as may be designated by the legislative council to hear such report in the interim between legislative sessions, the contributions necessary, as determined by the actuarial study, to maintain the fund's actuarial soundness.

SECTION 10. AMENDMENT.) Section 54-52-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-06.1. CONTRIBUTION BY SUPREME AND DISTRICT COURT JUDGES - EMPLOYER CONTRIBUTION.) Each judge of the supreme or district court who is a member of the public employees retirement system shall be assessed and required to pay monthly four percent of the monthly salary paid to him, and such assessment shall be deducted and retained out of his salary in equal monthly installments. The state shall contribute an amount equal to five and twelve-hundredths percent of the monthly salary of a supreme or district court judge who is a participating member of the system, which matching contribution shall be paid from its funds appropriated for salary, or from any other funds available for such purposes.

SECTION 11. AMENDMENT.) Section 54-52-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-10. ALLOCATION OF FUNDS.) The board shall maintain such funds and accounts as may be necessary to administer the provisions of this chapter. Any and all expenses incurred by or for the operation of the retirement plan shall be paid from the funds contributed pursuant to sections 54-52-06 and 54-52-06.1.

SECTION 12.) Section 54-52-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-52-10.1. PAYMENT OF BENEFITS AND OTHER COSTS.) The board shall use funds under its control both before and after the effective

date of this Act to administer this chapter and pay benefits authorized by this chapter.

SECTION 13. AMENDMENT.) Section 54-52-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. Participating members shall receive credit for full-time employment or its equivalent from the date they attain eligibility until their normal retirement date, as defined in this section. No participating member shall receive credit for more than thirty years of full-time employment unless such member has contributed to the plan or its predecessor established on July 1, 1966, in excess of thirty years; members who have contributed to these plans in excess of thirty years shall receive credit for the years of full-time employment after July 1, 1966. Part-time employment will be recognized as full-time employment on such a prorated basis as the board may prescribe.
2. Retirement benefits shall be calculated from the participating member's final average salary, which is the average of the highest salary received by the member for any sixty consecutive months employed during the last one hundred twenty months of employment. Months not employed or months where employment was not full-time shall be excluded in arriving at the sixty months to be used for the purpose of computing an average. If the participating member has worked for less than sixty months at the normal retirement date, the final average salary shall be the average salary for the total months of employment.
3. Retirement dates shall be defined as follows:
 - a. Normal retirement date is the first day of the month next following the month in which the member attains the age of sixty-five years.
 - b. Postponed retirement date is the first day of the month next following the month in which the member actually severs his employment after attaining the age of sixty-five years.
 - c. Early retirement date is the first day of the month next following the month in which the member attains the age of fifty-five years and has completed ten years of eligible employment.

- d. Disability retirement date is the first day of the sixth month after a member becomes permanently and totally disabled, according to medical evidence called for under the rules and regulations of the retirement board, and has completed at least ten years of eligible employment. No member shall be eligible for benefits resulting from a disability unless he shall also be determined eligible for benefits under the Social Security Act as amended.
4. Retirement benefits shall be calculated by the retirement board as follows:
 - a. Normal retirement benefits for all retirees reaching normal retirement date shall be an annual amount, payable monthly, comprised of a service benefit and a prior service benefit, as defined in this chapter, which shall be determined as follows:
 - (1) Service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of service employment.
 - (2) Prior service benefit equals one and four-hundredths percent of final average salary multiplied by the number of years of prior service employment.
 - b. Postponed retirement benefits shall be calculated as for normal retirement benefits, except years of employment only to the normal retirement date and salary to the actual retirement date shall be used.
 - c. Early retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment, but shall be actuarially reduced to account for benefit payments beginning prior to the normal retirement date. A retiree shall be eligible for early retirement benefits only after having completed ten years of eligible employment.
 - d. Disability retirement benefits shall be calculated as for normal retirement benefits accrued to the date of termination of employment due to permanent and total disability.
 5. Upon termination of employment after completing ten years of eligible employment but prior to normal retirement date, a member who does not elect to receive early retirement benefits shall be eligible to receive deferred vested retirement benefits payable commencing on his normal retirement date equal to one hundred percent of his accrued normal retirement benefits.

6. If a member dies after completing ten years of eligible employment, but prior to retiring, the surviving spouse of the member shall receive monthly retirement benefits equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies or remarries, whichever first occurs. If the spouse dies or remarries, he shall come under the provisions of subsection 8 of this section.
7. If a member not coming under the provisions of subsection 6 of this section terminates employment because of death, permanent and total disability, or any voluntary or involuntary reason prior to retirement, he or his designated beneficiary shall be entitled to the balances of his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977, with five percent annual interest thereon to date of termination. In addition, the member or his designated beneficiary shall be entitled to his contribution made after June 30, 1977, with five percent annual interest thereon to the date of termination. If the termination results from death or permanent and total disability, the member shall be deemed one hundred percent vested in the vesting fund on June 30, 1977.
8. If a member who is receiving retirement benefits or his surviving spouse who is receiving retirement benefits dies or if the surviving spouse remarries before the total amount of benefits paid to either or both equals the amount of the member's contribution with five percent interest, plus the vested amount on June 30, 1977, with five percent interest, the difference shall be paid to such spouse, his surviving beneficiary, if any, or his estate.
9. The retirement board shall promulgate regulations providing for the receipt of retirement benefits in the following optional forms:
 - a. Joint and survivor, with fifty percent or one hundred percent options.
 - b. Level social security option, which shall be available only to early retirees.
 - c. Life with five- or ten-year certain options.

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

10. Employees who were continuously employed by a governmental unit in North Dakota during the entire period from July 1, 1966, to June 30, 1977, shall have the opportunity within one month after the effective date of this Act to

choose whether or not they wish to continue as members of the North Dakota public employees retirement system. Such an employee who chooses to withdraw from the fund shall receive his employee account fund and the vested portion of his vesting fund, both as of June 30, 1977.

SECTION 14.) Section 54-52-17.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-52-17.1. ACTUARIAL STUDIES REQUIRED.) Before making changes in benefit levels the legislative assembly and the board shall have an actuarial study conducted to determine the total cost of such changes.

SECTION 15.) Section 54-52-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

54-52-19.1. CONTINUANCE OF PRIOR SERVICE BENEFITS.) Any retired employee receiving prior service benefits pursuant to former section 54-52-19 shall continue to do so. For the purposes of this section only, section 54-52-19 shall be deemed to remain in effect.

SECTION 16. AMENDMENT.) Section 54-52-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-21. PLAN NOT EMPLOYMENT CONTRACT.) The adoption of or participation in a retirement plan shall not be deemed to give an employee the right to be retained in the employ of a governmental unit or to interfere with the right of the governmental unit to discharge any employee at any time.

SECTION 17. REPEAL.) Sections 54-52-18, 54-52-19, and 54-52-20 of the North Dakota Century Code, and section 54-52-11 of the 1975 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 26, 1977

CHAPTER 500

HOUSE BILL NO. 1184
(Committee on State and Federal Government)
(At the request of the Public Employees' Retirement System)

RETIREMENT SYSTEM'S FUNDING AGENT POWERS

AN ACT to amend section 54-52-25 of the North Dakota Century Code, relating to the limitation of powers.

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

SECTION 1. AMENDMENT.) Section 54-52-25 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-25. LIMITATION OF POWERS.) The funding agent or agents selected by the board shall not delegate any powers or duties to any person, partnership, or corporation.

Approved March 31, 1977