

# STATE GOVERNMENT

## CHAPTER 619

SENATE BILL NO. 2096  
(Senators Tallackson, Naaden, Kelly)  
(Representatives Myrdal, Schindler)

### ENGLISH LANGUAGE

AN ACT establishing English as the official language of the state of North Dakota.

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

SECTION 1. **English as official language.** The English language is the official language of the state of North Dakota.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 620

HOUSE BILL NO. 1575  
(Representatives Kloubec, Strinden, Mertens)  
(Senators Olson, Heigaard)

**LEGISLATORS' EXPENSE REIMBURSEMENT**

AN ACT to amend and reenact section 54-03-20 of the North Dakota Century Code, relating to reimbursement for expenses for members of the legislative assembly; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 54-03-20 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-03-20. Compensation and expense reimbursement of members of the legislative assembly. Each member of the legislative assembly of the state of North Dakota is entitled to receive as compensation for services the sum of ninety dollars for each calendar day, and is entitled to receive reimbursement for lodging ~~to~~, which may not exceed a maximum of six hundred dollars per calendar month for lodging in state, at the rates and in the manner provided in section 44-08-04 for each calendar day during the period of any organizational, special, or regular session. Members of the legislative assembly who receive reimbursement for lodging are also entitled to reimbursement for travel for not to exceed one round trip ~~per~~ taken during any calendar week, or portion of a week, the legislative assembly is in session, between their residences and the place of meeting of the legislative assembly, at the rate provided for state employees for travel by motor vehicle. Members of the legislative assembly who do not receive reimbursement for lodging and who do not live in a legislative district completely or partially within the city of Bismarck are entitled to reimbursement at the rate provided for state employees for travel by motor vehicle for necessary travel for not to exceed one round trip taken per day between their residences and the place of meeting of the legislative assembly when it is in session, provided that this reimbursement may not exceed six hundred dollars per month. The amount to which each legislator is entitled shall be paid following the organizational session in December and following 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 day during a legislative session for the purposes of this section.

In addition, each member shall receive during the term for which the member was elected, as compensation for the execution of public duties during the biennium, the sum of one hundred eighty dollars a month, which is payable every six months. If a member dies or resigns from office during the member's term, the member shall be paid only the allowances provided for in this section for the period for which the member was actually a member.

Attendance at any organizational, special, or regular session of the legislative assembly by any member is a conclusive presumption of entitlement as set out in this section and compensation and expense allowances shall be excluded from gross income for income tax purposes to the extent permitted for federal income tax purposes under section 127 of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34; 95 Stat. 202; 26 U.S.C. 162(i)]. The provisions of this section shall be retroactive to January 1, 1985 1987.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 621

HOUSE BILL NO. 1681  
(Strinden, Mertens, Martinson, Schneider)  
(Approved by the Committee on Delayed Bills)

## LOBBYIST EXPENDITURES

AN ACT to amend and reenact subsection 2 of section 54-05.1-03 of the North Dakota Century Code, relating to reporting of expenditures by lobbyists.

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

SECTION 1. AMENDMENT. Subsection 2 of section 54-05.1-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Each person so registering to act as a lobbyist must, on or before December thirty-first in each year registered, file with the secretary of state a detailed report. The report must include a statement as to each expenditure, if any, of twenty-five dollars or more expended on any single occasion during the legislative session or the interim, as the case may be, on any individual in carrying out his work. No state official or agency may require reporting of lobbyist expenditures other than is required under this subsection. The secretary of state shall provide a prescribed form for reporting pursuant to this chapter.

Approved April 6, 1987  
Filed April 6, 1987

## CHAPTER 622

HOUSE BILL NO. 1634  
(Representatives Strinden, Kloubec)  
(Senator Olson)

## ECONOMIC DEVELOPMENT COMMISSION

AN ACT to amend and reenact subsection 1 of section 54-07-01.2, sections 54-34-02, 54-34-03, 54-34-03.1, 54-34-04, 54-34-05.1, and 54-34-06 of the North Dakota Century Code, relating to the membership and duties of the economic development commission.

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

SECTION 1. AMENDMENT. Subsection 1 of section 54-07-01.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Notwithstanding the provisions of sections 2-05-01, 4-18.1-04, 4-27-04, 6-01-03, 6-09.1-02, 12-55-01, 12-59-01, 15-21-17, 15-38-17, 15-39.1-05, 15-65-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-26-01, 51-10-13, ~~54-34-03~~, 54-54-02, 55-01-01, 55-06-01, 61-02-04, 61-28-03, and 65-02-01, all members of the following boards and commissions shall, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:
  - a. The aeronautics commission.
  - b. The milk stabilization board.
  - c. The dairy products promotion commission.
  - d. The state banking board.
  - e. The state credit union board.
  - f. The advisory board of directors to the Bank of North Dakota.
  - g. The board of pardons.

- h. The state parole board.
- i. The state board of public school education.
- j. The teachers' professional practices commission.
- k. The board of trustees for the teachers' fund for retirement.
- l. The educational broadcasting council.
- m. The state game and fish advisory board.
- n. The health council.
- o. The air pollution control advisory council.
- p. The livestock sanitary board.
- q. The administrative committee on veterans' affairs.
- r. The governor's council on human resources.
- s. The North Dakota trade commission.
- ~~t. The economic development commission.~~
- ~~u.~~ The North Dakota council on the arts.
- ~~v.~~ u. The state historical board.
- ~~w.~~ v. The Yellowstone-Missouri-Fort Union commission.
- ~~x.~~ w. The state water ~~conservation~~ commission.
- ~~y.~~ x. The state water pollution control board.
- ~~z.~~ y. The workmen's compensation bureau.

SECTION 2. AMENDMENT. Section 54-34-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34-02. Appointment of director of the economic development commission. The governor, or his designee, economic development commission shall appoint a director of the economic development commission hereinafter called the "director" with the educational qualifications, knowledge, and experience necessary to ensure professional competency in the carrying out of the duties of the director enumerated in section 54-34-06. The director shall serve at the pleasure of the governor commission and shall receive a salary set by the governor commission within the limits of legislative appropriations. The director shall be allowed actual and necessary mileage and travel expenses at the same rate as allowed for other officials of this state officers.

**SECTION 3. AMENDMENT.** Section 54-34-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-03. Appointment of economic development commission - Membership - Appointment and removal - Expenses.** ~~The economic development commission, hereafter called the commission, shall consist~~ consists of the governor as chairman and ~~eight~~ nine members appointed by the governor, with one member ~~to be~~ appointed from each of the ~~seven judicial~~ eight planning districts and one member to be appointed ~~from the state~~ at large to represent minorities. The members ~~shall~~ must be appointed for a term of ~~four~~ five years staggered so that the ~~terms~~ term of ~~two members~~ two members expire at least one member expires each year. ~~Vacancies~~ The governor shall be filled ~~fill vacancies~~ in the same manner as the original appointment, except that vacancies occurring for other than the expiration of a term ~~shall~~ must be filled by appointment for only the remainder of the term of the member causing the vacancy. ~~Appointment~~ The governor shall appoint members to the commission ~~by the governor shall be upon~~ on the basis of the special knowledge ~~or~~ experience, and interest of the ~~each~~ each member in the economic development of the state. ~~All members~~ The governor may receive nominations of candidates for appointment to the commission from the private sector and from public and private economic development agencies and organizations in the state in such form as may be required by the governor. Any member of the commission may be removed by the governor for neglect of duty or malfeasance in office. Members of the commission shall be reimbursed may not receive a salary for their services, but are entitled to reimbursement for expenses incurred in attending meetings and otherwise performing official duties at the same rates and in the same manner rate as allowed other state officials officers.

**SECTION 4. AMENDMENT.** Section 54-34-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-03.1. Initial commission membership.** ~~The members of the business and industrial development commission representing the seven judicial districts of the state and serving upon such on the commission on March 26, 1981, the effective date of this Act shall automatically become~~ remain as members of the ~~economic development~~ economic development commission and shall ~~so~~ serve during any unexpired portion of the term for which they were appointed as members of the ~~business and industrial development~~ business and industrial development commission ~~without regard to the judicial district of their residence and shall represent the planning district in which they live.~~ Thereafter, members of the commission ~~shall~~ must be appointed in accordance with the ~~provisions of~~ provisions of section 54-34-03.

**SECTION 5. AMENDMENT.** Section 54-34-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-34-04. Meeting and duties of commission.** ~~The commission shall meet at the call of the governor at least quarterly. Five members~~

~~of the commission shall constitute a quorum. The governor commission shall designate a vice chairman of the commission. The director shall act as secretary of the commission. The commission shall advise and assist the legislative assembly, the governor, and the director in the performance of the functions, duties, and activities relative to economic development as provided in this chapter. The commission shall report annually to the governor and the legislative assembly concerning the progress, administration, and activities of the commission for the preceding year, including in the report recommendations for legislation or administrative changes necessary or desirable to effectuate the purposes of this chapter.~~

SECTION 6. AMENDMENT. Section 54-34-05.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34-05.1. Appointment of special committees. ~~The governor, in the governor's discretion,~~ commission may appoint any temporary or special committees as may be desirable to provide assistance in carrying out ~~the provisions of~~ this chapter with regard to limited projects or specialized fields of research and economic development. ~~Members~~ The commission may compensate the members of these committees ~~may at the discretion of the governor be compensated for~~ their expenses and attendance at meetings or in carrying out their duties in the same manner as members of the commission.

SECTION 7. AMENDMENT. Section 54-34-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34-06. Duties of the director. The director, under the supervision of the governor commission and subject to legislative appropriation, shall:

1. Appoint, subject to the approval of the commission, such personnel as may be ~~deemed~~ determined necessary to carry out ~~the provisions of~~ this chapter, and to fix their compensation.
2. Plan, execute, and direct a program of publicity, research, and agricultural and industrial promotion which will:
  - a. Attract investors, investment capital, and new residents.
  - b. Foster and promote tourism and international trade.
  - c. Assist in improving the business and agricultural climate of North Dakota to encourage the growth and development of business and industry.
3. Provide for and encourage through the universities and colleges of the state and other public and private



institutions and agencies such projects of research as will promote the economic development of the state.

4. Cooperate with departments and agencies of the federal government and of other states, and with departments, agencies, institutions, and political subdivisions of this state, and with associations, corporations, and individuals upon such terms as may be agreed upon in providing programs of advertising, promotion, or research which will advance the economic development of the state.
5. Receive and accept from any source, including agricultural and industrial development funds of cities and counties, money, property, services, or other things of value, to be held or used for the purpose tendered.
6. Encourage the formation and coordination of the efforts of local development organizations throughout the state; make available to such local development organizations and to cities and the various political subdivisions of the state, such facts, data, and information as may be useful and desirable in their efforts to encourage the location of business and industry within the state.
7. Coordinate the international marketing efforts of the various state agencies and institutions of the state of North Dakota.
8. Request all departments, agencies, institutions, and political subdivisions of this state to give reasonable aid and assistance in carrying out ~~the provisions of~~ this chapter and to use portions of their funds for such purpose.
9. Advise and assist the legislative assembly in the formulation of legislation relative to economic development in the state.
10. To do all things reasonably necessary and proper to realize the benefits and carry out ~~the provisions of~~ this chapter.

Approved April 17, 1987

Filed April 17, 1987

## CHAPTER 623

SENATE BILL NO. 2903  
(Select Committee on Appropriations)  
(At the request of the State Auditor)  
(Approved by the Committee on Delayed Bills)

## AUDITS OF POLITICAL SUBDIVISIONS

AN ACT to amend and reenact subsection 2 of section 54-10-01 and sections 54-10-13 and 54-10-14 of the North Dakota Century Code, relating to the powers of the state auditor and audit requirements for political subdivisions; and to provide an effective date.

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

SECTION 1. AMENDMENT. Subsection 2 of section 54-10-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Be vested with the duties, powers, and responsibilities involved in making a complete examination ~~at least~~ once every two years of the books, records, accounting methods, and internal controls of any and all state agencies, including the occupational and professional boards provided for in title 43 and the state bar board, state board of veterinary medical examiners, and all other professional boards created by law. 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 all agencies which receive and expend moneys from other than the general fund, unless for good cause the amounts charged are waived by the auditor for a one-year period of time with the waiver subject to annual renewal after proper application has been filed with the auditor. The governing board of any occupational and professional board or commission shall provide for an audit ~~at least~~ once every two years by a certified public accountant or licensed public accountant who shall submit the audit report to the state auditor's office. When the report is in the form and style as prescribed by the state auditor, the state auditor shall not audit such board or commission. Audits may be conducted at more frequent intervals if requested

by the Governor or Legislative Audit and Fiscal Review Committee.

SECTION 2. AMENDMENT. Section 54-10-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-10-13. County agencies Political subdivisions - Audits - Fees State auditor powers. 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 shall perform audits of political subdivisions pursuant to section 54-10-14 unless otherwise requested by the governing board, ordered by the governor or on petition pursuant to section 54-10-15, or at the discretion of the state auditor for alleged improprieties.

SECTION 3. AMENDMENT. Section 54-10-14 of the 1985 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 two 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. Counties.
2. Municipalities.
- 2- 3. Park districts.
- 3- 4. School districts.
- 4- 5. Firemen's relief associations.
- 5- 6. Airport authorities.
- 6- 7. Public libraries.
- 7- 8. Water resource districts.
- 8- 9. Garrison Diversion Conservancy District.
- 9- 10. Rural fire protection districts.
- 10- 11. Special education districts.
- 11- 12. Vocational education centers.
- 12- 13. Correction centers.
- 13- 14. Recreation service districts.
- 14- 15. Weed boards.
16. Irrigation districts.

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 two years require annual reports from school districts with less than one hundred enrolled students, municipalities with less than three hundred population, 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 qualified 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~~ audit report. All fees for the audits ~~herein provided performed by the state auditor~~ shall be paid by the subdivision audited to the state treasurer and ~~by him~~ credited to the general fund of the state.

SECTION 4. EFFECTIVE DATE. This Act becomes effective on December 15, 1986.

Approved December 5, 1986

Filed December 8, 1986

## CHAPTER 624

HOUSE BILL NO. 1114  
(Committee on State and Federal Government)  
(At the request of the State Auditor)

### AUDITOR'S WORKING PAPERS CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 54-10 of the North Dakota Century Code, relating to confidentiality of the state auditor's working papers.

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 working papers - Confidential.** Working papers of the state auditor are not public records and are exempt from section 44-04-18. Working papers include records kept by the auditor of the procedures applied, the tests performed, the information obtained, and the pertinent conclusions reached in the engagement. Working papers may be, at the discretion of the state auditor and unless otherwise prohibited by law, made available for inspection. The issued audit report is public information. The working papers of an issued audit report shall be public. At the discretion of the state auditor, all or a portion of the working papers of an issued audit report may be declared confidential. Such a declaration of confidentiality shall state the reason for the confidentiality and the date, as can best be reasonably determined at the time, when it will be made public.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 625

SENATE BILL NO. 2505  
(Senators Kelsh, Mushik, Holmberg)  
(Representatives Opedahl, Rydell)

### TREASURER ASSISTANCE TO CENTENNIAL COMMISSION

AN ACT authorizing the state treasurer to provide services to the North Dakota centennial commission to facilitate the centennial commission in successfully administering its various programs; to provide an expiration date; and to declare an emergency.

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

SECTION 1. The state treasurer is authorized to provide services as time permits for the North Dakota centennial commission to successfully accomplish its various programs.

SECTION 2. EXPIRATION DATE. This Act is effective through June 30, 1991, and after that date is ineffective.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 626

SENATE BILL NO. 2054  
(Legislative Council)  
(Interim Judiciary Committee)

### DEFENSE AND INDEMNIFICATION OF JUDGES

AN ACT to provide for indemnification and legal defense for judicial officers.

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

**SECTION 1. Judicial officers - Legal defense - Indemnification.** The attorney general shall appear and defend any supreme court justice, supreme court surrogate justice, district court judge, district court surrogate judge, county court judge, judicial referee, or juvenile supervisor of this state in any action founded upon an act or omission arising out of performance of an official duty. If the attorney general determines that the attorney general or an assistant attorney general is unable to defend the judicial officer, the attorney general shall employ a special assistant attorney general to represent the judicial officer. The state shall indemnify the supreme court justice, supreme court surrogate justice, district court judge, district court surrogate judge, county court judge, judicial referee, or juvenile supervisor of this state for all reasonable costs, including attorney fees, incurred by or awarded against the judicial officer in the action.

Approved March 26, 1987  
Filed March 30, 1987



## CHAPTER 627

SENATE BILL NO. 2047  
(Legislative Council)  
(Interim Indian Jurisdiction Committee)

### ATTORNEY GENERAL'S RESERVATION INVESTIGATIONS

AN ACT to create and enact a new section to chapter 54-12 of the North Dakota Century Code, relating to investigations on Indian reservations by the attorney general.

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

SECTION 1. A new section to chapter 54-12 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Attorney general to make investigation on Indian reservation - Expenses.**  
The attorney general may make a full and complete investigation of any complaint alleging the deprivation of any constitutional, civil, or legal right of an individual residing on an Indian reservation upon the written request of the state's attorney of the county of residence of the aggrieved individual. The attorney general may conduct and take full charge of any criminal prosecution that results from the investigation. The necessary expenses incurred in making the investigation or in prosecuting any resulting case, as determined by the attorney general, must be allowed and paid by the county in which the investigation was requested in the same manner in which claims against the county are allowed and paid.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 628

SENATE BILL NO. 2181  
(Committee on Judiciary)  
(At the request of the Attorney General)

## ASSISTANT ATTORNEY GENERAL BILLING

AN ACT to amend and reenact section 54-12-08 of the North Dakota Century Code, relating to assistant and special assistant attorneys general and to billing arrangements for legal services.

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

SECTION 1. AMENDMENT. Section 54-12-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-08. Special Assistant and special assistant attorneys general - Appointment - Revocation - Compensation. The attorney general also, when he deems it necessary, may after consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected appoint assistant or special assistant attorneys general, and no state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency shall employ legal counsel, and no person shall act as legal counsel, in any matter, action or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon appointment by the attorney general. The appointment shall be in writing. The powers conferred upon such special assistant attorneys general shall be the same as are exercised by the regular assistant attorneys general, when such powers are not limited specifically by the terms of such appointment. Any such appointment shall be revocable at the pleasure of the attorney general. It may be made with or without compensation, and when compensation is allowed by the attorney general for services performed, it shall be paid out of the funds appropriated therefor. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services except for those payments required of the department of human services, state department of health, and the state hospital.

Approved April 7, 1987  
Filed April 9, 1987

## CHAPTER 629

SENATE BILL NO. 2249  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

## PASS-THROUGH FEDERAL FUNDS

AN ACT to amend and reenact section 54-16-04.1 of the North Dakota Century Code, relating to emergency commission authorization for pass-through federal funds between state agencies.

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

SECTION 1. AMENDMENT. Section 54-16-04.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 630

HOUSE BILL NO. 1154  
(Committee on Industry, Business and Labor)  
(At the request of the Housing Finance Agency)

### HOUSING REVENUE BOND CEILING REPEAL

AN ACT to repeal section 54-17-07.5 of the North Dakota Century Code, relating to the allocation of the housing revenue bond issuance ceiling of the state under the Mortgage Subsidy Bond Tax Act of 1980 which was repealed by the Tax Reform Act of 1986.

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

SECTION 1. REPEAL. Section 54-17-07.5 of the 1985 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 27, 1987  
Filed March 30, 1987

## CHAPTER 631

HOUSE BILL NO. 1200  
(Committee on Industry, Business and Labor)  
(At the request of the Bank of North Dakota)

## STUDENT LOAN TRUSTS

AN ACT to amend and reenact sections 54-17-24 and 54-17-25 of the North Dakota Century Code, relating to the state student loan trusts.

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

SECTION 1. AMENDMENT. Section 54-17-24 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-24. State trusts created. The industrial commission is hereby authorized and directed to acquire and to hold in separate trusts (1) all unpaid United States government guaranteed or reinsured student loans and (2) North Dakota guaranteed student loans, belonging to the state of North Dakota or to any of its agencies, departments, or institutions which may be endorsed or assigned to it, such guaranteed student loans held in the trusts as security for bonds of the state to be issued as and in the manner the commission shall decide. All guaranteed student loans so held in the trusts and the collections therefrom and the increments thereto shall be held in special funds as the source of payment of bonds of North Dakota to be issued, none of which bonds shall constitute indebtedness of the state. The term "student" for the purposes of this section and section 54-17-25 includes a parent borrower under chapter 15-62.1.

SECTION 2. AMENDMENT. Section 54-17-25 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17-25. Bonds authorized - Establishment of secondary market program. Whenever the industrial commission decides that it is in the public interest to diminish the investment of state funds in United States government guaranteed or reinsured or North Dakota guaranteed student loans, that it will be difficult to divest the state of appreciable amounts of such loans by piecemeal offering to the investing and saving public, that business conditions are favorable

to a state-sponsored program to consolidate state-held student loans, and to enlarge private participation in such loans, the commission may by plenary resolution duly adopted in accordance with the provisions hereof authorize preparation, sale, and issuance of revenue bonds of North Dakota in such amounts and at such times and in such form, which may include the issuance of bonds the interest income on which is subject to federal ~~and North Dakota~~ income taxes, as the commission shall determine to be for the public good. The bonds shall be a paramount charge upon a sufficient designated portion of the resources of the student loan trusts, subject only to necessary administrative expenses of the trusts duly appropriated out of the interest earning resources thereof. The bonds may bear such rate or rates of interest as the commission may provide. The bonds shall have all of the qualities and incidents of negotiable paper and shall not be subject to taxation by the state of North Dakota or by any county, municipality, or political subdivision therein. The bonds shall be payable solely out of the separate resources generated respectively from collection of payments on and earnings and proceeds of (1) United States government guaranteed or reinsured or (2) North Dakota guaranteed student loans, and shall respectively so recite. They shall not be indebtedness of the state of North Dakota or of any agency, board, department, or officer or agent thereof. Without limiting the foregoing, the commission may request the organization of a nonprofit corporation meeting the requirements of ~~section 103(e)~~ of the Internal Revenue Code of 1954, as amended and redesignated as the Internal Revenue Code of 1986 [Pub. L. 99-54], and as it may be amended from time to time, and enter into one or more agreements with such corporation providing for the establishment of a secondary market program in the state of North Dakota for the acquisition by the corporation of such loans made pursuant to title IV, part B of the Higher Education Act of 1965, as amended, as the commission shall, in its discretion, deem advisable.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 632

HOUSE BILL NO. 1032  
(Legislative Council)  
(Interim Budget Committee on Higher Education)

## STATE BUILDING AUTHORITY

AN ACT to authorize the industrial commission to issue evidences of indebtedness for projects authorized by the fiftieth legislative assembly; to create and enact a new section to chapter 54-17.2 of the North Dakota Century Code, relating to evidences of indebtedness issued by the industrial commission and continued authority of the commission as the North Dakota building authority; to amend and reenact section 22 of chapter 571 of the 1985 Session Laws of North Dakota, relating to the continuing appropriation of moneys related to the projects; and to repeal section 21 of chapter 571 of the 1985 Session Laws of North Dakota, relating to projects authorized by the forty-ninth legislative assembly.

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

SECTION 1. A new section to chapter 54-17.2 of the North Dakota Century Code is hereby created and enacted to read as follows:

Evidences of indebtedness conditions - Continued authority. The commission may issue evidences of indebtedness subject to the condition that lease rental payments shall begin no earlier than the first business day of the biennium following the biennium of issuance. Although the authority to issue evidences of indebtedness for specific projects may terminate, the commission may exercise all other powers granted to the commission under this chapter and may comply with any covenants entered into before the applicable termination date.

SECTION 2. AMENDMENT. Section 22 of chapter 571 of the 1985 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 22. CONTINUING APPROPRIATION. The moneys received by the industrial commission and the state agencies and institutions from the sale of evidences of indebtedness, and lease rental payments, and moneys received by the industrial commission or the

state agencies and institutions from revenue generated by projects authorized under section 21 of this Act by the legislative assembly are hereby appropriated as a continuing appropriation for the acquisition of these authorized projects and the payment of lease rentals for these projects.

**SECTION 3. AUTHORITY TO ISSUE EVIDENCES OF INDEBTEDNESS.** The industrial commission may issue, during the biennium beginning July 1, 1987, and ending June 30, 1989, evidences of indebtedness under North Dakota Century Code chapter 54-17.2 for the projects specifically authorized and declared to be in the public interest by the fiftieth legislative assembly, with that portion of the project costs associated with the construction payable with proceeds of the evidences of indebtedness in an amount up to but not exceeding the amount approved by the fiftieth legislative assembly.

**SECTION 4. REPEAL.** Section 21 of chapter 571 of the 1985 Session Laws of North Dakota is hereby repealed.

Approved March 27, 1987  
Filed March 30, 1987



## CHAPTER 633

SENATE BILL NO. 2256  
(Committee on State and Federal Government)  
(At the request of the North Dakota Mill and Elevator Association)

### MILL AND ELEVATOR BUSINESS CONFIDENTIALITY

AN ACT to create and enact a new section to chapter 54-18 of the North Dakota Century Code, relating to confidentiality of certain North Dakota mill and elevator and export trading company business.

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:

#### Confidentiality exemption.

1. The industrial commission may provide for the confidentiality of trade secrets and certain commercial and financial information related to specific business transactions of the North Dakota mill and elevator or any export trading company with which the mill and elevator participates, including subsidiaries of the North Dakota mill and elevator.
2. Information may be designated as confidential only when such information would impair the mill and elevator or export trading company's ability to obtain necessary information in the future or cause substantial harm to their competitive position, or when such information would cause substantial harm to the privacy or competitive position of a business partner of the mill and elevator or export trading company.
3. Only information regarding specific business transactions and concerning trade secrets as that term is defined in subsection 4 of section 47-25.1-01, commercial information such as bids, prices for products and commodities, quantities, market strategies, distribution channels, and patterns of competition, or financial information of business partners of the mill and elevator or export trading company may be designated as confidential.

4. Before any information is designated as confidential pursuant to this section, a request by the mill and elevator or export trading company for designation of confidentiality shall be made public at least five days before the industrial commission acts to designate information as confidential. Any person may protest the requested designation of confidentiality in writing or orally with the industrial commission, or seek an injunction to prevent the designation of confidentiality in the district court. The request for confidentiality shall state the general nature and type of information to be protected, but need not state the name of any business partner or the specific substance of the information which is the subject of the request.
  
5. Any information designated as confidential pursuant to this section shall not remain confidential when the transaction is reported to the industrial commission or discussed by the industrial commission at a regular or special meeting, unless the transaction is continuing and disclosure of the information may jeopardize the successful completion of the transaction, or it is information concerning the business partner of the mill and elevator or export trading company and disclosure of information would impair the mill and elevator or export trading company's ability to obtain necessary information in the future or cause substantial harm to the privacy or competitive position of the business partner.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 634

SENATE BILL NO. 2373  
(D. Meyer)

## INMATE TRANSFERS

AN ACT to amend and reenact section 54-21-25 of the North Dakota Century Code, relating to the director of institution's authority to transfer adult inmates and juvenile delinquents; and to repeal 12-47-35 of the North Dakota Century Code, relating to the governor's authority to transfer adult inmates to the federal government.

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

SECTION 1. AMENDMENT. Section 54-21-25 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21-25. Authority to contract with other governmental agencies for prisoners and juvenile delinquents. If the director of institutions determines that suitable state facilities or services are not available for adult inmates or juvenile delinquents under his control he may contract for same with the proper authorities of the United States, Canada, and any of its governmental subdivisions, another state, another agency in this state or a political subdivision of this state, or with any private or public correctional or treatment facility or agency. The director may also contract, without cost to the state, to provide services or facilities for persons held by any of the jurisdictions mentioned in this section. An adult inmate or juvenile delinquent who is considered for transfer to another jurisdiction as herein provided, and who as an adult or as parent or guardian of a juvenile does not consent to the transfer, will be given notice of the pending transfer and an administrative hearing a review by an institutional staff board including at least one member from the treatment staff, the security or housing staff, the administrative staff, and chaired by an individual designated by the director of institutions to determine the need and justification for a transfer. The findings of the review board will, if appropriate, be given to the adult inmate or juvenile delinquent or a representative or guardian, and in the case of adults, to the pardon board, and in the case of juveniles, to the designated juvenile court staff for their approval of the requested transfer. If a treaty is in effect between the

United States and a foreign country for the transfer and exchange of offenders, the director of institutions, upon recommendation of the warden and the approval of the governor; may on behalf of the state under the terms of the treaty transfer or exchange offenders and take any action necessary for the state to participate in the treaty.

**SECTION 2. REPEAL.** Section 12-47-35 of the North Dakota Century Code is hereby repealed.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 635

HOUSE BILL NO. 1109  
(Committee on State and Federal Government)  
(At the request of the Director of Institutions)

### CAPITOL SPACE STUDIES

AN ACT allowing the director of institutions to conduct space studies and allocate office space to the executive branch staff located on the capitol grounds.

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

SECTION 1. Space utilization studies - Office space allocation. The director of institutions shall:

1. Conduct a periodic comprehensive space utilization study of all executive branch staff located within the facilities on the capitol grounds.
2. Develop a space allocation and design policy which will consider space equalization and maximize the effective use of public facilities in a cost-effective manner.
3. Allocate and assign office space, based upon space utilization studies and the established policies, guidelines, standards, and procedures, to all executive branch staff housed and working in facilities on the capitol grounds.
4. Include in developing standards and criteria to be used in making space allocations, considerations regarding equipment; work stations; private offices; conference rooms; reception areas; vaults; necessary arrangements of dividers, doors, and walls to increase adequate air circulation; telephones; lighting; and heating in the utilization of available space.
5. Be consulted, and the director's approval obtained, before any change is made within any assigned and allocated space, and before any structural alteration is made.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 636

HOUSE BILL NO. 1471  
(Representatives G. Berg, Rice, Wald)  
(Senators Stromme, Thane, Waldera)

## STATE BUILDING CODE

AN ACT to amend and reenact section 54-21.3-03 of the North Dakota Century Code, relating to the state building code.

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

SECTION 1. AMENDMENT. Section 54-21.3-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-21.3-03. State building code - Amendments.

1. The state building code ~~shall consist~~ consists of the ~~1982~~ 1985 Uniform Building Code with any existing ~~appendices~~ and supplements including the Uniform Mechanical Code with any existing ~~appendices~~ and supplements as referenced by the Uniform Building Code. This code ~~shall must~~ be implemented by and may be amended by rules adopted by the director of the office of management and budget ~~pursuant to~~ under chapter 28-32.
2. For the purposes of manufactured homes, the state building code ~~shall consist~~ consists of the manufactured homes construction and safety standards under 24 CFR 3280 adopted pursuant to the Manufactured Housing Construction and Safety Standards Act [42 U.S.C. 5401 et seq.].
3. The state building code may be amended by cities, townships, and counties to conform with local needs, ~~provided, however, except~~ that the standards established by amendment under this subsection must meet or exceed those of the state building code.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 637

HOUSE BILL NO. 1152  
(Committee on Human Services and Veterans Affairs)  
(At the request of the Governor and the Attorney General)

### LOST, RUNAWAY, OR MISSING PERSONS

AN ACT to create and enact a new section to chapter 54-23 of the North Dakota Century Code, relating to the efforts of law enforcement agencies in locating lost or runaway children and missing persons.

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

SECTION 1. A new section to chapter 54-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

**Lost or runaway children and missing persons.** The state radio department shall:

1. Establish and maintain a statewide file system for the purpose of effecting an immediate law enforcement response to reports of lost or runaway children and missing persons. The state radio department shall implement a data exchange system to compile, to maintain, and to make available for dissemination to North Dakota and to out-of-state law enforcement agencies, descriptive information which can assist appropriate agencies in recovering lost or runaway children and missing persons.
2. Establish contacts and exchange information regarding lost or runaway children and missing persons with the national crime information center.
3. Notify all enforcement agencies that reports of lost or runaway children and missing persons shall be entered as soon as the minimum level of data specified by the state radio department is available to the reporting agency and that no waiting period for entry of such data exists. If the enforcement agency is unable to enter the data, the state radio department shall immediately upon notification enter the information into the national crime information center file.

4. Compile and retain information regarding lost or runaway children or missing persons in a separate file, in a manner that allows the information to be used by law enforcement and other agencies deemed appropriate by the state radio department, for investigative purposes. The enforcement agency shall be responsible for maintaining the disposition of the case and shall periodically review the case with the reporting party and the state radio department to ensure all available information is included and to determine the current status of the case.
5. Provide prompt confirmation of the receipt and entry of the lost or runaway children and missing persons report into the file system to the enforcement agency providing the report or to the parent, guardian, or identified family member as provided in subsection 6.
6. Allow any parent, guardian, or identified family member to submit a missing persons report to the state radio department which will be included in the state radio department file system and transmitted to the national crime information center, if they are unable to receive services from the local law enforcement agency.
7. Compile and maintain a historical data repository relating to missing persons for all of the following purposes:
  - a. To develop and improve techniques utilized by law enforcement agencies when responding to reports of missing persons.
  - b. To provide a factual and statistical base for research that would address the problem of lost or runaway children and missing persons.

Approved March 12, 1987

Filed March 16, 1987



## CHAPTER 638

### HOUSE BILL NO. 1596 (Moore)

## BUDGET STABILIZATION FUND

AN ACT to provide for the creation of the budget stabilization fund as a special fund in the state treasury, to provide for the deposit of revenues in the budget stabilization fund, and to provide for transfers from the budget stabilization fund to the state general fund.

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

**SECTION 1. Budget stabilization fund.** The budget stabilization fund is a special fund in the state treasury. The state investment board shall supervise investment of the budget stabilization fund in accordance with chapter 21-10. Any interest or other budget stabilization fund earnings must be deposited in the fund. Any amounts provided by law for deposit in the fund and any interest or earnings of the fund which would bring the balance in the fund to an amount greater than fifteen percent of the current biennial state general fund budget, as finally approved by the most recently adjourned special or regular session of the legislative assembly, may not be deposited or retained in the fund but must be deposited instead in the state general fund.

**SECTION 2. Certain general fund revenues to be deposited in the budget stabilization fund.** Notwithstanding any other provision of law except section 1 of this Act, any amount in the state general fund in excess of forty million dollars at the end of any biennium shall be transferred by the state treasurer to the budget stabilization fund. For purposes of this section, "at the end of any biennium" means after cancellation of unexpended appropriations under section 54-44.1-11.

**SECTION 3. Transfers and expenditures from budget stabilization fund.** If the director of the office of management and budget projects that general fund revenues for the biennium will be at least five percent less than estimated by the most recently adjourned special or regular session of the legislative assembly, and if the governor orders a transfer, the state treasurer shall transfer the appropriate funds from the budget stabilization fund to the state

general fund to offset the decrease in general fund revenues. The amount transferred from the budget stabilization fund upon order of the governor may not exceed the difference between an amount five percent below the general fund revenue projections for the biennium of the most recently adjourned special or regular session of the legislative assembly and the general fund revenue projections for the biennium by the director of the office of management and budget. The amount transferred from the budget stabilization fund upon order of the governor to the state general fund may be expended within the limits of legislative guidelines and general fund appropriations of the most recently adjourned special or regular session of the legislative assembly. Moneys in the budget stabilization fund may not be appropriated or expended except as provided in this section, but the legislative assembly may provide for transfer of all or a portion of the moneys in the budget stabilization fund to the common schools trust fund established under section 1 of article IX of the Constitution of North Dakota.

Approved April 17, 1987  
Filed April 20, 1987

## CHAPTER 639

HOUSE BILL NO. 1543  
(Representatives Thompson, Gerntholz, Ulmer)  
(Senators Nelson, Shea)

### VENTURE CAPITAL NETWORK

AN ACT to direct the economic development commission to establish a venture capital network as a clearinghouse for information on capital investment opportunities in the state.

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

SECTION 1. **Statement of purpose.** The purpose of this Act is to improve the dissemination of information regarding informal investment opportunities to potential investors and entrepreneurs, and thereby stimulate the growth of small businesses in the state.

SECTION 2. **Economic development commission to establish venture capital network - Duties and functions.** The economic development commission may establish, from funds appropriated to or otherwise available to the commission, the venture capital network as a clearinghouse for information on informal risk capital investment opportunities in the state. The economic development commission may:

1. Enter into service contracts on a competitive bid basis with public and private agencies, institutions, organizations, and individuals for the purpose of establishing and operating the venture capital network.
2. Receive and approve contract proposals for the purpose of establishing the venture capital network.
3. Solicit the support and contributions of public and private agencies, organizations, institutions, and individuals.
4. Accept and administer contributions for the purpose of operating the venture capital network.
5. Advertise and promote the venture capital network.

SECTION 3. **Duties and functions of venture capital network.** The venture capital network may:

1. Solicit, compile, profile, and maintain current information describing opportunities for risk capital investment in new or emerging business ventures.
2. Identify active informal investors and profile their distinguishing investment objectives.
3. Provide, for a reasonable fee, a timely, confidential, and objective referral system serving both entrepreneurs and investors.
4. Maintain statistics on the operation of the venture capital network, including the number of profiled entrepreneurs and investors, referrals, and referrals resulting in investment.

#### SECTION 4. Limitations.

1. The venture capital network may not serve any fiduciary, advisory, or evaluative function in making referrals.
2. The remedies and causes of action provided under the securities laws of the United States and this state apply to any conduct or activity of the venture capital network.

SECTION 5. Private sponsor. The economic development commission may endeavor to locate a private sector sponsor or group of sponsors to assume administration of the venture capital network.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 640

SENATE BILL NO. 2313  
(Senator Nalewaja)  
(Representative Strinden)

## GORDON AAMOTH INDIAN DEVELOPMENT FUND

AN ACT to amend and reenact sections 54-34.2-01, 54-34.2-02, and 54-34.2-04 of the North Dakota Century Code, relating to a change in the name of the Indian development fund.

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

SECTION 1. AMENDMENT. Section 54-34.2-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-01. Gordon Aamoth Indian development fund - Administration. The North Dakota Indian affairs commission shall administer the Gordon Aamoth Indian development fund as provided in this chapter.

SECTION 2. AMENDMENT. Section 54-34.2-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-02. Purpose. It is declared that the Indian people of North Dakota need the assistance of their state to take full advantage of the opportunities they have to improve their economic well-being. It is further declared that increased economic strength and stability among the Indian people of North Dakota are clearly in the best interests of the entire state. Therefore, the Gordon Aamoth Indian development fund is created to provide matching funds for the Indian people of North Dakota to take full advantage of the opportunities available to them.

SECTION 3. AMENDMENT. Section 54-34.2-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-34.2-04. Development project eligibility. Moneys from the Gordon Aamoth Indian development fund shall be used only for state or local matching funds as may be required by a federal, tribal, or private agency for participation in Indian development projects. Reservation development projects must be approved by a tribal council. Off-reservation development projects must be approved by the North Dakota Indian affairs commission.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 641

HOUSE BILL NO. 1680  
(Martinson)

(Approved by the Committee on Delayed Bills)

## RETIREMENT ACTUARIAL REPORT COSTS

AN ACT to amend and reenact subdivision a of subsection 2 of section 54-35-02.4 of the North Dakota Century Code, relating to payment of costs of actuarial reports to the legislative council's committee on public employees retirement programs.

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

SECTION 1. AMENDMENT. Subdivision a of subsection 2 of section 54-35-02.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. Enter into contracts, including retainer agreements, with an actuary or actuarial firm for expert assistance and consultation. However, each retirement program shall pay, from its retirement fund and without the need for a prior appropriation, the cost of any actuarial report required by the committee which relates to that retirement program.

Approved April 7, 1987  
Filed April 9, 1987

## CHAPTER 642

SENATE BILL NO. 2035  
(Legislative Council)  
(Interim Agriculture Committee)

## WETLANDS POLICY

AN ACT relating to wetlands; to amend and reenact section 54-35-02.7 of the North Dakota Century Code, relating to the composition of and duties of the Garrison overview committee; to repeal section 61-16.1-52 of the North Dakota Century Code and section 61-16.1-41 of the North Dakota Century Code, as amended by section 5 of chapter 665 of the 1985 Session Laws, relating to drainage permits and closing drains; to provide a penalty; and to provide an effective date.

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

SECTION 1. AMENDMENT. Section 54-35-02.7 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-35-02.7. Garrison diversion overview committee - Duties. The legislative council shall create a legislative council committee entitled the Garrison diversion overview committee. The committee shall consist of the majority and minority leaders and their assistants from the house and senate, the speaker of the house, the president pro tempore of the senate selected at the end of the immediately preceding legislative session, and the chairmen of the house and senate standing committees on natural resources, and the chairmen of the house and senate standing committees on agriculture. If a member of the committee named in this section is unable to serve on the committee, the chairman of the legislative council may appoint another member of the legislative assembly to fill the vacancy. The committee shall be responsible for legislative overview of the Garrison diversion project and related matters; and for any necessary discussions with adjacent states on water-related topics. Staff services for the committee shall be provided by the legislative council staff. The committee shall report to the legislative council in the same manner as do other interim legislative council committees.

SECTION 2. Legislative policy and intent. It is the policy of the legislative assembly that water is one of North Dakota's most

important natural resources, and the protection, development, and management of North Dakota's water resources is essential for the long-term public health, safety, general welfare, and economic security of North Dakota and its citizens.

The legislative assembly finds that agriculture is the most important industry in North Dakota and that agricultural concerns must be accommodated in the protection of wetlands. Wetlands can be a hindrance to farming practices. Even though property taxes are generally paid on such lands, wetlands provide limited economic return to the landowner. Wetland policies can obstruct water development and water management projects, and can affect other developments.

The legislative assembly finds that the primary reason wetlands are considered important is because wetlands provide the habitat base for the production and maintenance of waterfowl. The legislative assembly also finds that wetlands can moderate the water flow and have value as natural flood control mechanisms, can aid in water purification by trapping, filtering, and storing sediment and other pollutants and by recycling nutrients, and can serve as ground water recharge and discharge areas. Wetlands also function as nursery areas for numerous aquatic animal species and are habitat for a wide variety of plant and animal species, and provide vital habitat for resident wildlife. Wetlands also can provide scientific, aesthetic, and recreational benefits. The legislative assembly therefore concludes that wetlands should be protected and preserved.

In view of the legislative findings and conclusions of the importance of wetlands, water development and management, and agriculture in North Dakota, it is hereby declared to be the wetlands policy of this state that:

1. Water development and wetland preservation activities should be balanced to protect and accommodate agriculture, water, and wetland interests and objectives.
2. Programs protecting and preserving wetlands shall provide adequate compensation to the landowner and must provide periodic reevaluation of compensation to the landowner. Annual payments are encouraged as an option for landowners.
3. Land, wetland, or water acquisition for waterfowl production areas, wildlife refuges, or other wildlife, waterfowl, or wetland protection purposes may not be acquired through the exercise of the right of eminent domain.
4. When land is removed from the tax base to protect wetlands, replacement payments must be made by the entity which purchases the land so that the amount of money that



would otherwise be received in taxes if such land was not removed from the tax base is not diminished.

SECTION 3. Definitions. In sections 2 through 12 of this Act, unless the context or subject matter otherwise provides:

1. "Commission" means the state water commission.
2. "Commissioner" means the commissioner of the game and fish department.
3. "Department" means the game and fish department.
4. "District" means a water resource district.
5. "Manmade wetland" means new or expanded water areas, or any portion thereof, created by excavation, diking, damming, or diversion, and determined by the state engineer and the game and fish commissioner to have material wildlife values.
6. "Person" means any person, firm, partnership, association, corporation, agency, or any other private or governmental organization which includes, but is not limited to, any agency of the United States, a state agency, or any political subdivision of the state.
7. "Replacement wetland" means either restoration of previously drained natural wetland or manmade wetlands which are not used for mitigation for any other project.
8. "Sheetwater" means shallow water from any source that floods land not normally subject to standing water.
9. "State engineer" means the state engineer appointed by the state water commission pursuant to section 61-03-01.
10. "Water resource board" means the water resource district's board of managers.
11. "Wetland" means a natural depressional area that is capable of holding shallow, temporary, intermittent, or permanent water. It shall not include sheetwater.

SECTION 4. Permit to drain waters required - Replacement of wetlands - Downstream impacts - Penalty. Any person, before draining water from a wetland, or any series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or more, shall first secure a permit to do so. The permit application shall be submitted to the state engineer. The state engineer shall refer the application to the water resource district or districts within which is found a majority of the watershed or drainage area of the wetland for consideration and approval, but the state engineer may require that applications proposing drainage of statewide or

interdistrict significance be returned to the state engineer for final approval. A permit may not be granted until the state water resources policy has been considered and an investigation discloses that the water which will be drained from the wetland, or any series thereof, will not flood or adversely affect downstream lands. If the investigation shows that the proposed drainage will flood or adversely affect lands of downstream landowners, the water resource board may not issue a permit until flowage easements are obtained. The flowage easements must be filed for record in the office of the register of deeds of the county or counties in which the lands are situated. An owner of land proposing to drain shall undertake and agree to pay the expenses incurred in making the required investigation. In addition to the above requirements of this section, the state engineer and the commissioner must jointly find that the wetland acres proposed to be drained will be replaced by an equal acreage of replacement wetlands, or through debits to the wetland bank as provided in section 6 of this Act, before any permit for drainage can be approved by the state engineer or water resource board. The provisions of this section do not apply to the construction or maintenance of any existing or prospective drain constructed under the supervision of a state or federal agency, as determined by the state engineer, for which mitigation is required as part of such project.

Any person draining, or causing to be drained, water of a wetland, or any series thereof, which has a watershed area comprising eighty acres [32.37 hectares] or more, without first securing a permit to do so, as provided by this section, is liable for all damage sustained by any person caused by the draining, is guilty of an infraction, and shall be required to restore the wetland so drained in accordance with sections 2 through 12 of this Act. The state engineer may adopt rules for temporary permits for emergency drainage.

SECTION 5. Administration - Rulemaking authority - Guidelines. The state engineer and, where specified, the commissioner shall adopt rules to implement sections 2 through 12 of this Act, including rules for procedure. The rules must be consistent with the following guidelines and the other provisions of sections 2 through 12 of this Act:

1. The requirement that wetlands proposed to be drained must be replaced by an equal acreage of replacement wetlands is not applicable to sheetwater, regardless of the area covered by sheetwater.
2. Purchase, easement, lease, or other acquisition that is necessary to comply with sections 2 through 12 of this Act shall be limited to willing sellers. When land is removed from the tax base to protect wetlands, replacement payments shall be made by the entity which purchases the land so that the amount of money that would otherwise be received in taxes if such land was not removed from the tax base is not diminished.

3. The state engineer and the commissioner shall jointly determine whether the number of replacement wetland acres comply with the replacement requirements of sections 2 through 12 of this Act. The area of a wetland must be jointly determined by the normal water level. It is not necessary to replace wetlands proposed to be drained with restored wetlands of the same type or classification.
4. Any person who proposes to drain a wetland for which a permit is required shall pay ten percent of the cost of acquisition, easement, lease, and construction of replacement wetlands. The other ninety percent must be paid by either federal, state, or private interests, or any combination thereof. Any person may pay more than ten percent if that person desires. The cost of acquisition for replacement acres must be determined by average costs of wetland acres placed in the wetlands bank, as prescribed by the state engineer and the commissioner. Federal, state, and private wildlife and water entities shall cooperate and work together to locate, make contacts with landowners, do appraisals, and perform other tasks necessary for lease, purchase, or other acquisition to meet the replacement requirements of sections 2 through 12 of this Act.
5. In order to satisfy the replacement of wetlands requirement, manmade wetlands with material wildlife values, or any portion thereof, as determined by the state engineer and the commissioner, are eligible along with restoration of drained natural wetlands to comply with the replacement of wetlands requirement.
6. The replacement of wetlands requirement for each drainage proposal or project must be accomplished with approximately fifty percent of the replacement wetlands being located in the county or contiguous counties in which the proposed drainage is located, and with the other approximately fifty percent of replacement wetlands being located anywhere in this state. If the state engineer and the commissioner jointly find that replacement wetland acres are not available in the county or contiguous counties where the proposed drainage is located, replacement wetlands may be obtained anywhere in the same biotic area.
7. Any purchase, easement, lease, or other acquisition under sections 2 through 12 of this Act may not obstruct the natural or existing flow of water of any natural watercourse or artificial channel to the detriment of any upstream or downstream landowner.

SECTION 6. Wetlands bank. The state engineer and the commissioner shall jointly establish a wetlands bank. The records of acreages of replacement wetlands debited from and credited to

such bank must be maintained by the state engineer. The acreages of all replacement wetlands constructed after January 1, 1987, must be carried as a credit in such bank. However, any unauthorized drainage constructed after July 1, 1975, which is closed or restored as a result of final enforcement action pursuant to section 8 of this Act, may not be credited to the wetlands bank. The acreages of all wetlands drained after January 1, 1987, except those projects for which permits were applied for prior to January 1, 1987, must be charged as a debit against acreage credit balances. No more than two thousand five hundred acres may be carried as a debit balance to the wetlands bank, except for drainage of wetlands for which a permit is not required. Wetlands drained during surface coal mining operations may not be charged as a debt against acreage credit balances.

**SECTION 7.** Uniform wetlands classification. The state engineer and the commissioner shall establish a uniform classification system of wetlands. All federal, state, and local entities shall follow this classification system when referring to wetlands in this state.

**SECTION 8.** Closing a noncomplying drain - Notice and hearing - Appeal - Injunction. Only a landowner experiencing flooding or adverse effects from an unauthorized drain constructed before January 1, 1975, may file a complaint with the water resource board. Any person may file a complaint about an unauthorized drain constructed after January 1, 1975. A complaint must be filed on a form made available by the state engineer. Upon receipt of a complaint of unauthorized drainage, the water resource board shall promptly investigate and make a determination of the facts with respect to the complaint. If the board determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to the provisions of this title or any rules or regulations promulgated by the board, the board shall notify the landowner by registered or certified mail at the landowner's post-office address of record. A copy of the notice must also be sent to the tenant, if known. The notice must specify the nature and extent of the noncompliance and shall state that if the drain, lateral drain, or ditch is not closed or filled within such reasonable time as the board shall determine, but not less than thirty days, the board shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost thereof, or such portion as the board shall determine, against the property of the landowner responsible. The notice must also state that the affected landowner may, within fifteen days of the date the notice is mailed, demand, in writing, a hearing on the matter. Upon receipt of the demand, the board shall set a hearing date within fifteen days from the date the demand is received. In the event of an emergency, the board may immediately apply to the appropriate district court for an injunction prohibiting the landowner or tenant from constructing or maintaining the drain, lateral drain, or ditch and ordering the closure of the illegal drain. Any assessments levied under the provisions of this section must be collected in the same manner as assessments authorized by chapter 61-16.1. If, in the opinion of

the board, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Any person aggrieved by action of the board under the provisions of this section may appeal the decision of the board to the district court of the county in which the land is located in accordance with the procedure provided under sections 61-16.1-54 through 61-16.1-57. A hearing as provided for in this section is not a prerequisite to such an appeal.

SECTION 9. Appeal of board decisions - State engineer review - Closing of noncomplying drains. The board shall make the decision required by section 8 of this Act within a reasonable time, but not to exceed one hundred twenty days, after receiving the complaint. The board shall notify all parties of its decision by certified mail. The board's decision may be appealed to the state engineer by any aggrieved party. The appeal to the state engineer must be made within thirty days from the date notice of the board's decision has been received. The appeal must be made by submitting a written notice to the state engineer which must specifically set forth the reason why the board's decision is erroneous. The appealing party shall also submit copies of the written appeal notice to the board and to the nonappealing party. Upon receipt of this notice the board, if it has ordered closure of a drain, lateral drain, or ditch, is relieved of its obligation to procure the closing or filling of the drain, lateral drain, or ditch. The state engineer shall handle the appeal by conducting an independent investigation and making an independent determination of the matter. The state engineer may enter property affected by the complaint for the purpose of investigating the complaint.

If the board fails to investigate and make a determination concerning the complaint within a reasonable time, but not to exceed one hundred twenty days, the person filing the complaint may file such complaint with the state engineer. The state engineer shall, without reference to chapter 28-32, cause the investigation and determination to be made, either by action against the board, or by personally conducting the investigation and personally making the determination.

If the state engineer determines that a drain, lateral drain, or ditch has been opened or established by a landowner or tenant contrary to title 61 or any rules adopted by the board, the state engineer shall take one of three actions:

1. Notify the landowner by registered mail at the landowner's post-office address of record;
2. Return the matter to the jurisdiction of the board along with the investigation report; or
3. Forward the drainage complaint and investigation report to the state's attorney.

If the state engineer decides to notify the landowner, the notice must specify the nature and extent of the noncompliance and must state that if the drain, lateral drain, or ditch is not closed or filled within such reasonable time as the state engineer shall determine, but not less than thirty days, the state engineer shall procure the closing or filling of the drain, lateral drain, or ditch and assess the cost thereof, against the property of the landowner responsible. The notice from the state engineer must state that the affected landowner may, within fifteen days of the date the notice is mailed, demand, in writing, a hearing on the matter. Upon receipt of the demand, the state engineer shall set a hearing date within fifteen days from the date the demand is received. If, in the opinion of the state engineer, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners. Upon assessment of costs, the state engineer shall certify the assessment to the county auditor of the county where the noncomplying drain, lateral drain, or ditch is located. The county auditor shall extend the assessment against the property assessed. Each assessment must be collected and paid as other taxes are collected and paid. Assessments collected must be deposited with the state treasurer and are hereby appropriated out of the state treasury and must be credited to the contract fund established by section 61-02-64.1. Any person aggrieved by action of the state engineer under the provisions of this section may appeal the decision of the state engineer to the district court in accordance with chapter 28-32. A hearing by the state engineer as provided for in this section shall be a prerequisite to such an appeal.

If the state engineer, after completing the investigation required under this section, decides to return the matter to the board, a complete copy of the investigation report shall be forwarded to the board and it shall include the nature and extent of the noncompliance. Upon having the matter returned to its jurisdiction the board shall carry out the state engineer's decision in accordance with the terms of this section.

If the state engineer, after completing the investigation required under this section, decides to forward the drainage complaint to the state's attorney, a complete copy of the investigation report must also be forwarded, which must include the nature and extent of the noncompliance. The state's attorney shall prosecute the complaint in accordance with the statutory responsibilities prescribed in chapter 11-16.

In addition to the penalty imposed by the court in the event of conviction under this statute, the court shall order the drain, lateral drain, or ditch closed or filled within such reasonable time period as the court determines, but not less than thirty days. If the drain, lateral drain, or ditch is not closed or filled within the time prescribed by the court, the court shall procure the closing or filling of the drain, lateral drain, or ditch, and assess the cost thereof against the property of the landowner responsible, in the same manner as other assessments under chapter 61-16.1 are

levied. If, in the opinion of the court, more than one landowner or tenant has been responsible, the costs may be assessed on a pro rata basis in proportion to the responsibility of the landowners.

The authority granted in this section may only be exercised for drainage constructed after January 1, 1987.

SECTION 10. Wetlands replacement fund - Continuing appropriation. There is hereby created a special revolving wetlands replacement fund in the state treasury to which funds received by the commissioner pursuant to sections 2 through 12 of this Act must be deposited. The commissioner is authorized to receive funds for the wetlands replacement fund from any private or public source. The commissioner shall work with the governor, United States fish and wildlife service, nonprofit conservation organizations, and any other public official or private organization or citizen to develop additional funding to implement sections 2 through 12 of this Act. All funds received from any source, not including state revenues, are hereby appropriated to the commissioner, and may be expended for the purpose of implementing sections 2 through 12 of this Act, including acquisition, easement, lease, and construction of replacement wetlands.

SECTION 11. Exemption. The wetland replacement requirements of sections 2 through 12 of this Act do not apply to surface coal mining operations until reclamation of the wetland area begins pursuant to chapter 38-14.1.

SECTION 12. Application of prior law. Sections 2 through 12 of this Act do not apply to drainage applications submitted, or to drainage violations committed, prior to January 1, 1987. Procedures for and prosecutions of such activities are governed by prior law which is continued in effect for that purpose.

SECTION 13. REPEAL. Section 61-16.1-52 of the North Dakota Century Code and section 61-16.1-41 of the North Dakota Century Code, as amended by section 5 of chapter 665 of the 1985 Session Laws, are hereby repealed.

SECTION 14. EFFECTIVE DATE. The replacement of wetlands requirement in sections 4 and 5 of this Act does not take effect until July 1, 1989. Until July 1, 1989, the drainage of type IV and V wetlands, as defined in U.S. fish and wildlife service circular 39 (1971 edition) is not permitted, except for permit applications submitted prior to January 1, 1987, or unless replaced in accordance with the provisions of sections 2 through 12 of this Act.

Approved April 21, 1987  
Filed April 22, 1987

## CHAPTER 643

SENATE BILL NO. 2046  
(Legislative Council)  
(Interim Indian Jurisdiction Committee)

## INDIAN AFFAIRS COMMISSION

AN ACT to amend and reenact section 54-36-01 of the North Dakota Century Code, relating to the membership of the Indian affairs commission.

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

SECTION 1. AMENDMENT. Section 54-36-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-36-01. Commission - Members - Officers - Expenses of members. The North Dakota Indian affairs commission shall consist of the governor; attorney general; executive director of the department of human services; state health officer; director of job service North Dakota; the tribal chairmen of the Standing Rock, Fort Berthold, Fort Totten, and Turtle Mountain Indian Reservations or their designees; one other representative of each reservation appointed by the tribal council; a representative of the North Dakota county commissioners' association who lives on or adjacent to an Indian reservation; a representative of the league of North Dakota cities; three members at large who shall be at least one-fourth degree of Indian blood appointed by the governor; and a representative of each house of the legislative assembly who shall be chosen on a bipartisan basis by the presiding officer of each house. The commission may call upon the director of the economic development commission for consultation upon business and industrial matters involved in the operation of the commission. The governor or his authorized representative shall act as chairman of the commission and the commission shall select one of its members as secretary. All members of the commission or their designees shall receive the mileage and expenses allowed state officers which shall be paid from the appropriation made to such commission except mileage and expenses of state officials shall be paid from the appropriation for the department they represent.

Approved March 12, 1987  
Filed March 16, 1987



## CHAPTER 644

SENATE BILL NO. 2190  
(Committee on Political Subdivisions)  
(At the request of the Governor)

## REGIONAL PLANNING AND DEVELOPMENT COUNCILS

AN ACT to amend and reenact sections 54-40.1-01, 54-40.1-02, subsection 1 of section 54-40.1-03, and section 54-40.1-05 of the North Dakota Century Code, relating to regional planning and development councils.

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

SECTION 1. AMENDMENT. Section 54-40.1-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40.1-01. 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 chapter to establish a consistent, comprehensive statewide policy for planning, economic development, 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 office of intergovernmental assistance economic development commission, 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. AMENDMENT.** Section 54-40.1-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-40.1-02. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "City" means any city incorporated under the laws of this state.
2. "Executive officer" means the mayor in council cities or modern council cities and the president of the board of city commissioners in commission cities.
3. "Governing body" means the city council or the board of city commissioners or the board of county commissioners.
4. "Industry" includes agriculture and business.
5. "Member-at-large" means a person who represents the general citizenry of the county.
6. "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.
7. "Office" means the office of intergovernmental assistance economic development commission.
8. "Organized local development corporation" means any group organized for the purpose of promoting economic development which has filed for incorporation as such with the secretary of state's office.
9. "Region" means the area delineated by executive order of the governor.
- 9- 10. "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- 11. "Regional council" means the council for comprehensive planning and development established in each region pursuant to section 54-40-08.
- 11- 12. "Units of general local government" means cities, counties, and organized townships.

SECTION 3. AMENDMENT. Subsection 1 of Section 54-40.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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~~ A majority 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~~ One or more members of the regional council, selected by the local development corporations, shall represent the organized local development corporations existing in the region.
  - e. The chairman of the regional employment training council must be appointed to the regional council.
- e- f. 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.

SECTION 4. AMENDMENT. Section 54-40.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-40.1-05. 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, to the economic development commission, and to members of the legislative assembly in each region. To the extent practicable, the report shall include projects completed or in progress and sources of funding.

Approved April 24, 1987  
Filed April 27, 1987

## CHAPTER 645

SENATE BILL NO. 2049  
(Legislative Council)  
(Interim Indian Jurisdiction Committee)

### STATE-TRIBAL AGREEMENTS

AN ACT to create and enact three new sections to chapter 54-40.2 of the North Dakota Century Code, relating to agreements between state agencies and Indian tribes.

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

SECTION 1. A new section to chapter 54-40.2 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

**Agreement - Notice.** Before the submission of an agreement to the governor, the state agency shall publish a notice containing a summary of the agreement once each week for two consecutive weeks in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice must state that the state agency will hold a public hearing concerning the agreement upon the request of any resident of the county in which the notice is published if the request is made within thirty days of the first publication of the notice.

SECTION 2. A new section to chapter 54-40.2 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

**Public hearing - Notice.** If the state agency receives a request pursuant to section 1 of this Act, the state agency shall hold a public hearing prior to the submission of the agreement to the governor at which any persons interested in the agreement may be heard. Notice of the time, place, and purpose of the hearing must be published once each week for two consecutive weeks prior to the hearing in the official newspaper of each county of the state reasonably expected to be affected by the agreement. The notice must describe the nature, scope, and purpose of the agreement, and must state the times and places at which the agreement will be available to the public for inspection and copying.

**SECTION 3.** A new section to chapter 54-40.2 of the 1985 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

**Review of agreement - Report.** Any state agency entering into an agreement approved by the governor pursuant to this chapter, upon the request of any political subdivision affected by the agreement, shall review and determine the utility and effectiveness of the agreement taking into account the original intent of the parties, and determine whether the parties are in substantial compliance with all provisions of the agreement. In making its determinations, the state agency shall provide an opportunity, after public notice, for the public to submit written comments concerning the execution of the agreement. The state agency shall prepare a report of its determinations made pursuant to this section and shall submit copies of the report to the legislative council and the governor.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 646

SENATE BILL NO. 2251  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

### STATE FINANCIAL REPORTING

AN ACT to create and enact a new section to chapter 54-44 of the North Dakota Century Code, relating to financial reporting.

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

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

**Financial reporting.** To ensure that sufficient information is provided to the office of management and budget for preparing an annual comprehensive financial statement and to ensure that the statewide accounting system and budget system are compatible, the person in charge of any department, agency, board, commission, college, university, or institution shall report all revenues and expenditures through the use of the statewide accounting system. The revenues and expenditures referred to in this section include all funds, including funds not appropriated. Any changes to the present reporting system of the department, agency, board, commission, college, university, or institution necessary to comply with this section must be completed by July 1, 1989.

Any department, agency, board, commission, college, university, or institution that is not presently using the statewide payroll system shall provide the director with current salary information for all permanent and part-time employees when required to do so, in the format designed by the director.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 647

HOUSE BILL NO. 1225  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

## BUDGET AND ALLOTMENT CONTROL

AN ACT amend and reenact section 54-44.1-12 of the North Dakota Century Code, relating to control of execution of the budget and allotments.

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

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

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

1. The moneys and estimated revenues in a specific fund from which the appropriation is made are insufficient to meet all legislative appropriations from the fund.
2. The payment or the obligation incurred is not authorized by law.
3. The expenditure or obligation is contrary to legislative intent as recorded in any reliable legislative records, documents, or other reliable evidence available.
4. Circumstances or availability of facts not previously known or foreseen by the legislative assembly which make possible the accomplishment of the purpose of the appropriation at a lesser amount than that appropriated.

Approved March 13, 1987  
Filed March 16, 1987



## CHAPTER 648

### SENATE BILL NO. 2536 (Tallackson)

## REFERENDUM APPROPRIATION REDUCTIONS

AN ACT to create and enact a new section to chapter 54-44.1 of the North Dakota Century Code, relating to the apportionment of reductions in spending authority resulting from an initiative or referendum; and to declare an emergency.

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

SECTION 1. A new section to chapter 54-44.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Apportionment of reductions in spending authority caused by an initiative or referendum action. If as a result of any action taken pursuant to article III of the Constitution of North Dakota the moneys available in the state general fund or in any special fund in the state treasury are or will be reduced or eliminated, the director of the budget shall reduce the moneys available to all departments, agencies, and institutions for which moneys have been appropriated or are otherwise available from the affected fund for the current biennial period. The director of the budget shall reduce affected budgets by a percentage sufficient to cover the estimated losses caused by the initiative or referendum action, subject to the approval of the budget section of the legislative council. Notwithstanding the provisions of section 54-44.1-13, the authority to make reductions pursuant to this section applies equally to all entities of the executive, legislative, and judicial branches.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved April 10, 1987  
Filed April 14, 1987

## CHAPTER 649

SENATE BILL NO. 2250  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

### FEDERAL FUND COST RECOVERY

AN ACT to create and enact a new section to chapter 54-44.1 of the North Dakota Century Code, relating to indirect cost recoveries from federal programs and special funds.

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

SECTION 1. A new section to chapter 54-44.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Indirect cost recoveries from federal programs and special funds. The office of management and budget shall develop a statewide central service indirect cost allocation plan according to federal cost allocation principles. Any state agency receiving federal funds shall seek reimbursement from the federal programs for indirect costs appropriately allocated to the agency in the plan. Any recoveries of central service indirect costs must be deposited in the state general fund at least once annually by the agency as determined by the office of management and budget. The office of management and budget may exclude an agency or agencies from the requirements of this section.

The office of management and budget may bill special fund agencies for central service indirect costs as determined in the cost allocation plan in the ratio that the agency's special funds are to its total budget. Appropriation authority to cover the billings must be included in the budgets of the special fund agencies.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 650

HOUSE BILL NO. 1124  
(Committee on State and Federal Government)  
(At the request of the Office of Management and Budget)

## PERSONNEL BOARD VACANCIES

AN ACT to amend and reenact subsection 3 of section 54-44.3-03 of the North Dakota Century Code, relating to temporary vacancies on the state personnel board.

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

SECTION 1. AMENDMENT. Subsection 3 of section 54-44.3-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Any permanent vacancy in office shall be filled for the unexpired term in the same manner as the selection of the person vacating the office. However, if a board member voluntarily withdraws from deliberation and voting on an appeal where there may be a possible conflict of interest, the vacancy will be filled temporarily in the same manner as the selection of the person vacating the office. When a temporary vacancy involves a member of the board elected by classified employees, the automatic substitute must be the candidate that received the second highest number of votes in the election that elected the board member. Temporary board members will be used only in situations when a permanent board member voluntarily vacates the position due to a possible conflict of interest.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 651

HOUSE BILL NO. 1155  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

### RETIREMENT SERVICE CREDIT PURCHASE

AN ACT to repeal sections 54-52-02.4, 54-52-02.7, and 54-52-02.8 of the North Dakota Century Code, relating to the purchase of retirement service credit by former employees of mental health and retardation centers and special employee refund of accounts.

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

SECTION 1. REPEAL. Section 54-52-02.4 of the North Dakota Century Code, and sections 54-52-02.7 and 54-52-02.8 of the 1985 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 652

HOUSE BILL NO. 1077  
(Representatives Martinson, Rydell, Mertens)  
(Senators Olson, Satrom)

## PERS VESTING AND BENEFITS

AN ACT to amend and reenact section 54-52-02.6, subdivisions a and c of subsection 3, paragraphs 1, 2, and 3 of subdivision a and subdivision d of subsection 4, and subsections 5 and 6 of section 54-52-17 of the North Dakota Century Code, relating to vesting and measuring of benefits under the public employees retirement system; and to declare an emergency.

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

SECTION 1. AMENDMENT. Section 54-52-02.6 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-02.6. Repurchase of past service upon reemployment. An individual with ~~ten or more~~ at least eight years of service who terminates participation in the plan ~~after June 30, 1977,~~ may, at his or her sole discretion, elect to receive a refund of contributions and thus forfeit all rights to plan benefits and all rights to repurchase, for retirement purposes, ~~such that~~ that service. An individual who terminates with less than ~~ten~~ eight years of service, may, upon reemployment, repurchase past service in accordance with ~~the rules and regulations~~ established by the board.

SECTION 2. AMENDMENT. Subdivisions a and c of subsection 3 of section 54-52-17 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

a. Normal retirement date is ~~the:~~

(1) The first day of the month next following the month in which the member attains the age of sixty-five years; or when

(2) When the member is at least the age of sixty and has a combined total of years of service credit and years of age equal to ninety and has not received a retirement benefit under this chapter.

- 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~~ eight years of eligible employment.

SECTION 3. AMENDMENT. Paragraphs 1, 2, and 3 of subdivision a of subsection 4 of section 54-52-17 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- (1) Service benefit equals one and ~~thirty-hundredths~~ one-half percent of final average salary multiplied by the number of years of service employment.
- (2) Prior service benefit equals one and ~~thirty-hundredths~~ one-half percent of final average salary multiplied by the number of years of prior service employment.
- (3) All participants ~~retiring prior to July 1, 1985,~~ will have their who retired before July 1, 1987, are entitled to benefits calculated at one and ~~thirty-hundredths~~ one-half percent of final average salary, multiplied by the number of years of service employment, with the increased benefits payable beginning July 1, ~~1985~~ 1987.

SECTION 4. AMENDMENT. Subdivision d of subsection 4 of section 54-52-17 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- d. 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 is eligible for early retirement benefits only after having completed ~~ten~~ eight years of eligible employment.

SECTION 5. AMENDMENT. Subsections 5 and 6 of section 54-52-17 of the 1985 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

5. Upon termination of employment after completing ~~ten~~ eight years of eligible employment but ~~prior to~~ before normal retirement date, a member who does not elect to receive early retirement benefits ~~shall be~~ is eligible to receive deferred vested retirement benefits payable commencing on ~~his~~ the member's normal retirement date equal to one hundred percent of ~~his~~ the member's accrued normal retirement benefits.

6. If ~~prior to~~ before retiring a member dies after completing ~~ten~~ eight years of eligible employment, the board shall pay the member's account balance to any beneficiary designated by the member with the written consent of the member's spouse, if any. If the member has not designated any beneficiary under this section, the surviving spouse of the member may select one of the following optional forms of payment:
- a. A lump sum payment of the member's retirement account as of the date of death.
  - b. Payments for sixty months as calculated for the deceased member as if the member was age sixty-five at the date of death.
  - c. Payment of a monthly retirement benefit equal to fifty percent of the deceased member's accrued normal retirement benefits until the spouse dies. ~~if the spouse dies subsection 8 is applicable.~~

**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 653

SENATE BILL NO. 2254  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System  
and Deferred Compensation Committee)

**DEFERRED COMPENSATION ADMINISTRATION**

AN ACT to amend and reenact subsection 7 of section 54-52-04 and sections 54-52.2-01, 54-52.2-02, and 54-52.2-03 of the North Dakota Century Code, relating to administration of the deferred compensation plan for public employees; and to repeal section 54-52.2-03.1 of the North Dakota Century Code, relating to staffing and administrative expenses of the deferred compensation plan.

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

SECTION 1. AMENDMENT. Subsection 7 of section 54-52-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. The board shall administer chapters 39-03.1 and 54-52.1, and 54-52.2.

SECTION 2. AMENDMENT. Section 54-52.2-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.2-01. **Deferred compensation program for public employees - Contract.** The state or any county, city, or other political subdivision may, by contract, agree with any employee to defer, in whole or in part, any portion of that employee's compensation and may subsequently, with the consent of the employee, fund a deferred compensation program for the employee. The deferred compensation program may consist of a contract, purchase, or investment in a fixed or variable life insurance or annuity contract from any life underwriter duly licensed by this state who represents an insurance company licensed to contract business in this state, a savings account at a federally insured financial institution or the Bank of North Dakota, an account with or managed by a dealer registered under chapter 10-04, or any combination of contracts or accounts authorized by this section, as specified by the employee. The ~~committee~~ public employees retirement board shall specify methods of payment of deferred compensation funds to be selected by individual



employees. ~~The committee~~ That board shall determine the number of employees participating in a deferred compensation program necessary to qualify for automatic payroll deduction.

SECTION 3. AMENDMENT. Section 54-52.2-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.2-02. ~~Deferred employee's compensation - Agreements. The deferred compensation committee~~ public employees retirement board, acting on behalf of each state agency, department, board, commission, or institution, may enter into contractual agreements with employees of a state agency, department, board, commission, or institution on behalf of the state to defer any portion of that employee's compensation allowed under section 457 of the Internal Revenue Code [26 U.S.C. 457].

SECTION 4. AMENDMENT. Section 54-52.2-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.2-03. ~~Deferred compensation program - Administration - Contract for services. The administration of the deferred compensation program for each state agency, department, board, commission, or institution shall be is under the direction of the state deferred compensation committee~~ public employees retirement board. ~~The committee shall consist of three persons. The governor shall appoint the initial committee and shall appoint persons to fill any vacancy occurring at the expiration of a term. Committee members shall select the person to fill any vacancy occurring prior to the expiration of a term. The initial terms of office are as follows: one member shall serve a one-year term, one member shall serve a two-year term, and one member shall serve a three-year term. The term of office thereafter is three years. Each county, city, or other political subdivision shall designate an officer to administer the deferred compensation program or appoint the state deferred compensation committee~~ public employees retirement board to administer the program in its behalf. ~~Payroll reductions shall must be made in each instance, by the appropriate payroll officer. The deferred compensation committee of the deferred compensation program may contract with a private corporation or institutions for providing consolidated billing and other administrative services. The deferred compensation committee~~ public employees retirement board shall administer the deferred compensation program based on a plan in compliance with the appropriate provisions of the Internal Revenue Code and regulations adopted under those provisions.

SECTION 5. REPEAL. Section 54-52.2-03.1 of the 1985 Supplement to the North Dakota Century Code is hereby repealed.

Approved March 12, 1987

Filed March 16, 1987

## CHAPTER 654

HOUSE BILL NO. 1146  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## ASSIGNMENT OF RETIREMENT BENEFITS

AN ACT to amend and reenact section 54-52-12 of the North Dakota Century Code, relating to prohibition of assignment or other pledge of certain retirement benefits and funds.

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

\* SECTION 1. AMENDMENT. Section 54-52-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-12. Exemption from taxation and judicial process - Prohibition of assignment. The right of a person to retirement benefits, any optional benefits, any other rights Rights accrued or accruing to any person under the provisions of this chapter, the various funds created by this chapter, and all money and investments and income thereof, shall of those funds are not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law whatsoever. These rights and funds cannot be mortgaged or subjected to assignment or pledge.

Approved March 12, 1987  
Filed March 16, 1987

\* NOTE: Section 54-52-12 was also amended by section 2 of Senate Bill No. 2052, chapter 386.

## CHAPTER 655

HOUSE BILL NO. 1118  
(Committee on State and Federal Government)  
(At the request of Public Employees Retirement System)

## PERS PRIOR SERVICE BENEFITS

AN ACT to amend and reenact section 54-52-19.1 of the North Dakota Century Code, relating to computation of prior service benefits for certain public employees employed under the predecessor to the public employees retirement system.

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

SECTION 1. AMENDMENT. Section 54-52-19.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52-19.1. Continuance of prior service benefits earned under former plan. Any retired employee receiving prior service benefits pursuant to under former section 54-52-19 shall is entitled to continue to de so receive those benefits. For the purposes of this section only, section 54-52-19 shall be is deemed to remain in effect. The amount of benefits to which the employee is entitled is double that computed under original section 54-52-19.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 656

HOUSE BILL NO. 1360  
(Representative Martinson)  
(Senator Lodoen)

### PERS PRIOR SERVICE CREDIT

AN ACT relating to crediting prior service for certain members of the public employees retirement system.

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

SECTION 1. Grant of prior service credit after refund. A member who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system, under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws, is entitled to a regrant of the member's prior service credit forfeited by that withdrawal. To be eligible for the regrant, the member must have been an employee of this state from the date of withdrawal from the predecessor plan through at least July 1, 1987. An eligible member is entitled to prior service credit for service before July 1, 1966. The cost of the repurchase of the credit is the amount of refund the member received, plus interest, compounded at the rate of seven and one-half percent per year, for the period since June 30, 1977. To claim the grant of prior service credit, the member shall notify the executive director of the public employees retirement system of that election and pay to the public employees retirement system the entire cost, with interest, of that repurchase, computed in accordance with this section, by December 31, 1987.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 657

SENATE BILL NO. 2275  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

**“ELIGIBLE EMPLOYEE” UNDER UNIFORM GROUP  
INSURANCE PROGRAM**

AN ACT to amend and reenact subsection 4 of section 54-52.1-01 of the North Dakota Century Code, relating to eligibility to participate in the uniform group insurance program.

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

\* SECTION 1. AMENDMENT. Subsection 4 of section 54-52.1-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Eligible employee" means every permanent employee who is employed by the state, county, city, school district, or any combination thereof. Eligible employees include members of the legislative assembly, judges of the supreme court, paid members of state or political subdivision boards, commissions, or associations, full-time employees of political subdivisions, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workmen's compensation fund. As used in this subsection, "permanent employee" means any person hired with the intent that he be employed for twenty hours or more per week for more than five months each year.

Approved March 12, 1987  
Filed March 16, 1987

\* NOTE: Section 54-52.1-01 was also amended by section 1 of House Bill No. 1094, chapter 658.

## CHAPTER 658

HOUSE BILL NO. 1094  
 (Committee on State and Federal Government)  
 (At the request of the Public Employees Retirement System)

## GROUP MEDICAL PLAN SUBGROUPS

AN ACT to amend and reenact subsection 4 of section 54-52.1-01 and section 54-52.1-02 of the North Dakota Century Code, relating to establishing subgroups and to definitions and eligibility to participate in the group medical plan for certain public employees.

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

\* SECTION 1. AMENDMENT. Subsection 4 of section 54-52.1-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. "Eligible employee" means every permanent employee who is employed by ~~the state, county, city, school district, or any combination thereof~~ a governmental unit, as that term is defined in section 54-52-01. Eligible employees include "Eligible employee" includes members of the legislative assembly, judges of the supreme court, elective state officers as defined by subsection 2 of section 54-06-01, and disabled permanent employees who are receiving compensation from the North Dakota workmen's compensation fund. As used in this subsection, "permanent employee" means any person hired with the intent that he be employed for twenty hours or more per week for more than five months each year one whose services are not limited in duration and who is filling an approved and regularly funded position in a governmental unit, and is employed at least twenty hours per week and at least five months each year.

SECTION 2. AMENDMENT. Section 54-52.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-02. Uniform group insurance program created - Formation into subgroups. In order to promote the economy and efficiency of employment in the state's service, reduce personnel turnover, and

\* NOTE: Section 54-52.1-01 was also amended by section 1 of Senate Bill No. 2275, chapter 657.

offer an incentive to high-grade men and women to enter and remain in the service of state employment, there is hereby created a uniform group insurance program. The uniform group shall be composed of eligible employees, and be formed to provide hospital benefits coverage, medical benefits coverage, and life insurance benefits coverage in the manner set forth in this chapter. The uniform group may be divided into subgroups at the discretion of the board. The subgroups may be established as follows:

1. Active eligible employee group medical and hospital benefits coverage.
2. Retired eligible employee group medical and hospital benefits coverage.
3. Active eligible employee life insurance benefits coverage.
4. Retired eligible employee life insurance benefits coverage.
5. Terminated employee continuation group medical and hospital benefits coverage.
6. Terminated employee conversion group medical and hospital benefits coverage.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 659

HOUSE BILL NO. 1224  
(Committee on State and Federal Government)  
(At the request of the Public Employees Retirement System)

## INSURANCE FOR SURVIVING SPOUSES

AN ACT to amend and reenact section 54-52.1-03 of the North Dakota Century Code, relating to continued health insurance coverage for surviving spouses of certain retired public employees.

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

SECTION 1. AMENDMENT. Section 54-52.1-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-03. Employee participation in plan - Employee to furnish information - Benefits to continue upon retirement or termination.

1. Any eligible employee may be enrolled in the uniform group insurance program created by this chapter by requesting enrollment with the employing department. ~~An eligible employee who requests enrollment shall be enrolled with the board by the employing department within~~
2. Within five days after the expiration of the payroll period during which enrollment was requested, the employing department shall enroll the employee with the board. The employee's insurance coverage shall become effective on the date of enrollment.
3. Upon the termination of eligible employment of a member of the legislative assembly, or upon the retirement of an eligible employee who is entitled to a retirement allowance from a department, board, or agency, or upon the termination of employment of an eligible employee not of retirement age who, upon retirement, will receive a deferred retirement allowance from a department, board, or agency, ~~such that employee or that employee's surviving spouse may continue as a member of the uniform group under the provisions of this chapter, provided, that no state, The department, board, or agency may not make a contribution for a retired or terminated this coverage,~~



and each eligible employee or the surviving spouse of that employee shall be made, and the employee shall pay the premiums pay directly to the board the premiums in effect for the coverage then being provided.

4. Upon the termination of employment where the employee is not a member of the legislative assembly or entitled to either retirement benefits or a deferred retirement allowance, such that employee shall not cannot continue as a member of the uniform group unless the employee was on the uniform group insurance retiree billings as of July 1, 1974, but. However, the employee may continue on an individual basis with the carrier, with such coverage to be offered at the lowest possible rate, to be determined by the board.
5. A member or former member of the legislative assembly may elect to continue membership in the uniform group within the applicable time limitations after either termination of eligible employment as a member of the legislative assembly or termination of other eligible employment.
6. Each eligible employee requesting enrollment shall furnish the appropriate person in the employing department, board, or agency with such information and in such form as prescribed by the board to enable the enrollment of the employee, or employee and dependents, in the uniform group insurance program created by this chapter. ~~in the event~~
7. If the participating employee is a teacher in a state charitable, penal, or educational institution who receives a salary or wages on a nine-month basis and has signed a contract to teach for the next ensuing school year, the agency shall make arrangements to include such that employee in the insurance program on a twelve-month basis and make the contribution authorized by this section for each month of the twelve-month period.

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 660

SENATE BILL NO. 2108  
(Committee on Industry, Business and Labor)  
(At the request of the Public Employees Retirement System)

## STOP-LOSS COVERAGE

AN ACT to amend and reenact section 54-52.1-04.2 of the North Dakota Century Code, relating to the requirement of obtaining aggregate stop-loss coverage under the state self-insurance plan for hospital and medical benefits.

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

SECTION 1. AMENDMENT. Section 54-52.1-04.2 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-52.1-04.2. Self-insurance plan for hospital and medical benefits coverage. The board may establish a self-insurance plan for providing health insurance benefits coverage only under an administrative services only (ASO) contract or a third party administrator (TPA) contract under the uniform group insurance program, if it is determined by the board that an ~~{ASO}~~ ASO or ~~{TPA}~~ TPA plan is less costly than the lowest bid submitted by a carrier for underwriting the plan with equivalent contract benefits. In addition, individual and aggregate stop-loss coverage insured by a carrier authorized to do business in this state must be made part of any self-insured plan. All bids under this section are due no later than January first, and must be awarded no later than March first, preceding the end of each biennium. All bids under this section must be opened at a public meeting of the board.

Approved March 20, 1987  
Filed March 23, 1987

## CHAPTER 661

SENATE BILL NO. 2426  
(Senators Mushik, Reiten, Tennesos)  
(Representatives Rydell, Kelly)

## COUNCIL ON THE ARTS MEMBERS

AN ACT to amend and reenact section 54-54-03 of the North Dakota Century Code, relating to the North Dakota council on the arts; and to declare an emergency.

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

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

54-54-03. Term of office - Confirmation of appointments by senate-- Filling vacancies - Chairman - Vice chairman - Expenses. The term of office of each member shall be is five years; provided, however, that of the members first appointed, five shall must be appointed for terms of one year, five for terms of three years, and five for terms of five years. The governor shall make the initial appointments to the council within thirty days of July 1, 1967, and these members who were appointed initially and who are still serving by the next legislative session shall be confirmed or rejected by the senate, and if confirmed they shall serve for the remainder of their original terms. When the legislative assembly shall be in session at any time within six months prior to the date of the expiration of the term of any member of the council, the governor shall appoint his successor within the first five days of such session and upon the confirmation of such appointment by the senate, such successor shall take office on the date of the expiration of the term of the incumbent. When a vacancy occurs upon the council otherwise than by the expiration of the term of office of a member thereof, when the legislative assembly is not in session, or when the term of a member of the council expires more than six months after the adjournment of the session of the legislative assembly held prior to the date of the expiration of such term, the governor shall appoint a person to fill such vacancy who shall serve until the opening of the next session of the legislative assembly succeeding such interim appointment, at which time such appointment shall be certified to the senate for confirmation. If the appointment is not confirmed by the thirtieth legislative day of such session, the office so filled by interim appointment shall be

\* NOTE: Section 54-54-03 was also amended by section 34 of House Bill No. 1050, chapter 73.

deemed vacant and the governor shall appoint another for such office and the same proceedings shall be followed as provided in this section until a nomination has been confirmed by the senate. If the a vacancy to be filled occurs otherwise than by the expiration of the term of office of a member of the council, the appointment shall must be made for the balance of the term only. No person who has been nominated by the governor in accordance with this section and whose appointment the senate has failed to confirm shall be eligible for an interim appointment. Other than the chairman, no member of the council who serves a full five-year term shall be is eligible for reappointment during a one-year period following the expiration of his term. The governor shall designate a chairman and a vice chairman from the members of the council who shall serve at the pleasure of the governor. The chairman shall be the chief executive officer of the council. The members of the council shall may not receive any compensation for their services, but shall must be reimbursed for their travel expenses in the same manner and at the same rates as provided by law for other state officials for necessary travel in the performance of their duties as members of the council.

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

Approved March 12, 1987  
Filed March 16, 1987

## CHAPTER 662

SENATE BILL NO. 2293  
(Senators Stenehjem, Lashkowitz)  
(Representative Kretschmar)

## UNIFORM LAW COMMISSIONERS

AN ACT to amend and reenact sections 54-55-01 and 54-55-05 of the North Dakota Century Code, relating to the commission on uniform state laws.

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

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

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

SECTION 2. AMENDMENT. Section 54-55-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-55-05. **No compensation for commissioners.** The commissioners shall serve without compensation for services as commissioners, ~~but they shall~~. The commissioners who are appointed to the commission and the commissioners who have been elected life members of the national conference except those who are appointed by virtue of having served five years are entitled to be reimbursed, from moneys appropriated for that purpose, for necessary expenses incurred in performing their duties at the rates provided in sections 44-08-04 and 54-06-09. Warrant-checks for expense reimbursement shall be prepared by the office of management and budget upon vouchers submitted by the commissioners.

Approved March 27, 1987  
Filed March 30, 1987